

### **TITLE III: ADMINISTRATION**

Chapter

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

**CHAPTER 30: MAYOR-COUNCIL PLAN**

Section

- 30.001 Form of government
- 30.002 Governing officers

**§ 30.001 FORM OF GOVERNMENT.**

The form of government provided for this city shall be known as the “Mayor-Council Plan.” (KRS 83A.130(1))

**§ 30.002 GOVERNING OFFICERS.**

(A) The city shall be governed by an elected executive who shall be called Mayor and by an elected legislative body which shall be called the City Council, and by such other officers and employees as are provided for by statute or city ordinance. (KRS 83A.130 (2))

(B) The City Council shall be composed of six members.

(KRS 83A.030 (1))

**CHAPTER 31: CITY OFFICIALS**

Section

*General Provisions*

- 31.001 Oath; bond
- 31.002 Compensation
- 31.003 Removal from office

*Elected Officials*

- 31.020 Election procedure
- 31.021 Mayor
- 31.022 Council members

*Nonelected City Officials*

- 31.035 Establishment of nonelected city offices
- 31.036 City Clerk/Treasurer

**GENERAL PROVISIONS**

**§ 31.001 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 the United States and the Constitution of the Commonwealth, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of \_\_\_\_\_, according to law; and I do further solemnly

swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have 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) *Bond.* Official bonds shall, if required, meet the standards of KRS 62.060.

### **§ 31.002 COMPENSATION.**

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

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

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

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

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

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

*Cross-reference:*

For specific compensation amounts of Mayor and Council, see §32.001.

*Statutory reference:*

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

### **§ 31.003 REMOVAL FROM OFFICE.**

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

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

*Statutory reference:*

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

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

## ***ELECTED OFFICIALS***

### **§ 31.020 ELECTION PROCEDURE.**

(A) Election of city officers is governed by general election laws as provided in KRS Chapters 116 through 121 unless City Council otherwise prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in KRS Chapter 83A. Such ordinance shall become effective not later than 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 subsection (A) of this section by ordinance, except that no change shall be made earlier than five years from the last change.

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

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

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

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

(G) The city may not create any elected office. Existing elected offices may be continued under provision of subsections (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(4), (5).*

### **§ 31.021 MAYOR.**

(A) *Election; term of office.* The Mayor of this city shall be elected by the voters of the city at a regular election. His term of office begins on the first day of January following his election and shall be four years and until his successor qualifies.

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

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

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

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Council shall not vote for himself. (KRS 83A.040(2)(c))

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

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

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

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

(D) *Powers and duties.*

(1) The executive authority of the city is hereby vested in and shall be exercised by the Mayor. The Mayor shall enforce the Mayor-Council Plan, city ordinances and orders, and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employees under his jurisdiction and require each department to make reports to him as required by ordinance or as he deems desirable.

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

(3) The Mayor shall report to the Council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance but not less than annually. He shall make any recommendations for actions by the Council he finds in the public interest. (KRS 83A.130(3))

(4) Subject to disapproval of the Council, the Mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statutes or ordinances. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records. (KRS 83A.130(4))

(5) Any delegation of the Mayor's power, duties, or responsibilities to subordinate officers and employees and any expression of his official authority to fulfill executive functions shall be made by

executive order. Executive orders shall be sequentially numbered by years and kept in a permanent file. (KRS 83A.130(7))

(6) All bonds, notes, contracts, and written obligations of the city shall be made and executed by the Mayor or his agent designated by executive order. (KRS 83A.130(8))

(7) The Mayor shall be the appointing authority with power to appoint and remove all city employees, including police officers, except as tenure and terms of employment are protected by statute, ordinance, or contract and except for employees of the Council. (KRS 83A.130(9))

(8) The Mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed, in accordance with subsection (D)(5) above. However, the Mayor may not delegate the responsibility of presiding at meetings of the Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer. With approval of the Council, the Mayor may rescind any action taken in his absence under this section within 30 days of such action. If for any reason the disability of the Mayor to attend to his duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of § 31.021(C) shall apply. (KRS 83A.130(10))

(E) *Compensation of the Mayor.*

The compensation which the Mayor shall receive shall be an annual salary of \$22,200 and shall be automatically increased annually in conjunction with changes in the consumer price index as set forth by the State of Kentucky pursuant to KRS 83A.075.

(Ord. passed 4-24-06)

### **§ 31.022 COUNCILMEMBERS.**

For provisions concerning City Council, see Chapter 32.

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

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

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

- (1) Title of office;
- (2) Powers and duties of office;
- (3) Oath of office;
- (4) Bond, if required; and
- (5) Compensation, which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.

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

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

(D) The following are nonelected city offices: City Clerk/Treasurer.

*Statutory reference: Nonelected city offices, see KRS 83A.080.*

**§ 31.036 CITY CLERK/TREASURER.**

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

(B) The office of City Clerk/Treasurer may, by ordinance, be combined with any other nonelected city office by inclusion of the title and duties of such office.

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

(1) Maintenance and safekeeping of the permanent records of the city;

(2) Performance of the duties required of the “official custodian” or “custodian” pursuant to KRS 61.870 through 61.882;

(3) Possession of the seal of the city if used;

(4) No later than January 31 of each year, mail to the Department of Local Government a list containing current city information including but not limited to the following:

(a) The correct name of the Mayor, legislative body members, and the following appointed officials who are serving as of January 1 of each year:

1. City Clerk/Treasurer;
2. Police Chief; and
3. Fire Chief;

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

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

(5) The Clerk/Treasurer shall receive and safely keep all money belonging to the city. He shall pay it out as directed by order of the City Council. He shall keep an accurate account of all receipts and disbursements, showing when, from whom and to whom, for what purpose and on what account all city funds were received or paid, and shall exhibit the account so kept. At the first regular meeting of the City Council each month, the Clerk/Treasurer shall send his report to the City Council. Every three months he shall make a financial exhibit, giving an itemized statement of all disbursements, with their purposes, and shall have the exhibit entered upon the records of his office. He shall annually prepare and publish the statement required by KRS 424.220. He shall have such powers as are required for the discharge of his duties. The City Clerk/Treasurer shall perform the duties of collector of taxes;

(Ord.5-28-81 (A), passed 5-28-81; Ord. 5-28-81(B), passed 5-28-81)

(6) Performance of all other duties and responsibilities required of the City Clerk/Treasurer by statute or ordinance. (KRS 83A.085)

(D) Compensation shall be in the amount set forth in the city's personnel and pay classification plan, which may hereafter be changed by ordinance.

(Ord. 5-28-81(A), passed 5-28-81)

(E) No person shall be appointed or act as the City Clerk/Treasurer unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond, if required, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

## **CHAPTER 32: CITY COUNCIL**

### Section

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

- 32.001 Members: election, qualifications, compensation
- 32.002 Vacancies
- 32.003 Powers and duties

#### ***Rules of Procedure***

- 32.020 Mayor as Presiding Officer
- 32.021 Meetings
- 32.022 Quorum

#### ***Ordinances***

- 32.035 One subject: title
- 32.036 Introduction; enacting clause
- 32.037 Form of amendment
- 32.038 Reading requirement; exception for emergency
- 32.039 Approval, disapproval by Mayor
- 32.040 Adoption of standard codes by reference
- 32.041 Official city records
- 32.042 Indexing and maintenance requirements
- 32.043 Publication requirements
- 32.044 Additional requirements for adoption may be established by city
- 32.045 Periodic review required
- 32.046 Municipal orders
- 32.047 Proved by Clerk/Treasurer; received in evidence
- 32.048 Legislative immunity

### ***GENERAL PROVISIONS***

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

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

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

(C) *Compensation*.

(1) Councilmembers shall each receive the sum of \$175 per month (\$2,100 annually) during their term and shall be automatically adjusted annually in conjunction with changes in the consumer price index as forth by the State of Kentucky pursuant to KRS 83A.075.

(Ord. passed 4-24-06)

(2) For provisions concerning the Mayor's compensation, see § 31.021(E).

### **§ 32.002 VACANCIES.**

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

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

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

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

*Statutory reference:*

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

### **§ 32.003 POWERS AND DUTIES.**

(A) The legislative authority of the city is hereby vested in and shall be exercised by the elected Council of the city. The Council may not perform any executive functions except those functions assigned to it by statute. (KRS 83A.130 (11))

(B) The Council shall establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare. (KRS 83A.130 (12))

(C) The Council shall provide, by ordinance, for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which provides for the orderly management of city resources. (KRS 83A.130 (12))

(D) The Council may investigate all activities of city government. The Council may require any city officer or employee to prepare and submit to it sworn statements regarding the performance of his official duties. Any statement required by the Council to be submitted or any investigation undertaken by the Council, if any office, department, or agency under the jurisdiction of the Mayor is involved, shall not be submitted or undertaken unless and until written notice of the Council's action is given to the Mayor. The Mayor may review any statement before submission to the Council and to appear personally or through his designee on behalf of any department, office, or agency in the course of any investigation. (KRS 83A.130 (13))

## ***RULES OF PROCEDURE***

### **§ 32.020 MAYOR AS PRESIDING OFFICER.**

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

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

(KRS 83A.130 (5))

*Cross-reference:*

Council's responsibility to select one of its own members to preside when there is vacancy in the office of Mayor, see § 31.021(E).

*Cross-reference:*

Compensation of the Mayor, see § 32.021(E).

### **§ 32.021 MEETINGS.**

(A) Regular meetings of the Council shall be held on the second Monday evening of each month at the time of 5 p.m. CST at the city hall except when the regular date falls on a holiday. In such instances the Council meeting shall automatically be moved to the next day.

(Ord. 1-4-82, passed 1-4-82), amended by Ord. 2013-0301ORDCC, passed 4-1-13)

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

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

(D) The minutes of every meeting shall be signed by the City Clerk/Treasurer and by the officer presiding at the meeting.

(KRS 83A.130 (11))

**§ 32.022 QUORUM.**

Unless otherwise provided by statute, a majority of the Council constitutes a quorum and a vote of a majority of a quorum is sufficient to take action. (KRS 83A.060 (6))

***ORDINANCES***

**§ 32.035 ONE SUBJECT; TITLE.**

Each ordinance shall embrace only one subject and shall have a title that clearly states the subject. (KRS 83A.060 (1))

**§ 32.036 INTRODUCTION; ENACTING CLAUSE.**

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

**§ 32.037 FORM OF AMENDMENT.**

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

**§ 32.038 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.**

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

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Council may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of § 32.043 shall be complied with within ten days of the enactment of the emergency ordinance.

(KRS 83A.060 (4), (7))

**§ 32.039 APPROVAL, DISAPPROVAL BY MAYOR.**

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

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

**§ 32.040 ADOPTION OF STANDARD CODES BY REFERENCE.**

The Council may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject

matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city. (KRS 83A.060 (5))

**§ 32.041 OFFICIAL CITY RECORDS.**

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

(B) The Council has provided, under the provisions of §§ 31.036(C) and 32.042, 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))

**§ 32.042 INDEXING AND MAINTENANCE REQUIREMENTS.**

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

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

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

(KRS 83A.060 (8))

**§ 32.043 PUBLICATION REQUIREMENTS.**

(A) Except as provided in § 32.038(B), no ordinance shall be effective until published pursuant to KRS Chapter 424.

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

(1) The title of the ordinance;

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

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

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

(KRS 83A.060 (9))

**§ 32.044 ADDITIONAL REQUIREMENTS FOR ADOPTION MAY BE ESTABLISHED BY CITY.**

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

**§ 32.045 PERIODIC REVIEW REQUIRED.**

Not less than once every five years all ordinances in this code of ordinances shall be examined for consistency with state law and with one another and shall be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions. (KRS 83A.060 (11))

**§ 32.046 MUNICIPAL ORDERS.**

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

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

(KRS 83A.060 (12), (13))

**§ 32.047 PROVED BY CLERK/TREASURER; RECEIVED IN EVIDENCE.**

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

**§ 32.048 LEGISLATIVE IMMUNITY.**

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

*Statutory reference:*

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

## CHAPTER 33: FINANCE AND REVENUE

### Section

#### *Financial Administration*

- 33.001 Definitions
- 33.002 Accounting records and financial reports
- 33.003 Annual budget ordinance
- 33.004 Annual audit of city funds
- 33.005 Official depositories; disbursement of city funds

#### *Improvements*

- 33.010 Definitions
- 33.011 Financing of improvements
- 33.012 Apportionment of cost
- 33.013 Comprehensive report required
- 33.014 Public hearing required
- 33.015 Adoption of ordinance; notice to affected owners
- 33.016 Affected owner may contest
- 33.017 When city may proceed; assessment constitutes lien
- 33.018 Effect of additional property or change in financing

### FINANCIAL ADMINISTRATION

#### § 33.001 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 or audit of governmental organizations, programs, activities and functions issued by the Comptroller General of the United States.

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

(KRS 91A.010)

**§ 33.002 ACCOUNTING RECORDS AND FINANCIAL REPORTS.**

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

- (1) Determine compliance with statutory provisions;
- (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; and
- (3) Readily provide such financial data as may be required by the federal revenue sharing program.

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

(KRS 91A.020)

**§ 33.003 ANNUAL BUDGET ORDINANCE.**

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

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

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

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

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

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

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

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

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

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

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

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. Such responsibility includes the preparation and submission to Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. Such reports shall be submitted not less than once every three months in each fiscal year.

(L) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in § 33.002.

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

(KRS 91A.030)

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

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten days of the completion of the audit and its presentation to the city legislative body, pursuant to subsection (B)(6) this section, each city shall forward three copies of the audit report to the Kentucky Department of Local Government for information purposes. The Department shall forward one copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

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

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

(2) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.460 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended.

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

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

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

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

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

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

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

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

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

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

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

of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

(KRS 91A.040)

*Statutory reference:*

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

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

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

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

(KRS 91A.060)

## ***IMPROVEMENTS***

### **§ 33.010 DEFINITIONS.**

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

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

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

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

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

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

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

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

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

***SQUARE FOOT BASIS.*** The apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property.

(KRS 91A.210)

**§ 33.011 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)

**§ 33.012 APPORTIONMENT OF COST.**

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

**§ 33.013 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)

**§ 33.014 PUBLIC HEARING REQUIRED.**

After preparation of the report required by § 33.013, 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)

**§ 33.015 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 § 33.013 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)

**§ 33.016 AFFECTED OWNER MAY CONTEST.**

(A) Within 30 days of the mailing of the notice provided for in § 33.015, 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)

**§ 33.017 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.**

(A) After the passage of time for the action provided for in § 33.016, or after favorable final judgment in any such action, whichever comes later, the city may proceed with the improvement or part thereof stayed by the action, including notice requiring payment of special assessment or installment thereon and bonds or other method proposed to finance the improvement. The first installment may be apportioned so that other payments will coincide with payment of ad valorem taxes.

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

(KRS 91A.280)

**§ 33.018 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 §§ 33.013 through 33.017 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*

34.001 Definitions

### *Procedures for Requesting Public Records*

- 34.005 Initial request with immediate inspection
- 34.006 Referral to proper custodian
- 34.007 Public records not immediately available
- 34.008 Refusal of unreasonable requests
- 34.009 Time limitation; denial of inspection
- 34.010 Concealing or destroying records prohibited
- 34.011 Access to records relating to particular individual
- 34.012 Public records protected from disclosure
- 34.013 Notification of the Attorney General

### **GENERAL**

#### **§ 34.001 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.

**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.

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

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

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

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

**PUBLIC RECORDS.** All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by the public agency. **PUBLIC RECORDS** shall not include any

records owned or maintained by or for the public agency that are not related to functions, activities, programs, or operations funded by the public agency nor any records that may be excluded by § 34.012.

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

(KRS 61.870)

### ***PROCEDURES FOR REQUESTING PUBLIC RECORDS***

#### **§ 34.005 INITIAL REQUEST WITH IMMEDIATE INSPECTION.**

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

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

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

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

#### **§ 34.006 REFERRAL TO PROPER CUSTODIAN.**

If the City Clerk does not have custody or control of the public record or records requested, the City Clerk shall so notify the applicant and shall furnish the name and location of the custodian of the public record, if such facts are known to him. (KRS 61.872(4))

#### **§ 34.007 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 or mailing of the public records, not to exceed three days (excepting Saturdays, Sundays, and legal holidays) from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection or duplication. (KRS 61.872(5))

**§ 34.008 REFUSAL OF UNREASONABLE REQUESTS.**

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

**§ 34.009 TIME LIMITATION; DENIAL OF INSPECTION.**

The official custodian, upon any request for records made under this chapter, shall determine within three days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any request whether to comply with the request and shall notify in writing the person making the request within the three-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority and shall constitute final agency action. (KRS 61.880)

**§ 34.010 CONCEALING OR DESTROYING RECORDS PROHIBITED.**

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

**§ 34.011 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.**

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of § 34.012 of these rules and regulations. (KRS 61.884)

**§ 34.012 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.**

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

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

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

(a) Records confidentially disclosed to the agency, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained:

1. In conjunction with an application for a loan;
2. 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

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

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

(3) 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 subsection (A)(2) above.

(4) 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.

(5) 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.

(6) 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.

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

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

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

(10) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(B) No exemption under this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person. In addition, if any public record contains material which is not excepted under this section, the city shall separate the excepted and make the nonexcepted material available for examination, subject to the possible applicability of § 34.008.

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

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

(KRS 61.878)

**§ 34.013 NOTIFICATION OF THE ATTORNEY GENERAL.**

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

## CHAPTER 35: TAXATION

### Section

35.001	County assessment adopted
35.002	Due date; payment
35.003	Delinquency
35.004	Late Assessment
35.005	Ad valorem taxes on motor vehicles
35.006	Disposition of funds
35.007	Occupational License and Net Profits Tax
35.007(1)	Definitions
35.007(2)	License Application Required
35.007(3)	Occupational License Tax Payment Required
35.007(4)	Apportionment
35.007(5)	Employers to Withhold
35.007(6)	Payment of Estimated Tax Quarterly
35.007(7)	Returns Required
35.007(8)	Extensions
35.007(9)	Refunds
35.007(10)	Federal Audit Provisions
35.007(11)	Administrative Provisions
35.007(12)	Information to Remain Confidential
35.007(13)	Use of Occupational License Tax
35.007(14)	Penalties relating to Occupation License and Net Profits Tax
35.099	Penalties

### **§ 35.001 COUNTY ASSESSMENT ADOPTED.**

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

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

### **§ 35.002 DUE DATE; PAYMENT.**

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due on September 15.

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

### **§ 35.003 DELINQUENCY.**

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

(B) Any taxes not paid by the date when they become delinquent (January 1) shall be subject to a penalty of 5% on the amount of tax due. Any tax not paid by February 1 shall be subject to a penalty of 10% on the amount of the tax due. The delinquent taxpayer shall also pay all costs and expenses incidental to any action taken by the city for collection of the delinquent tax bill.

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

(D) The city may publish a list of uncollected delinquent taxes, showing the name of and the amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of \$3 per name per publication may be added to the amount of each tax claim published as publication costs.

(KRS 424.330)

#### **§ 35.004 LATE ASSESSMENT.**

In the event that the ad valorem tax due date and delinquency dates set forth above are not feasible in any year due to the date on which the Green County certified property assessment is received, the City Council may, in its annual ad valorem property tax ordinance, establish different due dates and delinquency dates for that year.

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

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

(B) Ad valorem taxes on motor vehicles shall become due and delinquent as set forth in KRS 134.810 and any such taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.

#### **§ 35.006 DISPOSITION OF FUNDS.**

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

#### **§35.007 OCCUPATIONAL LICENSE AND NET PROFITS TAX.**

##### **(1) DEFINITIONS**

As used in this ordinance, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended:

**BUSINESS ENTITY.** Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

**BUSINESS.** Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. "Business" shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. "Business" shall not include funds, foundations, corporations, or

associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

**CITY.** The city of Greensburg, Kentucky.

**COMPENSATION.** Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(A) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(B) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

**CONCLUSION OF THE FEDERAL AUDIT.** The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and appealable.

**FINAL DETERMINATION OF THE FEDERAL AUDIT.** The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

**FISCAL YEAR.** An accounting period of twelve (12) months ending on the last day of any month other than December.

**EMPLOYEE.** Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

**EMPLOYER.** The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(A) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages; and

(B) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the United States, the term "employer" means such person.

**INTERNAL REVENUE CODE.** The Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2003, that would otherwise terminate.

**NET PROFIT.** Gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(A) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(B) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(C) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(D) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(E) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

**PERSON.** Every natural person, whether a resident or non-resident of the City. Whenever the word “person” is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

**RETURN or REPORT.** Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the City.

**SALES REVENUE.** Receipts from the sale, lease, or rental of goods, services, or property.

**TAX DISTRICT.** Any city of the first to fifth class with the authority to levy net profits, or occupational license taxes.

**TAXABLE NET PROFIT.** In the case of a business entity having payroll or sales revenue only within the City, net profit as defined in subsection (11) of this section.

**TAXABLE NET PROFIT.** In the case of a business entity having payroll or sales revenue both within and without the City, net profit as defined in subsection (11) of this section and as apportioned under Section (4) of this Ordinance.

**TAXABLE YEAR.** The calendar year or fiscal year ending during the calendar year upon the basis of which net profit is computed.

### **§ 35.007(2) OCCUPATIONAL LICENSE APPLICATION REQUIRED.**

Every person and business entity engaged in any business in the city of Greensburg shall be required to apply for and obtain a occupational license from the city of Greensburg before the commencement of business or in the event of a change of business status. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes which render the information supplied to the city in the license application inaccurate.

**§ 35.007(3) OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.**

(A) Except as provided in subsection (B) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the City an occupational license tax for the privilege of engaging in such activities within the City. The occupational license tax shall be measured by 1% of:

(1) All wages and compensation paid or payable in the City for work done or services performed or rendered in the City by every resident and nonresident who is an employee; and

(2) The net profit from business conducted in the City by a resident or nonresident business entity or \$25, whichever is greater. This minimum fee shall be due not later than February 1<sup>st</sup> of each year. If temporarily engaged in business in the City or if starting a new business, this minimum license fee shall be paid prior to starting any business activity.

(B) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public Service Corporations that pay an *ad valorem* tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the city;

(5) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages; or

(6) Life insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky.

**§ 35.007(4) APPORTIONMENT.**

(A) Except as provided in subsection (D) of this section, net profit shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in subsection (B) of this section, plus the sales factor, described in subsection (C) of this section, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profit by the sales factor as set forth in subsection (C) of this section.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the City during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the City based on the time the individual's service is performed within the City.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the City during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the City if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the City regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the City and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the City based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the City and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the City, the business entity may petition the City or the City may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one (1) or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the City; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the City, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the City. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the City bears to the total wages and compensation paid or payable. In order for the City to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is “passed through” to the owners are subject to this ordinance. The occupational license tax imposed in this ordinance is assessed against income before it is “passed through” these entities to the owners.

(G) If any business entity dissolves, ceases to operate, or withdraws from the City during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the City.

(H) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this ordinance on the basis of the same calendar or fiscal year required by the federal government and shall employ the same methods of accounting required for federal income tax purposes.

#### **§ 35.007(5) EMPLOYERS TO WITHHOLD.**

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under §35.007(3).

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the City, and pay to the City, the tax required to be withheld under this section, **unless the employer is permitted or required to report within a reasonable time after some other period as determined by the City.**

(C) Every employer who fails to withhold or pay to the City any sums required by this ordinance to be withheld and paid shall be personally and individually liable to the City for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The City shall have a lien upon all the property of any employer who fails to withhold or pay over to the City sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the City, the lien shall commence as of the date the amounts withheld were required to be paid to the City. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the City.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the City a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the City, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the City during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly

and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the City, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this ordinance at the time that the taxes imposed by this ordinance become or became due.

(I) Notwithstanding subsections (F) and (G) of this section, every employee receiving compensation in the City subject to the tax imposed under Section (C) of this ordinance shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this ordinance from the employee, such employee or employees shall be responsible for filing with the City each quarter in the same manner as if they were the employer.

### **§35.007(6) PAYMENT OF ESTIMATED TAX QUARTERLY.**

(A) Every business entity, other than a sole proprietorship, subject to taxation under this ordinance, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth months of each taxable year if the tax liability for the taxable year exceeds \$5,000.

(B) The quarterly estimated tax payments required under subsection (A) of this section shall be based on the lesser of:

(1) Twenty-two and one-half percent (22.5%) of the current taxable year's tax liability;

(2) Twenty-five percent (25%) of the preceding full year's taxable year tax liability; or

(3) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded \$20,000.

(C) Any business entity that fails to submit the minimum quarterly payment required under subsection (B) of this section by the due date for the quarterly payment shall pay an amount equal to 12% per annum simple interest on the amount of the quarterly payment required under subsection (B) of this section from the earlier of:

(1) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (B) of this section; or

(2) The due date of the annual return.

A fraction of a month is counted as an entire month.

(D) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the City or any first taxable year in which a business entity's tax liability exceeds \$5,000.

(E) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

**§ 35.007(7) RETURNS REQUIRED.**

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the City.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the City. Whenever, in the opinion of the City, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the City may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The City may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to a occupational license tax governed by the provisions of this ordinance shall keep records, render under-oath statements, make returns, and comply with rules as the City from time to time may prescribe. Whenever the City deems it necessary, the City may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the City deems sufficient to determine the tax liability the business entity.

(D) Every business entity making payments of \$600 or more to persons other than employees for services performed within the City are responsible for maintaining the records of those payments and for completing IRS Form 1099 on or before February 28 of the year following the close of the calendar year in which such compensation was paid. Persons or business entities not required to remit a Form 1099 remain liable to the City to remit equivalent information for any compensation made to persons or business entities that are not employees.

(E) The City may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(F) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the City at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

**§35.007(8) EXTENSIONS.**

(A) The City may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the City and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the City. A fraction of a month is counted as an entire month.

**§ 35.007(9) REFUNDS.**

(A) Where there has been an overpayment of tax under §35.007(5) of this ordinance, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or

credit is received by the City from the employer within two (2) years from the date the overpayment was made.

(B) An employee who has compensation attributable to activities performed outside the City, based on time spent outside the City, whose employer has withheld and remitted to this City, the occupational license tax on the compensation attributable to activities performed outside the City, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the City may confirm with the employer the percentage of time spent outside the City and the amount of compensation attributable to activities performed outside the City prior to approval of the refund.

(C) In the case where the tax computed under the provisions of this ordinance is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund or credit, if a credit is requested, shall be made upon the filing of a return.

(D) (1) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year.

(2) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this ordinance.

#### **§ 35.007(10) FEDERAL AUDIT PROVISIONS.**

(A) As soon as practicable after each return is received, the City may examine and audit the return. If the amount of tax computed by the City is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the City within five (5) years from the date the return was filed, except as otherwise provided in this subsection.

(1) In the case of a failure to file a return or of a fraudulent return, the additional tax may be assessed at any time.

(2) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the City receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the City. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

(C) The City may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (A) of this section.

**§ 35.007(11) ADMINISTRATIVE PROVISIONS.**

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this ordinance.

(B) Any tax collected pursuant to the provisions of this ordinance may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the City, whichever is the later, except that:

(1) In any case where the assessment period contained in §35.007(9) has been extended by an agreement between the business entity and the City, the limitation contained in this subsection shall be extended accordingly.

(2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (A) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this ordinance is vested exclusively in the City.

**§ 35.007(12) INFORMATION TO REMAIN CONFIDENTIAL.**

(A) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax law or in any action challenging a tax district tax laws.

(B) The City reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the City if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the City the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the City may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.

(C) In addition, the City is empowered to execute similar reciprocity agreements as described in subsection (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this ordinance.

**§35.007(13) USE OF OCCUPATIONAL LICENSE TAX.**

All money derived from the license taxes under the provisions of this ordinance shall be paid to the City and placed to the credit of the City's general revenue fund.

**§ 35.007(14) PENALTIES.**

(A) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

(1) Fails to file any return or report on or before the due date prescribed for filing or as extended by the City; or

(2) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than Twenty-Five Dollars (\$25).

(B) Every employer who fails to file a return or pay the tax on or before the time prescribed under §35.007(5) may be subject to a penalty in amount equal to five (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than Twenty-Five Dollars (\$25).

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the City. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the City.

(E) The City may enforce the collection of the occupational tax due under §35.007(3) and any fees, penalties, and interest as provided in subsections (A), (B), (C), and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the City shall be entitled to recover all court costs and reasonable attorneys' fees incurred by it in enforcing any provision of this ordinance.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(H) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the City and required to be filed with the City by the provisions of this ordinance, or by the rules of the City or by written request for information to the business entity by the City.

(I) Any person violating the provisions of § 35.007(12) by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than \$500 or imprisoned for not longer than six (6) months, or both.

(J) Any person violating the provisions of § 35.007(12) by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one (1) year, or both.

(Ord. passed 12-11-06)

### **§ 35.099 PENALTIES**

For penalties relating to § 35.007 Occupation License and Net Profits Tax (see § 35.007(14)).

**CHAPTER 36: DEPARTMENTS, COMMISSIONS AND AUTHORITIES**

Section

***Housing Authority***

- 36.001 Establishment
- 36.002 Composition and appointment
- 36.003 Qualifications and terms
- 36.004 Compensation

***Police Department***

- 36.015 Establishment
- 36.016 Police Chief; police officers
- 36.017 Auxiliary Officers (a/k/a School Resource Officer)

***Volunteer Fire Department***

- 36.025 Establishment
- 36.026 Fire chief; assistant fire chief; composition of department

***Code Enforcement Board***

- 36.030 Creation of Code Enforcement Board
- 36.031 Code Enforcement Board Meetings
- 36.032 Clerical and Administrative Personnel
- 36.033 Prohibitions
- 36.034 Jurisdiction and Ordinance Violations
- 36.035 KRS Notice of Remediation
  
- 36.099 KRS Penalties; Authorization

Cross-reference:

Joint Planning Commission, *see* §§ 152.010 through 152.018.

***HOUSING AUTHORITY***

**§ 36.001 ESTABLISHMENT.**

Pursuant to the provisions of KRS 80.020 there is hereby established the City Housing Authority. The Housing Authority shall be governed, organized, and empowered as provided in KRS 80.020 *et seq.*

**§ 36.002 COMPOSITION AND APPOINTMENT.**

The Housing Authority shall consist of the Mayor, ex official, and four persons appointed by him with the approval of the City Council.

**§ 36.003 QUALIFICATIONS AND TERMS.**

(A) Each person appointed to the Housing Authority shall be at least 25 years of age and a bona fide resident of the city for at least one year preceding the appointment. No officer or employee of the city, whether holding a paid or unpaid office, is eligible to hold an appointment on the Housing Authority. No more than two appointees on the Housing Authority shall be affiliated with the same political party.

(B) Appointees to the Housing Authority shall be originally appointed for terms of four years. Upon the expiration of the term of the first appointees, their successors shall be appointed for terms of one, two, three, and four years, respectively, and upon the expiration of the term of each of the second group of appointees his successor shall be appointed for a term of four years.

(C) Vacancies shall be filled for unexpired terms in the same manner as the original appointment.

(KRS 80.040)

**§ 36.004 COMPENSATION.**

Each member of the Housing Authority, except an ex officio member, may receive compensation either as a salary or as payment for meetings attended. The compensation of members of the Housing Authority shall be fixed by the City Council. The Housing Authority shall fix the compensation of the Secretary and Treasurer, but the City Council may fix or limit the salary.

***POLICE DEPARTMENT***

**§ 36.015 ESTABLISHMENT.**

There is hereby established a Police Department in the city.

**§ 36.016 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 Council.

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

(C) No person shall be appointed or act as the Police Chief 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 set forth in the Personnel Classification and Compensation Plan.

**§36.017 AUXILIARY OFFICERS (a/k/a SCHOOL RESOURCE OFFICER)**

The position known as “Auxiliary Officer”, a/k/a School Resource Officer, is hereby created and shall be selected as follows:

(A) The Officer shall be hired through the same standards as the City Police and shall be in compliance with the Kentucky Revised Statutes.

(B) The duties and responsibilities of the Auxiliary Officer shall be in compliance with the Kentucky Revised Statutes and shall include:

(1). That the Auxiliary Officer's powers and duties shall be restricted to hours of operation of school and/or during functions sponsored by the Green County School Board.

(2). That the Auxiliary Officer shall retain an official badge and uniform and remain on official status with all its rights and responsibilities therefrom.

(3). That the Auxiliary Officer shall be under the direct supervision of the appropriate school representative, who shall act as an immediate supervisor. The Officer shall seek the advice of said supervisor for an explanation of duties and functions.

(4). That the Auxiliary Officer shall represent the Greensburg City Police and Green County School Board in a professional manner consistent with all relevant guidelines while completing his duties.

(5). That any change in scheduling for the Auxiliary Officer shall be the duty of the immediate supervisor.

(6). That the Greensburg City Police Department shall loan the Auxiliary Officer a department radio. Said radio shall be in proper working order at all times.

(7). That the Greensburg City Police Department shall not provide any means of transportation for use by the Auxiliary Officer.

(C) That responsibilities of the Green County School Board to the Auxiliary Officer shall include:

(1). That the Green County School Board shall bear the financial responsibility of any additional required training and/or educational endeavors.

(2). That the Auxiliary Officer shall be in possession of all required uniform and equipment at commencement of his/her employment as an Auxiliary Officer. Any additional uniforms and/or equipment deemed necessary for the function of the Auxiliary Officer shall be the responsibility of the Green County School Board, who shall bear the responsibility of acquiring same.

(Ord. passed 06-04-07)

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

#### **§ 36.025 ESTABLISHMENT.**

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

#### **§ 36.026 FIRE CHIEF; ASSISTANT FIRE CHIEF; COMPOSITION OF DEPARTMENT.**

(A) The Volunteer Fire Department shall consist of a Fire Chief, Assistant Fire Chief and such number of volunteer firefighters as may be authorized from time to time.

(B) The position of Fire Chief shall be filled by appointment of the City Council upon nomination by the members of the Volunteer Department. The Assistant Fire Chief shall be appointed by the Fire Chief.

(C) Subject to the executive authority of the city and the rules and regulations promulgated by the firefighters and approved by the Mayor and City Council, the Chief of the Fire Department shall be responsible for the organization and operation of the Fire Department and shall supervise, direct, and control the equipment of the Fire Department and the firefighters in their response to fires and the extinguishment thereof and the plans, preparations, procedures, practice, and training in regard thereto, and may, as Chief of the Fire Department, perform or cause to be performed all other actions authorized by law, ordinance, or regulation.

(D) The Volunteer Fire Department shall operate pursuant to rules and regulations promulgated by the Volunteer Fire Department and approved by the Mayor and City Council.

(E) The Fire Chief, Assistant Fire Chief and members of the Volunteer Fire Department shall be reimbursed for their expenses as determined from time to time by the City Council.

### ***CODE ENFORCEMENT BOARD***

#### **§ 36.030 CREATION OF CODE ENFORCEMENT BOARD.**

(A) Pursuant to KRS 65.8808, there is hereby created a three (3) member Code Enforcement Board for the City of Greensburg.

(B) Alternate Board Members – Pursuant to KRS 65.8818 the executive authority may appoint two (2) alternate members to serve on the Code Enforcement Board in the absence of regular members.

#### **§ 36.031 CODE ENFORCEMENT BOARD MEETINGS.**

(A) *Regular Meetings.* Regular meetings of the Code Enforcement Board hereby created shall be conducted at 6:00 pm. on the second (2<sup>nd</sup>) Thursday in the months of January, May and September of each calendar year.

(B) *Special Meetings.* Meetings of the Code Enforcement Board other than the regular meetings thereof shall be special meetings conducted according to the requirements of the Kentucky Open Meetings Act.

(C) *Evidentiary Hearings.* Meetings of the Code Enforcement Board for the purpose of evidentiary hearings pursuant to KRS 65.882 shall be conducted at 6:00 p.m. on the second (2<sup>nd</sup>) Thursday of the calendar month, which is more than seven (7) days after a request therefore.

(D) *Location of Meetings.* All meetings of the Code Enforcement Board shall be conducted at the Greensburg City Hall.

#### **§ 36.032 CLERICAL AND ADMINISTRATIVE PERSONNEL.**

All clerical and administrative personnel reasonably required by the Code Enforcement Board shall be provided by the City of Greensburg.

#### **§ 36.033 PROHIBITIONS.**

Nobody shall conspire, cause, permit, promote, allow, aid, assist, encourage or engage in any non-compliance with any provision of any ordinance of the City of Greensburg, by either act or omission.

**§ 36.034 JURISDICTION AND ORDINANCE VIOLATIONS.**

The Code Enforcement Board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions of the City of Greensburg Zoning Ordinance, the City of Greensburg Property Maintenance Code and any other future ordinance or code as stipulated by the Greensburg City Council.

A violation of an ordinance of the City of Greensburg occurs upon every non-compliance with any provision thereof, by either act or omission; and each and every separate non-continuing occurrence thereof, and each and every day of every continuing occurrence thereof is a separate violation of the ordinance.

**§ 36.035 NOTICE OF REMEDIATION.**

Pursuant to KRS 65.8825 (2) Code Enforcement Officers are hereby authorized to give written notice that a violation shall be remedied within a specified period of time, as an alternative to issuing a citation.

*Statutory reference: KRS 65.8825(2)*

**§ 36.099 PENALTIES; AUTHORIZATION.**

Except for those Greensburg ordinances the violation of which are precluded by KRS 65.8808(3) from classification as a civil offense, and except for those Greensburg ordinances which are parking ordinances within the meaning of KRS 82.600(3), and except and otherwise provided therein, each separate violation of every other ordinance is hereby classified as a civil offense for which:

(A) The specific civil fine required by KRS 65.8808(2)(c) is hereby established as \$10.

(B) The maximum civil fine required by KRS 65.8808(2)(b) that may be imposed for each separate violation is hereby established as \$500.00.

(C) When the Code of Enforcement Board determines that a violation has been committed, the board may either: (1) order the offender to pay a civil fine in an amount up to Five Hundred (\$500.00) Dollars; or (2) order the offender to remedy a continuing violation within a specified time, or both.

(Ord passed 4-4-05)

*Statutory reference: KRS 65.8828(4)*

**CHAPTER 37: PERSONNEL POLICIES AND PROCEDURES**

**§ 37.001 PERSONNEL POLICIES AND PROCEDURES.**

Copies of the Personnel Policies and Procedures of the city, and all amendments thereto, are available for public inspection during normal hours at the office of the City Clerk/Treasurer.

## CHAPTER 38: CODE OF ETHICS

### Section

#### *Purpose and General Provisions*

- 38.001 Definitions
- 38.002 Standards of Conduct
- 38.003 Conflicts of Interest in Contracts
- 38.004 Receipt of Gifts
- 38.005 Use of City Property, Equipment and Personnel
- 38.006 Representation of Interests Before City Government
- 38.007 Misuse of Confidential Information
- 38.008 Honoraria

#### *Financial Disclosures*

- 38.009 Who Must File
- 38.010 When to File Statements; Amended Statements
- 38.011 Form of the Statement of Financial Interests
- 38.012 Control and Maintenance of the Statements of Financial Interest
- 38.013 Contents of the Financial Interests Statement
- 38.014 Noncompliance with Filing Requirement

#### *Nepotism*

- 38.015 Nepotism Prohibited

#### *Enforcement*

- 38.016 Enforcement Officer Created
- 38.017 Facilities and Staff
- 38.018 Power and Duties of the Enforcement Officer
- 38.019 Filing and Investigation of Complaints
- 38.020 Notice of Hearings
- 38.030 Hearing Procedure
- 38.031 Appeals
- 38.032 Limitation of Actions
- 38.033 Advisory Opinions
- 38.034 Reprisals Against Disclosing Violations Prohibited
- 38.035 Penalties
- 38.036 Conflicting Ordinances Repealed

A. It is the purpose of this ordinance 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 ordinance to meet the requirements of the applicable portions of the Kentucky Revised Statutes as enacted by the 1994 Kentucky General Assembly.

C. This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65 *et seq.*

**§ 38.001 DEFINITIONS.**

**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 with business is conducted for profit.

**ENFORCEMENT OFFICER.** The City of Greensburg Enforcement Officer who is appointed and vested by this ordinance with the responsibility of enforcing the requirements of the city's code of ethics.

**CANDIDATE.** Any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or body member.

**CITY.** The City of Greensburg, Kentucky.

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

**EMPLOYEE.** Any person, whether full-time or part-time, who is employed by or provides services to the City for remuneration in the form of wages or a salary. The term "employee" shall not include any contractor or subcontractor or any of their employees, and shall not include persons who are only reimbursed for expenses incurred by them in the performance of duties for the City.

[Ord. amended 6-21-95]

**FAMILY MEMBER.** A spouse.

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

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

1. The Mayor.
2. A legislative body member.

**§ 38.002 STANDARDS OF CONDUCT.**

*Conflicts of Interest in General.* Every officer and employee of the city and every city agency shall comply with the following standards of conduct.

### **§ 38.003 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 appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in 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 reasons.

(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.

### **§ 38.004 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 or her public duties.

**§ 38.005 USE OF CITY PROPERTY, EQUIPMENT AND PERSONNEL.**

(A) 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:

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

(2) 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.

(3) The use is necessary by reason of a emergency officially declared as such by the Mayor or his/her designee, or by reason of an executive finding that such use will prevent serious damage or injury to person or property.

**§ 38.006 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.

**§ 38.007 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.

**§ 38.008 HONORARIA.**

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

(B) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or

received on behalf of the city or city agency and primarily for the benefit of the city or city agency and not primarily for the benefit of the officer or employee or any other person.

## **FINANCIAL DISCLOSURE**

### **§ 38.009 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 Enforcement Officer:

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

### **§ 38.010 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.**

(A) The initial statement of financial interests required by this section shall be filed with the Enforcement Officer no later than 4:00 p.m. April 1, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on April 1, each year, provided that:

(1) An officer or employee newly-appointed to fill an office or position of employment with the city or a city agency shall file his or her initial statement no later than thirty (30) days after the date of the 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 Enforcement Officer 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 Enforcement Officer, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Enforcement Officer.

### **§ 38.011 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.**

The statement of financial interests shall be filed on a form prescribed by the City Council, or the administrative official designated by the City Council. The Enforcement Officer, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than March 1 of each year. The failure of the Enforcement Officer, 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.

### **§ 38.012 CONTROL AND MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.**

(A) The Enforcement Officer 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 interest shall be maintained by the Enforcement Officer, or the administrative official designated by the Enforcement Officer as the "custodian", as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Enforcement Officer, or the designated administrative official, for a period of five (5) years after filing.

**§ 38.013 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 an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.

(6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.

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

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

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

(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.

**§ 38.014 NONCOMPLIANCE WITH FILING REQUIREMENT.**

(A) The Enforcement Officer, or the designated administrative official, shall notify by certified mail, each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the

Enforcement Officer. 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 Enforcement Officer 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 Enforcement Officer 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.

## **NEPOTISM**

### **§ 38.015 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) transfer; or

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

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

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

## **ENFORCEMENT**

### **§ 38.016 ENFORCEMENT OFFICER CREATED.**

(A) There is hereby created the position of Enforcement Officer who shall have the authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.

(B) The Enforcement Officer shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The initial Enforcement Officer shall be appointed within sixty (60)

days of the effective date of this ordinance. No Enforcement Officer shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. The Enforcement Officer shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The Enforcement Officer shall be appointed for a term of two years, however, may be re-appointed for any number of consecutive terms.

(C) A vacancy in the position of Enforcement Officer may be removed by the executive authority, subject to the approval of the legislative body for misconduct, inability, or willful neglect of duties. Before the Enforcement Officer is removed from office under this section, they shall be afforded the opportunity for a hearing before the executive authority and the legislative body.

(D) A vacancy in the position of Enforcement Officer shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body.

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

#### **§ 38.017 FACILITIES AND STAFF.**

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

#### **§ 38.018 POWER AND DUTIES OF THE ENFORCEMENT OFFICER.**

The Enforcement Officer shall have the following powers and duties:

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

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

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

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

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

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

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

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

(I) The Enforcement Officer in interpreting and applying the provisions of this Ordinance shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens .who are government officers and employees have, a right to private interests of a personal, financial, and economic nature; and that standards of conduct shall distinguish between those conflicts of interest which are legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and a free society.

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

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

(A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Enforcement Officer, or the administrative official designated by the Enforcement Officer. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Enforcement Officer. The Enforcement Officer shall acknowledge receipt of a complaint to the complainant within ten (10) working days to each officer or employee of the city, or city agency who is the subject of the complaint, a copy of the complaint and a general statement of the applicable provisions of this ordinance.

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

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

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

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

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

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

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

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

(F) Any person who knowingly files with the Enforcement Officer a false complaint alleging a violation of any provision of this ordinance or employee of the city or any city agency shall be guilty of a Class A misdemeanor.

### **§ 38.020 NOTICE OF HEARINGS.**

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

### **§ 38.030 HEARING PROCEDURE.**

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

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

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

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

(E) All hearings of the Enforcement Officer shall be public, unless the Enforcement Officer decides to go into executive session in accordance with KRS 61.810.

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

(G) If the Enforcement Officer concludes in their report that no violation of this ordinance has occurred, they shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(H) If the Enforcement Officer concludes in their report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the Enforcement Officer may:

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

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

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

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000.00.

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

### **§ 38.031 APPEALS.**

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

### **§ 38.032 LIMITATION OF ACTIONS.**

Except when the period of limitation is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

### **§ 38.033 ADVISORY OPINIONS.**

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

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

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

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

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

(2) By a decision of the Enforcement Officer.

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

(F) Any written advisory opinion issued by the Enforcement Officer shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this ordinance for actions taken in reliance on that opinion.

#### **§ 38.034 REPRISALS AGAINST 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 Enforcement Officer 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 ordinance.

(B) This section shall not be construed as:

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

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

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

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

#### **§ 38.035 PENALTIES.**

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Enforcement Officer to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed the Enforcement Officer not to exceed one thousand dollars (\$1,000), which may be recovered by the city in a civil action in the nature of a 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 ordinance, any officer or employee of the city or of any city agency who is found by the Enforcement Officer to have violated any provision of this ordinance shall forfeit to the city or the city agency any amount equal to the economic benefit or gain which the officer or employee is determined by the Enforcement Officer 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 ordinance, a finding by the Enforcement Officer that an officer or employee of the city or any city agency is guilty of a violation of this ordinance 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 ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

**§ 38.036 CONFLICTING ORDINANCES REPEALED**

All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

[Ord. passed 10-31-94; amended 6-21-95]