

TITLE III: ADMINISTRATION

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' 30.01 FORM OF GOVERNMENT.

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

' 30.02 GOVERNING OFFICERS.

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

(B)The City Council shall be composed of six members.
(KRS 83A.030 (1))

CHAPTER 31: CITY OFFICIALS

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GENERAL PROVISIONS

' 31.01 OATH; BOND.

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

(B) Bond. All city officers and employees shall give such bonds as may be required by the City Council. Such bonds shall, if required, meet the standards of KRS 62.060.

(>78 Code, ' 2-35)

' 31.02 COMPENSATION.

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

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

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

(B) The City Council shall 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.

Statutory reference:

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

' 31.03 REMOVAL FROM OFFICE.

(A) Elected officers. Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the 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(2)

' 31.04 EFFECTS OF OFFICE TO BE SURRENDERED.

Every city officer and employee shall, upon the termination of his status as such, surrender to his successor or supervisor all the effects of his position.

(>78 Code, ' 2-33)

' 31.05 GARNISHMENTS.

Any city employee who has been served a garnishment shall only be dismissed or relieved of his duties after the serving of the second garnishment against him.

(>78 Code, ' 2-31) (Mo. of 10-10-72)

Statutory reference:

Dismissals for more than one indebtedness, see KRS 427.140

' 31.06 FUNDS TO BE TURNED OVER.

All monies collected by any city officer or employee which belong to the city=s General Fund shall be turned over to the City Clerk/Treasurer at least once each month.

ELECTED OFFICIALS

' 31.20 ELECTION PROCEDURE.

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

(B) The city may change the manner of election of city officers within the provisions of division (A) of this section by ordinance, except that no change shall be made earlier than five years from the last change.

(C) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by KRS Chapters 116 to 121.

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

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

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

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

Statutory reference:

Election of city officers, see KRS 83A.050

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

' 31.201 PRIMARY ELECTIONS ELIMINATED.

(A) The nonpartisan primary election for the nomination of candidates to elected city offices is hereby eliminated as authorized by KRS Ch. 118 for holding the regular election.

(B) All candidates for elected city offices shall file their nomination papers with the County Clerk no later than 91 days before the day fixed by KRS Ch. 118 for holding the regular election.

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

(D) The election of candidates to all elected city offices shall be governed by the provisions of this ordinance and by the applicable provisions of KRS Ch. 83A and Chs. 116 to 121.

(Ord. 90-18, passed 11-14-90)

' 31.21 MAYOR.

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

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

(C) Vacancy. If a vacancy occurs in the office of Mayor, Council shall fill the vacancy within 30 days. If for any reason, any vacancy in the office of Mayor is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed. (KRS 83A.040(1), (2), (6))

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

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

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

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

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

(6) Notwithstanding the above provisions, when the absence or disability of the Mayor shall prevent him or her from serving during a national, state or local emergency, the duties and responsibilities of the Mayor shall be administered temporarily by the Chief of Police. If neither the Mayor nor the Chief of Police is able to serve in the office of Mayor by reason of absence or disability, then the duties of the office of Mayor shall be assumed temporarily by the Fire Chief-E911 Supervisor.

(D) Powers and duties.

(1) The executive authority of the city is hereby vested in and shall be exercised by the Mayor. The Mayor shall enforce the Mayor-Council Plan, city ordinances and orders, and all applicable statutes. He or she shall supervise all departments of city government and the

conduct of all city officers and employees under his or her jurisdiction and require each department to make reports to him or her as required by ordinance or as he or she deems desirable.

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

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

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

(5) Any delegation of the Mayor's power, duties, or responsibilities to subordinate officers and employees and any expression of his or her official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and kept in a permanent file. (KRS 83A.130 (7))

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

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

(8) The Mayor shall provide for the orderly continuation of the functions of city government at any time he or she is unable to attend to the duties of his or her office by delegating responsibility for any function to be performed, in accordance with division (D)(5) above. However, the Mayor may not delegate the responsibility of presiding at meetings of the Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer. With approval of the Council, the Mayor may rescind any action taken in his or her absence under this section within 30 days of such action. If for any reason the disability of the Mayor to attend to his or her duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of ' 31.21(C) shall apply. (KRS 83A.130 (10))

(9) The Mayor is permitted and authorized to grant easements on behalf of the city on all public roads and rights-of-way for the purpose of laying and maintaining water and sewer lines.
(Am. Res. R04-10, passed 4-14-04; Am. Res. 04-13, passed 5-12-04; Am. Res. R2011-05, passed 2-14-11)

Statutory reference:

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

' 31.22 COUNCIL MEMBERS.

For provisions concerning City Council, see Chapter 32.

NONELECTED CITY OFFICIALS

' 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.

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

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

(5) Compensation, which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.

(B) All nonelected city officers shall be appointed by the Mayor with approval of City Council.

(C) All nonelected officers may be removed only for cause and only in accordance with the duly established personnel policies and procedures of the city as promulgated in the Personnel Policy and Procedures Handbook for the City of Carrollton, including the appeal procedure as set forth therein and in accordance with the grievance procedure as set forth in ' 36.19. (Ord. 89-09, passed 5-24-89)

(D) The following are nonelected city offices:

- (1) City Clerk/Treasurer.
- (2) Alcoholic Beverage Control Administrator.
- (3) Fire Chief.

(Ord. 91-8, passed 5-8-91)

Statutory reference:

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

' 31.36 CITY CLERK/TREASURER.

(A) The city hereby establishes the office of City Clerk/Treasurer. The City Clerk/Treasurer shall be appointed by the Mayor with the approval of a majority vote of City Council.

(B) This office is responsible for the general municipal admini-

stration of the city and for directing the day-to-day operation of the city administrative offices under the direct supervision of the Mayor, with a more specific example of duties and requirements outlined in the city personnel handbook. The City Clerk/Treasurer shall perform the duties required of the Aofficial custodian@ or Acustodian@ pursuant to KRS 61.870 through 61.882, and any other duties and responsibilities required of the City Clerk/Treasurer by statute or ordinance. (KRS 83A.085)

(C) Compensation shall be in an amount set forth in the schedules found in the Personnel Policy and Procedures Handbook of the City of Carrollton, Kentucky.

(D) 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.

(E) The City Clerk/Treasurer shall be removed only for cause and only in accordance with the duly established personnel policies and procedures of the city, including the appeal procedure as set forth therein, and in accordance with the grievance procedure as set forth in ' 36.19.

(Ord., passed 12-30-85; Am. Ord. 89-11, passed 5-24-89; Am. Ord. 91-09, passed 5-8-91)

Cross-reference:

Building inspection duties, see ' 150.02

' 31.37 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) Establishment. The city hereby establishes the office of Alcoholic Beverage Control Administrator.

(B) Appointment. The Alcoholic Beverage Control Administrator shall be appointed by the Mayor with the approval of a majority vote of the City Council. (>78 Code, ' 2-32) (Ord., passed 1-14-70; Am. Ord., passed 2-8-78)

(C) Functions, powers, and duties. The City Administrator shall have the same duties and functions regarding local license applications and renewals as the Department with respect to state licenses. The City Administrator shall have the same duties and functions regarding local license penalization as the Board with respect to state license penalization. No regulation of the Administrator shall become effective until it has been approved by the State Alcoholic Beverage Control Board. (KRS 241.190)

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

(E) Oath and bond. No person shall be appointed or act as the Alcoholic Beverage Control Administrator unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond, in an amount of not less than \$1,000, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

' 31.38 (RESERVED).

' 31.39 FIRE CHIEF.

(A) The office of the Fire Chief is hereby established.

(B) The Fire Chief shall be appointed by the Mayor with the approval of the City Council pursuant to KRS 83A.080; and, pursuant to KRS 83A.080, shall be removed only for cause and only in accordance with the duly established personnel policies and procedures of the city, including the appeal procedure as set forth therein, and in accordance with the grievance procedure as set forth in ' 36.19.

(>78 Code, ' 5-16)

(C) No person shall be appointed or act as the Fire Chief unless such person meets the qualifications set forth in state law; has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky; and has provided a bond, if required by Council, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(D) Subject to the executive authority of the city, 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.

(E) The compensation of the Fire Chief shall be in an amount set forth in the schedules found in the Personnel Policy and Procedures Handbook of the City of Carrollton.

(F) No person shall be appointed as City Fire Chief unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond with a corporate

surety authorized and has qualified to become surety on bond and conditioned upon the performance of the cities specified herein.
(Ord. 89-12, passed 5-24-89)

Cross-reference:

Fire Department, see ' ' 35.030 through 35.032

OTHER OFFICIALS

' 31.45 CHIEF OF POLICE.

(A) The position of Police Chief is hereby established. (>78 Code, ' 11-2)

(B) In accordance with KRS 83A.130(9) and Attorney General Opinion 83-353, the Police Chief shall be appointed by the Mayor at will, and shall be removed only for cause and only in accordance with the duly established personnel policies and procedures of the city, including the appeal procedure as set forth therein, and in accordance with the grievance procedure as set forth in ' 36.19.

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

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

(E) Subject to the authority of the Mayor, the Chief of Police shall be responsible for the organization and operation of the Police Department of the city. He shall supervise, direct, and control the equipment and personnel thereof in the enforcement of all statutes, laws, and ordinances.

(F) The compensation of the Police Chief shall be in an amount set forth in the schedules found in the Personnel Policy and Procedures Handbook of the City of Carrollton, Kentucky.
(Ord. 89-13, passed 5-24-89)

Cross-reference:

Police Department, see ' ' 35.085 and 35.086

CHAPTER 32: CITY COUNCIL

Section

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- 32.03 Powers and duties

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- 32.45 Periodic review required
- 32.46 Municipal orders
- 32.47 Proved by Clerk; received in evidence
- 32.48 Legislative immunity

GENERAL PROVISIONS

' 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

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

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

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

' 32.02 VACANCIES.

(A) Vacancies. If one or more vacancies on 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 Council shall occur unless a written resignation which specifies a resignation date is tendered to the Council. The resignation shall be effective at the next regular or special meeting of the Council occurring after the date specified in the written letter of resignation. (KRS 83A.040(7))

(2) If a vacancy occurs on the Council which is required by law to be filled temporarily by appointment, the 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

' 32.03 POWERS AND DUTIES.

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

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

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

(D) The Council may investigate all activities of city government. The Council may require any city officer or employee to prepare and submit to it sworn statements regarding the performance of his official duties. Any statement required by the Council to be submitted

or any investigation undertaken by the Council, if any office, department, or agency under the jurisdiction of the Mayor is involved, shall not be submitted or undertaken unless and until written notice of the Council=s action is given to the Mayor. The Mayor may review any statement before submission to the Council and to appear personally or through his or her designee on behalf of any department, office, or agency in the course of any investigation.
(KRS 83A.130(13))

RULES OF PROCEDURE

' 32.20 MAYOR AS PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Council. The Council has the authority to establish, by ordinance, the manner in which 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 or she may cast the deciding vote in case of a tie.

(KRS 83A.130(5))

Cross-reference:

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

' 32.21 MEETINGS.

(A) Regular meetings.

(1) Regular meetings of the City Council shall be held on the second and fourth Monday of each month at Carrollton City Hall, 750 Clay Street, Carrollton, Kentucky, unless such a day is a legal holiday, in which case the regular meeting shall be held on the next day not a legal holiday. A regular work session shall be held immediately prior to the regular meeting. (>78 Code, ' 2-16) (Ord., passed 10-10-72)

(2) Regular meetings of the City Council shall begin at the hour of 7:00 p.m., and the regular work session shall begin at the hour of 6:30 p.m. (>78 Code, ' 2-17) (Ord., passed 1-9-74)

(3) The regular meeting of the City Council for any month may be changed, either as to day or time or both, by action of the City Council at a previous meeting, either regular or special. (>78 Code, ' 2-18) (Ord., passed 10-10-72)

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

Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose.

(C) Minutes. 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)) (Am. Ord. 91-07, passed 5-8-91; Am. Ord. 92-31, passed 9-9-92; Am. Ord. 94-01, passed 2-9-94; Am. Ord. 03-04, passed 4-22-03; Am. Ord. 06-14, passed 6-19-06)

Cross-reference:

Open meetings, see Chapter 38

' 32.22 QUORUM.

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

(KRS 83A.060(6))

ORDINANCES

' 32.35 ONE SUBJECT; TITLE.

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

(KRS 83A.060(1))

' 32.36 INTRODUCTION; ENACTING CLAUSE.

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

(KRS 83A.060(2))

' 32.37 FORM OF AMENDMENT.

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

(KRS 83A.060(3))

' 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

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

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

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

' 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

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

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

(KRS 83A.130 (6))

' 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

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

(KRS 83A.060 (5))

' 32.41 OFFICIAL CITY RECORDS.

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

(B) The Council has provided, under the provisions of ' 31.36(C) and 32.42, for the maintenance and safekeeping of the permanent records of the city. The City Clerk/Treasurer and the presiding officer shall sign the official record of each meeting.

(KRS 83A.060(8)) (Am. Ord. 91-07, passed 5-8-91)

' 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8)) (Am. Ord. 91-07, passed 5-8-91)

' 32.43 PUBLICATION REQUIREMENTS.

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

(B) Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared or 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 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))

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

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

' 32.45 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))

' 32.46 MUNICIPAL ORDERS.

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

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

' 32.47 PROVED BY CLERK; 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)) (Am. Ord. 91-11, passed 5-8-91)

' 32.48 LEGISLATIVE IMMUNITY.

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

Statutory reference:

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

Section

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- 33.02 Accounting records and financial reports
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FINANCIAL ADMINISTRATION

' 33.01 DEFINITIONS.

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

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

ADEBT 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.

AENCUMBRANCES.@ 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.

AFISCAL YEAR.@ The accounting period for the administration of fiscal operations.

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

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

' 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

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

(1) Determine compliance with statutory provisions; and

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

(B) The municipal accounting system shall be organized and operated on a fund basis.
(KRS 91A.020)

' 33.03 ANNUAL BUDGET ORDINANCE.

(A) The city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section.

No moneys shall be expended from any governmental or proprietary fund except in accordance with a budget ordinance adopted pursuant to this section.

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

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

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

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

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

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

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

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

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

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

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. 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 ' 33.02.

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

(KRS 91A.030)

' 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten days of the completion of the audit and its presentation to the city legislative body, in accordance with division (D)(5) of this section, the city shall forward and electronic copy of the audit report to the Department for Local Government for information purposes.

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

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

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

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

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

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

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

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

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

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

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

(6) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon

request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(E) 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 a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

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

(1) The auditor's opinion letter;

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

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

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

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

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

(G) Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section. Any person who violates any provision of this section shall be 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 or owner of real property within the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident or property owner bringing the action, shall be assessed against the unsuccessful party.

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

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

(KRS 91A.040)

Statutory reference:

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

' 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The 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 collateralized in accordance with 12 U.S.C. sec. 1823, to the extent uninsured, by any obligations, including surety bonds permitted by KRS 41.240(4).

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

depositories. All city funds shall be disbursed by written authorization approved by the 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)

' 33.06 BILL PAYMENT PROCEDURE.

Before approval for payment, all bills payable shall be initialed by the department head and the Mayor, except administrative bills payable, which shall be initialed by the City Clerk/Treasurer and Mayor before payment.

(Res., passed 3-8-78; Am. Ord. 91-07, passed 5-8-91)

33.07 ASSETS AND PROPERTY CAPITALIZATION PROCEDURES.

(A) Accountability; responsibility.

(1) Management/supervisor personnel are accountable for assets/equipment within their department. Accountability includes inventory control and maintenance of all equipment in their immediate area of responsibility.

(2) Responsibility lies with every individual utilizing the city assets/equipment for the performance of their duties.

(3) All personnel are responsible to adhere to the following procedures in the procurement, movement and disposition of all equipment.

(B) Assets.

(1) Definition. This property is governed by the audit requirements associated with control, accounting and disposal. An AASSET@ is defined as any real property with a life span of longer than one year costing \$1,000 or more and/or theft-sensitive items. Inventory also includes all computer work stations, printers, digital cameras, projectors, and the like with a value of more or less than \$1,000.

(2) Acquisition of assets.

(a) All assets will be purchased by using purchase orders. The material ordered will be shipped to and received at the appropriate location.

(b) All assets received should be reported to the City Clerk/Treasurer with item description, make, model number, serial number, value and where the item will be located.

(3) Receiving assets. When an asset arrives at the location, the following steps will be accomplished:

(a) Asset(s) will be opened and verified for quantity and condition.

(b) Purchase order will be signed, dated and forwarded with the packing slip and invoice to the City Clerk/Treasurer for payment.

(c) Insurance company will be notified of any new assets that require coverage.

(4) Disposal of assets.

(a) Assets will be disposed of in one of the following manners:

1. Conducting a public sale of surplus property;
2. Donating to another appropriate agency;
3. Returning to grant agency, if required; or
4. Junking.

(b) Surplus property sale items will be listed from each department and a public sale of surplus property notice is to be advertised in the local newspaper for two consecutive weeks. Upon completion of the sale, a signed inventory list will be provided to the City Clerk/Treasurer for final retirement of the property.

(c) Any equipment disposed of that was listed on the schedule of insurance will be reported to the current insurance company of record for deletion.

(C) Inventory procedures.

(1) Inventories will be accomplished annually at the end of each fiscal year on all assets by each department supervisor. Results of these inventories will be reconciled and reported to the City Clerk/Treasurer for insurance and audit purposes.

(2) Each department supervisor has 30 days to complete his or her inventory at the end of the fiscal year. The inventory should be signed, dated and forwarded to the City Clerk/Treasurer by July 31. No adjustments to asset records will be made without supporting documentation.

(Ord. 04-18, passed 10-13-04)

IMPROVEMENTS

' 33.10 DEFINITIONS.

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

AASSESSED 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.

ABENEFITS 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.

ACOST.@ 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.

AFAIR BASIS.@ Assessed value basis, front foot basis, square foot basis, or benefits received basis.

AFRONT 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.

AIMPROVEMENT.@ 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.

APROPERTY.@ Any real property benefited by an improvement.

ASPECIAL ASSESSMENT@ or AASSESSMENT.@ A special charge fixed on property to finance an improvement in whole or in part.

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

' 33.11 FINANCING OF IMPROVEMENTS.

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

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

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

Statutory reference:

Improvements; alternate methods, see KRS Ch. 107

' 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious, or charitable organization.

Council may assess such property in the same manner as for privately owned property or it may pay the costs so apportioned out of general revenues.

(KRS 91A.230)

' 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240)

' 33.14 PUBLIC HEARING REQUIRED.

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

(A) The nature of the improvement;

(B) Description of area of the improvement;

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

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

(E) Time and place of the hearing.

(KRS 91A.250)

' 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

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

(KRS 91A.260)

' 33.16 AFFECTED OWNER MAY CONTEST.

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

contests the undertaking of the improvement by the special assessment method of the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

(B) The city may proceed with the improvement with respect to any properties whose owners have not filed or joined in an action as provided in this section or who have contested only the amounts of their assessments, and the provisions of the resolution are final and binding with respect to such property owners except as to contested amounts of assessments. After the lapse of time as herein provided, all actions by owners of properties are forever barred.
(KRS 91A.270)

' 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

' 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that ' 33.13 through 33.17 applies if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other sections if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance if all property owners of the improvement consent.
(KRS 91A.290)

RISK MANAGEMENT ASSOCIATION

' 33.25 ESTABLISHMENT.

There shall be established the State Municipal Risk Management Association (the AAssociation@), which shall be an unincorporated, nonprofit association.
(Ord. 87-15, passed 9-10-87)

' 33.26 PURPOSE; MEMBERSHIP; STRUCTURE.

(A) Purpose. The purpose of the Association is to provide a legal and administrative entity within the meaning of KRS 65.250 to create and administer, on behalf of and for the benefit of the public agencies and policial subdivisions which become parties to this agreement, joint and cooperative self-insurance and insurance trusts, loss prevention and risk management programs, and investment pools.

(B) Membership. Membership in the Association shall be limited to cities and urban-county governments within the Commonwealth, which are members in good standing of the Kentucky Municipal League (AKML@), and their governmental boards, agencies, authorities, commissions, and institutions which qualify as Apublic agencies@, as defined in KRS 65.230, and which join herein and become signatories to this interlocal agreement.

(C) Structure. The Association shall be governed by a Board of Trustees and shall be organized and operated in accordance with its Articles of Association and By-Laws. The execution of this interlocal agreement by a city, urban-county government, or other public agency shall constitute the ratification and acceptance of the attached Articles of Association and By-Laws.
(Ord. 87-15, passed 9-10-87)

' 33.27 POWERS AND AUTHORITIES.

The Association, in furtherance of its purposes, shall have the following powers and authorities:

(A) To create and administer on behalf of and for the benefit of its members any of the following trusts:

(1) General Insurance Trust. A joint and cooperative arrangement whereby the participating members pool their funds to provide self-insurance or third-party insurance coverages against various public liability exposures, including, but not limited to, general, professional, and auto liability, and related claims.

(2) Unemployment Compensation Reimbursement Trust. A joint and cooperative arrangement whereby the participating members operate as a pool of self-insured employers to provide self-insurance coverage against unemployment compensation liability.

(3) Workers= Compensation Trust. A joint and cooperative arrangement whereby the participating members pool their funds to provide self-insurance coverage against workers= compensation liability.

(4) Life and Health Insurance Trust. A joint and cooperative arrangement whereby the participating members pool their funds to provide life, health, and health-related insurance coverages for their officers and employees.

(5) Investment Trust. A joint and cooperative arrangement whereby the participating members pool public funds for the purpose of maximizing investment return.

(B) To establish and enforce for each self-insurance, insurance, and investment trust it may create, policies, rules, regulations, standards, and procedures to govern the relationship between the participating members and each trust.

(C) To employ agents, service companies, and persons, firms, associations, and corporations as necessary or desirable for the sound and efficient operation of the Association and its self- insurance, insurance, and investment trusts.

(D) To make and enter into, acknowledge, deliver, and record any and all contracts, leases, agreements, deeds, indentures, and other instruments necessary or desirable to carry out any of the powers granted or duties imposed under this interlocal agreement, the Association Articles of Association and By-Laws, or any applicable law or regulation.

(E) To prepare and submit reports and other documents to governmental authorities as may be required by law.

(F) To establish the duties and responsibilities of the Administrator of the Association.

(G) To purchase aggregate and specific excess insurance and other types of insurance or letters of credit, lines of credit, or other funding facilities as necessary to supplement the self-insurance trusts.

(H) To purchase fidelity, performance, and surety bonds as necessary or as required by law.

(I) To purchase errors and omissions and other types of insurance coverages as necessary.

(J) To purchase and hold in the name of the Association, sell, lease, pledge, exchange, and encumber real and personal property.

(K) To borrow and raise money in the name of the Association.

(L) To receive the disbursement of any money borrowed or the proceeds from any sale of revenue bonds pursuant to this interlocal agreement and to apply such money or proceeds in furtherance of the purposes and objectives of the Association.

(M) To pledge all or any part of the revenues of a self-insurance trust as security for the payment of the principal of premium, if any, and interest on any revenue bonds which may be issued, or other debt which may be incurred pursuant to this interlocal agreement to fund the operations of such self-insurance trust.

(N) To invest or cause to be invested all funds of the Association and its self-insurance, insurance, and investment trusts.

(O) To act as agent and attorney-in-fact of each of the members to the extent necessary to fulfill the purposes of the Association.

(P) To carry out all other duties necessary for the proper operation and administration of the Association and to that end exercise all powers and perform all acts authorized by law which are necessary and desirable for the effective administration of the business and affairs of the Association.

(Ord. 87-15, passed 9-10-87)

' 33.28 MANNER OF FINANCING.

(A) The operations of the Association shall be financed through the annual and supplementary contributions established by the Board of Trustees and paid to the various self-insurance, insurance, and investment trusts by the participating members, through monies earned from the investment of these contributions, and through all other monies which may be lawfully received by the Association in connection with its operations.

(B) All annual and supplementary contributions to be paid by the participating members to the self-insurance and insurance trusts described in ' 33.27(A)(1) through (4) of this interlocal agreement shall be established by the Board of Trustees based on the following:

(1) Actuarials and other evaluations of the amounts necessary for the payment of claims and losses;

(2) The payment of premiums for insurance and re-insurance policies;

(3) The establishment and maintenance of reserves;

(4) The payment of the principal of premium, if any, and interest on any debt incurred by the Association, including the principal of premium, if any, and interest on any revenue bonds which may be issued and sold to fund the operations of any self-insurance trust; and

(5) The payment of any and all expenses of the Association reasonably and lawfully incurred in connection with its operations.

(C) The amounts contributed to any investment trust described in ' 33.27(A) of this agreement shall be at the discretion of the participating members, subject to any rules and regulations established by the Board of Trustees, and provided that each participating member shall be responsible for its proportionate share of expenses, as determined by the Board of Trustees.

(Ord. 87-15, passed 9-10-87)

' 33.29 AUTHORIZATION TO ISSUE REVENUE BONDS AND BORROW MONEY.

(A) If the Board of Trustees, in its discretion, finds that the assets of any self-insurance trust are inadequate to pay claims, losses, or expenses, or that additional funds are necessary to establish or maintain adequate reserves, or that additional funds are required for the repayment of any letter of credit, line of credit, or other funding facility which may have been utilized to pay any claims, losses, or expenses of any self-insurance trust, the Board of Trustees is hereby authorized to select any one or more of the cities, urban-county governments, or other public agencies which are participating in the self-insurance trust to issue negotiable revenue bonds or borrow money in order to fund the operations of the trust, including any and all claims, losses, and expenses of the trust.

(B) Any city, urban-county government, or other public agency selected by the Board of Trustees shall be authorized to issue negotiable revenue bonds or borrow money, pursuant to KRS 65.270 and any other applicable law, on behalf of all the public agencies which are parties to this interlocal agreement, and to approve, execute, and deliver all indentures, agreements, certificates, and other documents related to the issuance of such revenue bonds or necessary to borrow money, and to take any and all other actions necessary to effect the issuance and sale of such revenue bonds or to borrow money, including pledging of all or any part of the revenues of the self-insurance trust for which the revenue bonds are issued or the debt is incurred as security for such revenue bonds or other debt, subject to the following limitations:

(1) The principal amount of such revenue bonds and other debt shall not exceed \$2,000,000;

(2) The maturities of such revenue bonds or other debt shall not exceed 30 years;

(3) The interest rate on such revenue bonds or other debt shall not exceed 22%;

(4) The principal amount of such revenue bonds or other debt and the interest thereon shall be payable solely from and secured solely by the revenues of the self-insurance trust for which

the revenue bonds are issued or the debt is incurred, which is derived as set forth in ' 33.28, and shall never constitute a general obligation or an indebtedness, within the meaning of the Constitution and laws of the Commonwealth, of any city, urban-county government, or other public agency which is a party to this interlocal agreement, or of the Commonwealth or any political subdivision of the Commonwealth;

(5) Any and all borrowed money and the proceeds received from the issuance of any revenue bonds shall be applied solely to fund the operations of the self-insurance trust for which the revenue bonds are issued or the debt is incurred and to pay the expenses associated with the financing or the issuance and sale of the bonds or to advance the payment of interest on the bonds during the first three years following the date of issuance of the bonds;

(6) The issuance of such revenue bonds or the incurrence of other debts shall be pursuant to a duly-enacted order, resolution, or ordinance of the governing body of the public agency selected by the Board of Trustees, which complies with the terms of KRS 65.270 and any other applicable law; and

(7) The issuance and sale of such revenue bonds or the incurrence of other debt, and the arrangements for the repayment of such debt shall comply in all other respects with the requirements of KRS 65.270 and any other applicable law.
(Ord. 87-15, passed 9-10-87)

' 33.30 TRUST PARTICIPATION.

Any city, urban-county government, or other public agency which joins in the creation of and becomes a member of the Association by executing this interlocal agreement shall be eligible to participate in any of the self-insurance, insurance, and investment trusts upon the terms and conditions set forth in this interlocal agreement, the Association Articles of Association and By-Laws, and the rules and regulations adopted by the Board of Trustees. However, no member shall be required to participate in any trust.
(Ord. 87-15, passed 9-10-87)

' 33.31 MEMBER WITHDRAWAL.

Any city, urban-county government, or other public agency may, upon 60 days= written notice to the Board of Trustees, withdraw from this interlocal agreement and cease to be a member of the Association, provided that the withdrawing member has discharged all of its obligations to the Association and any self-insurance, insurance, or investment trust in which it has participated in accordance with the Association Articles of Association and By-Laws and all applicable trust documents.
(Ord. 87-15, passed 9-10-87)

' 33.32 TERMINATION; DISTRIBUTION OF ASSETS.

(A) Termination. This interlocal agreement shall terminate upon the payment in full, or the adequate provision for payment in full, of the principal of premium, if any, and interest on any revenue bonds which may be issued or other debt which may be incurred under the terms of this interlocal agreement, and upon the dissolution, in accordance with the Articles of Association and By-Laws, of each and every self-insurance, insurance, and investment trust which may be created hereunder.

(B) Distribution of assets upon termination. In the event of termination of this interlocal agreement, all of the then-remaining assets of the Association, if any, shall be distributed or transferred as required or contemplated by any applicable law and, to the extent not so required or contemplated, shall be distributed to the members of the Association as of the date of termination in accordance with a formula to be established by the Board of Trustees. The Board of Trustees shall continue to serve for such period of time and to the extent necessary to effectuate the complete termination and dissolution of the Association by the distribution of all remaining assets.
(Ord. 87-15, passed 9-10-87)

' 33.33 NATURE OF AGREEMENT; DATE AND DURATION.

(A) Nature of agreement. The parties to this interlocal agreement agree hereby to engage in a joint and cooperative undertaking only within the scope herein set out and do not intend to create between the parties any relationship of surety, indemnification, or responsibility for the debts or claims against any other party. Furthermore, the parties do not intend that the execution of this interlocal agreement or any action taken pursuant to this interlocal agreement shall constitute a waiver of any defense or immunity that the parties would otherwise be entitled to under any applicable law.

(B) Effective date and duration.

(1) This interlocal agreement shall be effective from and after its execution; the approval of this interlocal agreement by the Attorney General of the Commonwealth as required by KRS 65.260(2) and any other officer or agency of the state government whose approval may be required by virtue of KRS 65.300; and the filing of a certified copy of this interlocal agreement with the County Clerk of the county in which each of the parties hereto is located and with the Secretary of State of the Commonwealth as required by KRS 65.290.

(2) This interlocal agreement is intended to be perpetual in duration and shall continue in effect from and after its effective date until the final payment and retirement, or the

completion of satisfactory arrangements for the final payment and retirement, of any revenue bonds which may be issued or other debt which may be incurred under the terms of this interlocal agreement, and until each and every self-insurance, insurance, and investment trust which may be created pursuant to this interlocal agreement has been dissolved and terminated in accordance with the provisions hereof and the Articles of Association and By-Laws of the legal and administrative entity created hereunder.

(Ord. 87-15, passed 9-10-87)

' 33.34 LIABILITY OF OFFICERS AND EMPLOYEES; AUTHORIZATION OF SIGNATURE PAGE.

(A) Liability of officers and employees of participating public agencies. No officer or employee of any of the cities, urban-county governments, or other public agencies which become parties to this interlocal agreement shall be subject to any personal liability for any debt or contract created pursuant to this interlocal agreement.

(B) Authorization of signature page. This agreement may be executed in any number of counterparts (each of which shall be an original) upon due authorization by an ordinance, resolution, or order of the governing body of the city, urban-county government, or other public agency, and upon the execution, acknowledgment, and delivery by the chief executive officer of the city, urban-county government, or other public agency of a counterpart signature page in the form attached hereto, which, together with this interlocal agreement and all other duly-executed signature pages, shall constitute the complete agreement among all the parties hereto.

(Ord. 87-15, passed 9-10-87)

' 33.35 FURTHER ACTS AND DEEDS; CONSTRUCTION.

(A) Further acts and deeds. Each city, urban-county government, and other public agency signatory hereto authorizes and directs its chief executive officer and such other officers as may be necessary to execute, acknowledge, and deliver any and all documents, certificates, or instruments necessary or required to effectuate this interlocal agreement.

(B) Construction. This interlocal agreement shall be governed by and construed in accordance with the laws of the Commonwealth.

(Ord. 87-15, passed 9-10-87)

INVESTMENT POLICY

' 33.45 GENERAL POLICY.

It is the policy of the City of Carrollton (hereinafter referred to as the city) to invest public funds in a manner which will provide the highest investment return with the maximum security of principal, while meeting the daily cash flow demands of the city and conforming to all state statutes and city regulations governing the investment of public funds.

(Res. 94-26, passed 12-14-94)

' 33.46 SCOPE.

(A) This investment policy applies to all financial assets held directly by the city. These financial assets are accounted for in the city=s annual financial report and include all moneys in the following funds:

- (1) General Fund;
- (2) KLCIP Liquid Asset Funds (Kentucky League of Cities Investment Pool);
- (3) Municipal Street Aid Funds;
- (4) L.G.E.A. Fund (Local Government Economic Assistance);
- (5) M.S.H. INC. Fund; and
- (6) Any new fund created by the governing body.

(B) At the very least, all funds are to be interest bearing checking accounts, unless prohibited by state regulations. Financial assets of the city held and invested by trustees or fiscal agents are excluded from these policies; however, such assets shall be invested in accordance with state laws applicable to the investment of local government funds and in accordance with the city=s primary investment objectives.

(Res. 94-26, passed 12-14-94)

' 33.47 INVESTMENT OBJECTIVES.

The city=s primary investment objectives, in order of priority, are the following:

(A) Safety. Safety of principal is the foremost objective of the city=s investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital.

(B) Liquidity. The city=s investments shall remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated.

(C) Return on investment. The city=s investments shall be designed with the objective of attaining a market rate of return throughout the budgetary and economic cycles, taking into account the city=s investment risk constraints and the cash flow of the investments.

(Res. 94-26, passed 12-14-94)

' 33.48 INVESTMENT AUTHORITY.

Management responsibility for the city=s investment program is hereby delegated to the City Clerk-Treasurer, with advisement from the Mayor.

The clerk-treasurer shall have the authority, subject to the disapproval of the governing body, to establish additional specific

written procedures for the operation of the investment program which are consistent with this investment policy. The procedures shall include explicit delegation of authority, if any, to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and procedures established by the clerk-treasurer. The clerk-treasurer shall be ultimately responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and employees. The controls shall be designed to prevent and control losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets or imprudent actions by officers and employees. The clerk-treasurer shall maintain all records related to the city=s investment program.
(Res. 94-26, passed 12-14-94)

' 33.49 PRUDENT PERSON RULE.

(A) The actions of the clerk-treasurer in the performance of his or her duties as manager of the city=s funds shall be evaluated using the Aprudent person@ standard. Investments shall be made with judgement and care under prevailing circumstances which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived.

(B) The city clerk-treasurer, acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security=s performance, provided that deviations from expectations are reported in a timely fashion to the governing body and appropriate action is taken to control adverse developments.
(Res. 94-26, passed 12-14-94)

' 33.50 AUTHORIZED INVESTMENTS.

(A) The funds of the city available for investment shall be invested in accordance with this policy and all applicable state statutes only in the following types of investments instruments:

(1) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings & loan institution located in Carroll County which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations permitted by KRS 41.240(4). (exception: the KLCIP Fixed Asset Fund Certificate of Deposits are not locally purchased)

(2) In addition to investments in Carroll County, authority is hereby given to invest in the KLCIP Fixed Asset Fund.

(3) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States

or a United States government agency, including but not limited to: United States Treasury bills.

(B) Limitations on investment transactions. With regard to the investments authorized in this section, the following limitation shall apply: No investment shall be purchased for the city on a margin basis or through the use of any similar leveraging technique.
(Res. 94-26, passed 12-14-94)

' 33.51 DIVERSIFICATION OF INVESTMENTS.

(A) The city recognizes that some level of risk is inherent in any investment transaction. Losses may be incurred due to issuer default, market price changes, or closing investments prior to maturity due to unanticipated cash flow needs. Diversification of the city=s investments by institution, type of investment instrument, and term to maturity is the primary method to minimize investment risk.

(B) To the extent possible, the city will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow need, the city=s funds should not, in general, be invested in securities maturing more than one year from the date of purchase.
(Res. 94-26, passed 12-14-94)

' 33.52 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.

The city clerk-treasurer shall maintain a list of financial institutions authorized to provide investment services to the city. All financial institutions who desire to provide investment services to the city shall supply the city clerk-treasurer with information sufficient to adequately evaluate the institution and answer any and all inquiries posed by the city clerk-treasurer or the governing body. The city clerk-treasurer shall evaluate the financial creditworthiness of financial institutions prior to the placement of the city=s funds.
(Res. 94-26, passed 12-14-94)

' 33.53 SAFEKEEPING AND CUSTODY.

To protect against potential fraud and embezzlement, investment assets shall be secured through third-party custody and safekeeping procedures. Bearer instruments shall be held only through third-party institutions. The city clerk-treasurer and any other officers or employees of the city authorized to engage in investment transactions shall be bonded in an amount established by the governing body. The safekeeping procedures utilized in the city=s investment program shall be reviewed annually by the independent auditor.
(Res. 94-26, passed 12-14-94)

' 33.54 COLLATERAL.

(A) It is the policy of the city to require that all cash and investments maintained in any financial institution named as a depository be collateralized. In order to anticipate market changes and provide a level of security for all funds, the collateralization

level shall be 100% of the market value of principal, plus accrued interest. Collateral shall be limited to the types of instruments authorized as collateral for state funds in KRS 41.240.

(B) Collateral shall always be held by an independent third-party custodian with whom the city has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the city and retained by the city clerk-treasurer. The right of collateral substitution is hereby granted.
(Res. 94-26, passed 12-14-94)

' 33.55 INVESTMENT REPORTING.

(A) The city clerk-treasurer shall prepare and submit to the governing body a quarterly and an annual report regarding the status of the city=s investment program. As to each investment, the report shall include the following information:

(1) Name of financial institution from which the investment was purchased or in which assets are deposited.

(2) Type of investment.

(3) Certificate or other reference number, if applicable.

(4) Percentage yield on an annualized basis.

(5) Purchase date, purchase price, and maturity date.

(B) The quarterly report shall indicate recent market conditions, economic developments, anticipated investment conditions, compare the investments with budgetary expectations and indicate any areas of policy concern. Copies of the report shall be submitted to each member of the City Council and to the Mayor of the city.
(Res. 94-26, passed 12-14-94)

' 33.56 AUDIT.

In connection with the audit of city funds conducted by an independent certified public accountant, the auditor shall conduct a review of the city=s investment program, including internal controls and procedures, and the results of the review, including recommended changes, shall be included in the city=s audit.
(Res. 94-26, passed 12-14-94)

' 33.57 INVESTMENT POLICY ADOPTION.

(A) The city=s investment policy shall be adopted by order of the City Council and shall become effective on the date set forth in the order. The policy shall be reviewed annually and revised, as appropriate. Any amendments to this policy must be made by order of the governing body.

(B) Any investments held on the date of initial adoption of this policy which does not meet the guidelines of this policy shall be

exempted from its provisions. At maturity or liquidation, the monies so invested, if reinvested, shall be reinvested only in accordance with this policy. The city clerk-treasurer may take a reasonable period of time to adjust the existing portfolio to the provisions of this policy in order to avoid the premature liquidation of any current investment. (Res. 94-26, passed 12-14-94)

Section

General

34.01 Definitions

Procedures for Requesting Public Records

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GENERAL

' 34.01 DEFINITIONS.

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

ACITY.@ The city government of this city.

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

(1) Publication or related use of a public record by a newspaper or periodical;

(2) Use of a public record by a radio or television station in its new or other informational programs; or

(3) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

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

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

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

AOFFICIAL 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 AOFFICIAL CUSTODIAN@ of this city shall be the Mayor.

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

APRESCRIBED FEE@ or AFEE.@ 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.

APUBLIC 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.

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

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

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

public agency and an outside entity which supplied the material to the agency.

(Am. Ord. 91-07, passed 5-8-91)

Statutory reference:

Similar definitions, see KRS 61.870

PROCEDURES FOR REQUESTING PUBLIC RECORDS

' 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

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

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

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

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

' 34.06 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4)) (Am. Ord. 91-07, passed 5-8-91)

' 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage, or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection or mailing of the public records, not to exceed three days (excepting Saturdays, Sundays, and legal holidays) from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection or duplication.
(KRS 61.872(5))

' 34.08 REFUSAL OF UNREASONABLE REQUESTS.

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

' 34.09 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)

' 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

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

' 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of ' 34.16 of these rules and regulations.
(KRS 61.884)

' 34.12 FORMAT OF COPIES.

(A) Upon inspection, the applicant shall have the right to make

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

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

(2) The minimum standard format in paper form shall be defined as not less than 8 1/2 inches x 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1) - (3))

' 34.13 FEES FOR COPIES.

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

(B) (1) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee.

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

contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee.

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

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

(b) Cost to the public agency of the creation, purchase, or other acquisition of the public records.
(KRS 61.874(3),(4))

Cross-reference:

Fees for online access to public records, see ' 34.15

' 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

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

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

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

(C) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.
(KRS 61.874(5)) Penalty, see ' 10.99

' 34.15 ONLINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

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

(B) Fees shall not exceed:

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

(2) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in ' 34.13.
(KRS 61.874(6))

' 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

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

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

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

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

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

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

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

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

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

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

(4) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business= or industry=s interest in locating in, relocating

within, or expanding within the Commonwealth. This exemption shall not include those records pertaining to applications to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in division (A) (2) above.

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

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

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

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

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

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

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

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

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

1. Criticality lists resulting from consequence assessments;

2. Vulnerability assessments;

3. Antiterrorism protective measures and plans;

4. Security and response needs assessments;

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

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

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

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

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

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

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

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

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

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

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

(15)Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:

(a) A contract is awarded; or

(b) The procurement process is canceled without award of a contract and there is a determination that the contract will not be re-solicited.

(16)Communications of a purely personal nature unrelated to any governmental function.

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

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

(D) No exemption under this section shall be construed to deny, abridge, or impede the right of a municipal employee, an applicant for employment, or an eligible on a register to inspect and copy any record, including preliminary and other supporting documentation, that relates to him. 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)

' 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

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

CHAPTER 35: DEPARTMENTS, BOARDS, AND COMMISSIONS

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Cross-reference:

Fall Festival Committee, see ' 115.01

BOARD OF ADJUSTMENT

' 35.001 ESTABLISHMENT.

There is hereby established the City Board of Adjustment.
(>78 Code, ' 10-35) (Ord., passed 2-7-68)

Statutory reference:

Establishment, see KRS 100.217(1)

' 35.002 JURISDICTION.

The territorial jurisdiction of the Board of Adjustment shall be coextensive with that of the city as an independent planning unit and with that of the City Planning Commission.
(>78 Code, ' 10-39) (Ord., passed 2-7-68)

Statutory reference:

Jurisdiction, see KRS 100.217(1)

' 35.003 COMPOSITION.

(A) The Board of Adjustment shall consist of five members, all of whom shall be citizen members and not more than two of whom may be citizen members of the City Planning Commission.
(KRS 100.217(2))(>78 Code, ' 10-36) (Ord., passed 2-7-68)

(B) Members of the Board of Adjustment shall be appointed by the Mayor, subject to the approval of the City Council.
(KRS 100.217(3))

' 35.004 TERMS.

The term of office of the members of the Board of Adjustment shall be four years, except that the original terms shall be staggered so that a proportionate number serve one, two, three, and four years

respectively. New appointments, reappointments, or appointments to fill vacancies shall be made so as to continue the staggered pattern. (KRS 100.217(4)) (>78 Code, ' 10-37) (Ord., passed 2-7-68)

' 35.005 COMPENSATION.

All members of the Board of Adjustment shall serve without compensation but reimbursement of expenses incurred by the members of the Board in the performance of their duties is hereby authorized. (KRS 100.217(7))(>78 Code, ' 10-38)(Ord., passed 2-7-68)

' 35.006 POWERS AND DUTIES.

The Board of Adjustment shall have the powers and duties provided by KRS Chapter 100. (>78 Code, ' 10-40)(Ord., passed 2-7-68)

Cross-reference:

For specific duties of the Board, see ' 156.101, 156.102, and 156.103

DESIGN REVIEW BOARD

' 35.020 ESTABLISHMENT.

For provisions concerning the Design Review Board, see ' 153.05.

FIRE DEPARTMENT

' 35.030 ESTABLISHMENT.

A Fire Department is hereby established in the city to be known as the Carrollton Volunteer Fire Department. (>78 Code, ' 5-17)

' 35.031 MEMBERSHIP.

(A) The Fire Department shall consist of one Fire Chief, four full-time firefighters, one part-time firefighter, and 20 volunteer firefighters.

(B) For provisions concerning the Fire Chief, see ' 31.39

' 35.032 CALLS OUTSIDE THE CITY.

(A) The Chief of the Fire Department may order fire trucks and personnel to render assistance to property and persons outside of the corporate limits of the city as set forth in division (C) below, if he has determined all of the following:

(1) That an emergency exists of sufficient gravity as to seriously endanger human life or which could result in substantial property damage.

(2) That the fire truck, equipment, and personnel are not then needed within the corporate boundaries.

(3) That sufficient trucks, equipment, and personnel remain in the city in operating condition to adequately handle any current or reasonably contemplated situation that may require their services.

(4) That a request for such assistance has been made by an official of a lawfully constituted fire department.

(B) In the event of a fire alarm within the city limits during a time the Fire Chief has permitted a truck, equipment, or personnel to go outside the city limits, the Fire Chief shall recall the truck, equipment, and personnel to the city.

(>78 Code, ' 5-18)(Ord., passed 4-13-77)

(C) The city=s fire apparatus may be sent to extinguish fires to any point in Carroll County, into a smaller territory in Carroll County, or into areas of another county or state, as determined by City Council. The apparatus shall be so used only in conformity with reasonable terms and regulations which the City Council may prescribe.

(1) The city shall not be liable in any manner on account of the use of the apparatus at any point outside of the corporate limits of the city. The apparatus shall be deemed to be employed in the exercise of a governmental function of the city.

(2) All city firefighters, whether full-paid or volunteer, serving at a fire or doing fire prevention work outside the corporate limits of a city, shall be considered as serving in their regular line of duty, as though they were serving within the corporate limits.

(KRS 95.830)

HOUSING AUTHORITY

' 35.045 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.

(>78 Code, ' 2-1)

' 35.046 COMPOSITION AND APPOINTMENT.

(A) Except as provided in division (A) of this section, a City Housing Authority shall consist of the Mayor, ex officio, or his designee, and four persons appointed by him with the approval of the city legislative body.

(B) If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the Housing Authority shall consist of the Mayor, ex officio, or the Mayor's designee; four persons appointed by the Mayor with the approval of the city legislative body; and one additional person appointed by each Mayor of a city divesting itself of its authority, with the approval of that city's legislative body.

(KRS 80.030)

' 35.047 QUALIFICATIONS AND TERMS.

(A) (1) Each person appointed to a City Housing Authority shall be at least 25 years of age and a bona fide resident of the city for which he was appointed 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. Appointees to a City 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. Vacancies shall be filled for unexpired terms in the same manner as the original appointment.

(2) If a City Housing Authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, an authority member appointed by the mayor of the divesting city, as set out in KRS 80.030, shall be a resident of the city divesting itself of authority.

(B) (1) If a City Housing Authority has not agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, then no more than two appointees on any city housing authority shall be affiliated with the same political party.

(2) If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, and:

(a) Has an even number of members, then no more than half of the appointees on any city housing authority shall be affiliated with the same political party; or

(b) Has an odd number of members, then no more than half of the appointees plus one member of any City Housing Authority shall be affiliated with the same political party.

(KRS 80.040)

' 35.048 COMPENSATION.

(A) Each member of a 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 a Housing Authority shall be fixed by the legislative body of the city. The Housing Authority shall fix the compensation of the Secretary and Treasurer, but the city legislative body may fix or limit the salary.

(B) If a City Housing Authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the city may enter into an interlocal agreement pursuant to KRS 65.210 to 65.300 with the city that is divesting itself of the Authority, agreeing to pay all or a portion of the compensation of the member representing that divesting city.
(KRS 80.060)

PLANNING COMMISSION

' 35.070 ESTABLISHMENT.

There is hereby established the City Planning Commission.
(>78 Code, ' 10-23) (Ord., passed 2-7-68; Am. Ord., passed 3-12-80)

' 35.071 POWERS AND DUTIES.

The Planning Commission shall have the powers, duties, and jurisdiction provided for by KRS Chapter 100.
(>78 Code, ' 10-28) (Ord., passed 2-7-68; Am. Ord., passed 3-12-80)

' 35.072 COMPOSITION AND APPOINTMENT.

The Planning Commission shall consist of eight citizen members appointed by the Mayor with the approval of City Council, and one ex officio member who shall be a member of City Council.
(>78 Code, ' 10-24) (Ord., passed 2-4-70; Am. Ord., passed 3-12-80; Am. Ord., passed 10-14-81; Am. Ord. 2018-11, passed 10-8-18)

Statutory reference:

Members, see KRS 100.133

Appointing authority, see KRS 100.141

' 35.073 TERMS.

The members of the Planning Commission shall serve terms as set forth in KRS 100.143.
(KRS 100.143) (>78 Code, ' 10-25) (Ord., passed 2-7-68; Am. Ord., passed 2-4-70; Am. Ord., passed 3-4-70; Am. Ord., passed 3-12-80)

' 35.074 VACANCIES.

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

(KRS 100.147) (>78 Code, ' 10-26) (Ord., passed 2-4-70; Am. Ord., passed 3-4-70; Am. Ord., passed 3-12-80)

' 35.075 COMPENSATION.

All members of the Planning Commission shall serve without compensation, but reimbursement of expenses incurred by the members of the Commission in the performance of their duties is hereby authorized. (>78 Code, ' 10-27) (Ord., passed 2-7-68; Am. Ord., passed 3-12-80)

Statutory reference:

Compensation, see KRS 100.153

POLICE DEPARTMENT

' 35.085 ESTABLISHMENT.

There is hereby established a Police Department in the city. (>78 Code, ' 11-1)

' 35.086 MEMBERSHIP.

(A) The Police Department shall consist of a Chief of Police and regular police officers.

(B) For provisions concerning the Chief of Police, see ' 31.45

' 35.087 DRUG TESTING.

The Chief of Police is authorized to implement an anti-drug policy, including a drug-testing program, for all sworn members of the Police Department.

(Res. 90-19, passed 12-12-90)

' 35.088 POLICY FOR USE OF OLEORESIN CAPSICUM.

(A) Policy. Chemical agents may be used by officers in situations where use of force is authorized.

(B) General use of chemical agents. An officer shall possess and shall use a chemical agent only if it is issued by the Department and

only after receiving departmental training in the use of that chemical agent.

(C) Specific use of Oleoresin Capsicum (OC). OC is an organic substance derived from chili peppers. OC is an inflammatory agent which, when sprayed, can temporarily incapacitate a subject via swelling of the membranes.

(1) The OC Canister shall be carried on the Duty Belt in the issued carrier. The placement of the carrier and canister shall be left to the discretion of each officer.

(2) OC spray may be used whenever a subject exhibits resistance in which the use of physical force would be justified; and uses of lesser force, such as verbal commands, are inapplicable or ineffective. If possible, before using OC spray, the subject should be warned that unless he complies with the officer=s directives, he will be sprayed with the OC aerosol.

(3) The effective range of OC spray is ten to twelve feet. The target area is the forehead, eyes, and/or nose. Two one-half to one second bursts will usually produce effective results. Additional sprays or other uses of force may be required if the subject remains aggressive and does not comply to verbal commands.

(4) OC effects are instantaneous. Contact with OC will cause:

- (a) Swelling and involuntary shutting of the eyes.
- (b) Coughing, gagging, gasping for breath, and in some cases, nausea.
- (c) Intense burning sensation.
- (d) Emotional anxiety/panic.

(5) After a subject has been sprayed, he should be given a verbal order to assume a standing or prone handcuffing position. The officer shall assure the subject of appropriate after-care treatment.

(6) After. Care (decontamination) is achieved by exposing subject to fresh air, and when possible, flushing with cool water. Contact lenses shall be removed either by the subject or medical personnel. No officer shall remove contact lenses.

(7) Under normal circumstances, all OC effects should disappear within 45 minutes. If symptoms persist, medical attention shall be sought for the subject.

(8) Officers shall complete an OC use report after each OC use incident.

(D) Note: policy authorizing an officer to use the OC spray does

not prohibit using physical force or deadly physical force prior to using or not using the OC spray.

(Res. 95-06, passed 3-8-95)

RECREATIONAL, TOURIST, AND CONVENTION COMMISSION

' 35.100 ESTABLISHMENT.

For the purpose of promoting recreational, convention, and tourist activity the Recreational, Tourist, and Convention Commission was established by joint action of the City Council and the Carroll County Fiscal Court in January, 1981.

(KRS 91A.350(2))

' 35.101 APPOINTMENT; VACANCY; REMOVAL.

(A) The Recreational, Tourist, and Convention Commission shall be composed of seven members to be appointed, jointly, by the Mayor and the County Judge/Executive in the following manner:

(1) Two Commissioners shall be appointed from a list of three or more names submitted by the local city hotel and motel association; and one Commissioner shall be appointed from a list of three or more names submitted by the local county hotel and motel association, provided that if only one local hotel and motel association exists which covers both the city and county, then three Commissioners shall be appointed from a list of six or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a Commission or upon the expiration of the term of a Commissioner appointed pursuant to this division (A)(1), then up to three Commissioners shall be appointed by the Mayor and County Judge/Executive from persons residing within the jurisdiction of the Commission and representing local hotels or motels. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.

(2) One Commissioner shall be appointed from a list of three or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a Commission or upon the expiration of the term of a Commissioner appointed pursuant to this division (A)(2), then one Commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official restaurant association or associations.

(3) One Commissioner shall be appointed from a list of three or more names submitted by the Chamber of Commerce existing within those governmental units, which by joint or separate action have established the Commission. If the Commission is established by joint action of a county and a city or cities, then each Chamber of Commerce shall submit a list of three names, and the chief executive officers of the participating governmental units shall jointly appoint one Commission member from the aggregate list. If no local Chamber of Commerce is in existence upon the establishment of a Commission or upon the expiration of the term of a Commissioner appointed pursuant to this division (A)(3), then one Commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.

(4) Two Commissioners shall be appointed in the following manner:

(a) By the Mayor or County Judge/Executive, if the Commission has been established by separate action of a county or city; or

(b) One each by the Mayor or County Judge/Executive of the most populous city participating in the establishment of the Commission, if the Commission has been established by joint action of a county and city or cities.

(KRS 91A.360(1))

(B) A candidate submitted for appointment to the Commission, pursuant to division (A)(1) to (A)(4), shall be appointed by the appropriate chief executive officer or officers within 30 days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.

(KRS 91A.360(2))

(C) A Commissioner may be removed from office, by joint or separate action by the Mayor and/or the County Judge/Executive, or officers of the local governing body or bodies that established the Commission, as provided by KRS 65.007.

(KRS 91A.360(6))

' 35.102 TERMS.

The Commissioners shall be appointed for terms of three years, provided that in making the initial appointments, the Mayor and County Judge/Executive shall appoint two Commissioners for a term of three years, two Commissioners for a term of two years, and three Commissioners for a term of one year. There shall be no limitation on the number of terms to which a Commissioner is reappointed. Subsequent appointments shall be for three year terms.

(KRS 91A.360(3))

' 35.103 OFFICERS AND EMPLOYEES.

The Recreational, Tourist, and Convention Commission shall elect from its membership a Chairman and a Treasurer, and may employ such personnel and make such contracts as necessary to effectively carry out the purpose of KRS 91A.350 through 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of the tourist and convention business. However, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers.

(KRS 91A.360(4))

' 35.104 AUDIT OF BOOKS.

The books of the Recreational, Tourist, and Convention Commission and its account shall be audited as provided in ' 35.102. The independent certified public accountant or Auditor of Public Accounts shall make a report to the Commission, to the associations submitting lists of names from which Commission members are selected, to the Mayor and the County Judge/Executive, and to the local governing body or bodies that established the Commission that was audited. A copy of the audit report shall be made available by the Commission to members of the public upon request and at no charge.

(KRS 91A.360(5))

UTILITIES COMMISSION

' 35.115 ESTABLISHMENT; MEMBERS; DUTIES.

(A) There is established a Utilities Commission which shall consist of three or four Commissioners appointed by the Mayor with the approval of the City Council. The Commissioners shall serve for terms of three years each; however, should a Commissioner cease to serve before the end of his regular term of office, a successor shall be appointed in the same manner as other Commissioners to serve for the remainder of the term. The Commissioners shall give such bond as may be required by the City Council. Three Commissioners shall be required to be a resident of the city. If there are four Commissioners, one of said Commissioners may be a resident of Carroll County, Kentucky.

(B) The Utilities Commission shall operate the various city utilities, including the water and sewer systems and the gas distribution system, and shall have the power to make all rules and regulations as may be necessary for the establishment of the system, except for the promulgation of rates to be charged for utilities services which is reserved to the City Council. The Utilities Commission shall have the power and authority to disburse money collected; collect and receive all monies, accounts and charges

accruing to the city for services provided by the utilities in the area served by the utilities; and shall have the further power and authority to disburse monies for such purposes as, in the discretion of the Utilities Commission, may be necessary or for the benefit of the city and the operation and administration thereof. It is hereby delegated to the Utilities Commission the power to fix salaries of all employees of the utilities, with the exception of the Utilities Manager and the Utilities Commissioners which shall be established by the City Council from time to time as set forth in ' 31.02 upon the recommendation of the Utilities Commission.

(>78 Code, ' 12-1) (Am. Ord. 89-30, passed 12-28-89; Am. Ord. 92-01, passed 1-16-92; Am. Ord. 07-25, passed 6-11-07; Am. Ord. 2014-02, passed 1-27-14)

' 35.116 UTILITIES MANAGER.

(A) The city hereby establishes the position of Utilities Manager, who shall be appointed by the Mayor with the approval of the Utilities Commission and the City Council.

(B) The Utilities Manager shall head the Utilities Commission in its operation of the city utilities. He shall have the power to administer the day-to-day activities of the Utilities Commission including the right to hire and discharge employees, and make recommendations to the Utilities Commission concerning salaries.

(C) Compensation shall be in the amount as established by the City Council from time to time by resolution upon recommendation of the Utilities Commission.

(D) The Utilities Manager shall be removed only for cause and only in accordance with the duly established personnel policies and procedures of the city, including the appeal procedure as set forth therein, and in accordance with the grievance procedure as set forth in ' 36.19. (Am. Ord. 92-01, passed 1-16-92; Am. Ord. 98-16, passed 9-21-98; Am. Ord. 2014-01, passed 1-27-14)

URBAN FORESTRY COMMISSION

' 35.125 DEFINITIONS.

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

ACITY.@ The City of Carrollton, Kentucky.

ACITY TREE.@ Any tree on city park property or currently maintained by the city.

AURBAN FORESTRY COMMISSION.@ The Urban Forestry Commission of the City of Carrollton, Kentucky.
(Ord. 91-22, passed 12-10-91; Am. Ord. 92-30, passed 9-9-92)

' 35.126 ESTABLISHED.

The Urban Forestry Commission for the city is hereby created and established. The Commission shall consist of seven members who shall be appointed by the Mayor with the approval of the City Council.
(Ord. 91-22, passed 12-10-91; Am. Ord. 92-30, passed 9-9-92)

' 35.127 TERMS.

(A) Members of the Commission shall serve a three-year term except as provided herein for the initial Commission. The initial Commission shall consist of three members appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of three years. Members of the Commission may be appointed to consecutive terms. Members of the Commission shall serve without compensation.

(B) Any vacancy arising by reasons of death, resignation or removal of any member of the Commission shall be filled in the manner provided under ' 35.126 for the unexpired term of the member. Members of the Commission serve at the Mayor=s pleasure, and he may remove a member for any reason including, but not limited to, inefficiency, neglect of duty, malfeasance or conflict of interest.
(Ord. 91-22, passed 12-10-91; Am. Ord. 92-30, passed 9-9-92)

' 35.128 BY-LAWS; ELECTION OF OFFICIALS; MEETINGS.

The Commission shall organize within 30 days, after the appointment of its initial total membership, for the purpose of adopting by-laws. The Commission shall annually elect a chairman, vice-chairman, and secretary, each of whom shall be eligible for re-election at the Commission=s first meeting annually. The Commission shall meet at least once quarterly, the exact time and date of the quarterly meeting may be determined at the discretion of the Commission.
(Ord. 91-22, passed 12-10-91; Am. Ord. 92-30, passed 9-9-92)

' 35.129 POWERS; DUTIES.

The Commission shall be charged with management, protection and care of the city trees. The powers and duties of the Commission shall include:

(A) Provide public promotion, education and leadership in facilitating public awareness of tree conservation, protection and planting.

(B) The Commission shall prepare and submit a list of trees suitable for planting on the property of the city parks to the Public Works Superintendent, or his designee. The Commission may be consulted regarding selection, location and planting of trees on city park property.

(C) The Commission shall bring to the attention of the Public Works Superintendent, or his designee, any city tree on park property that poses a threat to public safety when such tree is dead or dying and its presence would cause a hardship or endanger the public or an adjoining property owner. The Commission shall also notify the city when a city tree is diseased or infested so as to be a hazard to other trees within the city.

(D) The Commission shall have such other duties as the City Council shall from time to time delegate to it by ordinance or the Mayor shall from time to time authorize by executive order.

(Ord. 91-22, passed 12-10-91; Am. Ord. 92-30, passed 9-9-92)

CODE ENFORCEMENT BOARD' 35.140 DEFINITIONS.

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AABATEMENT COSTS.@ The city=s necessary and reasonable costs of clearing, preventing unauthorized entry to or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises to maintain and preserve public health, safety and welfare in accordance with any city ordinance, including but not limited to costs incurred in the relocation of tenants from the structure or premises pertaining to the condition of and maintenance of the structure or premise.

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

ACODE ENFORCEMENT OFFICER.@ A city police officer, Fire Chief, Fire Marshal, City Zoning Administrator, Code Enforcement Officer, Building Inspector or other public law enforcement officer with the authority to issue a citation. Designee(s) of the aforementioned officials shall likewise be defined as Code Enforcement Officers.

AFINAL ORDER.@ Any order:

(1) Issued by the Code Enforcement Board following a hearing in accordance with ' 35.148(E);

(2) Created because a violator neither paid nor contested the citation within seven days as provided in ' 35.147(G); or

(3) Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in ' 35.148(C).

AIMMINENT DANGER.@ A condition which is likely to cause serious or life-threatening injury or death at any time.

AORDINANCE.@ An official action of the City Council which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of the Code of Ordinances adopted by the City Council which embodies all or part of an Ordinance.

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

APREMISES.@ A lot, plot or parcel of land, including any structures upon it.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.141 CREATION AND MEMBERSHIP.

There is hereby created pursuant to KRS 65.8801 to 65.8839 a Code Enforcement Board (the ABoard@) which shall be composed of five members, all of whom shall be residents of the city for a period of at least one year prior to the date of the members appointment and shall reside there throughout the term in office.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.142 ENFORCEMENT POWERS.

(A) The Board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions which specifically provide for Code Enforcement and Nuisance Board enforcement.

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

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

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.143 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH AND COMPENSATION.

(A) Members of the Board shall be appointed by the Mayor of the city, subject to the approval of City Council.

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

(1) One member appointed to a term of one year.

(2) Two members appointed to a term of two years each.

(3) Two members appointed to a term of three years each.

(C) All subsequent appointments shall be for a term of three years. A member may be reappointed, subject to the approval of the legislative body.

(D) Any vacancy on the Board shall be filled by the Mayor, subject to approval of Council within 60 days of the vacancy. If the vacancy is not filled within that time period, the remaining members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(E) A Board member may be removed from office by the Mayor for misconduct, inefficiency or wilful neglect of duty. The Mayor shall submit a written statement to the member and the City Council setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(F) All members of the Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

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

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2017-01, passed 1-19-17)

' 35.144 ORGANIZATION OF BOARD; MEETINGS AND QUORUM.

(A) The Board shall annually elect a Chair from among its members. The Chair shall be the presiding officer and a full voting member of the Board. If the Chair is not present the Board shall select one of its members to preside in place of and exercise the powers of the Chair.

(B) Regular meetings of the Board shall be held on the 2nd and 4th Mondays of every month at 3:00 p.m. Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

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

(D) The presence of at least a majority of the Board=s entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.

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

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17; Am. Ord. 2017-19, passed 8-14-17)

' 35.145 CONFLICTS OF INTEREST.

Any member of the Board who has any direct or indirect financial or personal matter in any interest to be decided shall disclose the nature of the interest and shall be disqualified from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.146 POWERS OF THE BOARD.

The Board shall have the following powers and duties:

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

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

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

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

(E) To make findings of fact and issue orders necessary to remedy any violation of a City Ordinance or Code provision which the Board is authorized to enforce.

(F) To issue remedial orders and impose civil fines, as authorized, against any person who is found to have violated an Ordinance over which the Board has jurisdiction.

(G) To make any recommendations to City Council deemed necessary by the Board.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2017-01, passed 1-19-17)

' 35.147 ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Board:

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

(B) Except when immediate action is necessary pursuant to ' 35.147(C), if a Code Enforcement Officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of an ordinance, the Officer is authorized to issue a citation to the offender. A Code Enforcement Officer may, in lieu of issuing a citation, give a notice of violation, which shall serve to notify the violator to remedy the violation within the time specified. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

(C) Nothing in this subchapter shall prevent a Code Enforcement Officer from taking immediate action to remedy a violation of its ordinances or codes when there is reason to believe that the violation constitutes a public nuisance or a threat to the public health, safety or welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible. A citation may also be issued for the violation.

(D) The citation issued by the Code Enforcement Officer shall contain the following information:

(1) The date and time of the issuance;

(2) The name and address of the person to whom the citation is issued;

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

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

(5) Brief facts constituting the offense;

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

(7) The name of the Code Enforcement Officer;

(8) The civil fine that may be imposed for the violation including, if applicable:

(a) The civil fine that will be imposed if the person does not contest the citation; and

(b) The maximum civil fine that may be imposed if the person elects to contest the citation;

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

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

(E) The Code Enforcement Officer may issue the citation by one of the following methods:

(1) Personal service to the alleged violator;

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

(3) Mailing a copy of the citation by regular first-class mail to the last known recorded mailing address of the alleged violator; or

(4) If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in divisions (E)(1) to (3) of this Section is not possible, then the citation is properly served by posting a copy of the citation in a conspicuous place on the premises.

(F) After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Board by delivering a copy of the citation to the City Clerk.

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

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

(H) In the event that a final order determining that the violation was committed is issued, if the property is not brought into compliance or if the Board orders the property be brought into compliance and the violator refuses, failure to so comply shall constitute permission to an official, employee or other authorized agent or independent contractor of the city to enter upon the property to remedy the situation and to abate the violation.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17; Am. Ord. 2017-19, passed 8-14-17)

' 35.148 HEARING; NOTICE; AND FINAL ORDER.

(A) When a hearing has been requested, the Board shall schedule a hearing.

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

(C) (1) Any person requesting a hearing before the Board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

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

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

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

(F) (1) Every final order of the Board shall be reduced to writing which shall include the findings and conclusions of the Board and date the order was issued. A copy shall be furnished to the person named in the citation.

(2) If the person named in the citation is not present when the final order is issued, the order shall be delivered to the person by regular first-class mail; certified mail, return receipt requested; personal deliver; or by leaving the notice at the person=s usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.
(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.149 LEGAL COUNSEL.

Each case before the Board shall be presented by a City Code Enforcement Officer or by an attorney selected by the Mayor. The City Attorney will be counsel to the Board and may not present cases before the Board.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2017-01, passed 1-19-17)

' 35.150 APPEALS; FINAL JUDGEMENT.

(A) An appeal from any final order of the Board following a hearing conducted pursuant to ' 35.148(E) may be made to the Carroll District Court within 30 days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The appeal shall be tried de novo. A judgment of the Carroll District Court may be appealed to the Carroll Circuit Court in accordance with the Kentucky Rules of Civil Procedure.

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

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.151 LIENS; FINES; CHARGES AND FEES.

(A) The city shall possess a lien on property owned by any person found by a nonappealable final order as defined by ' 35.140 or by a final judgement of the court to have committed a violation of a city

ordinance. The lien shall be assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance, including abatement costs. An affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

(B) The lien shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate until paid. The lien shall continue for ten years following the date of the nonappealable final order or final court judgement.

(C) Subject to ' 35.153, the lien shall take precedence over all other liens, except state, county. School Board and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

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

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

' 35.152 LIENHOLDER NOTIFICATION SYSTEM.

The city shall obtain and maintain priority over previously filed liens, as provided in ' 35.151, in accordance with the following provisions:

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

(B) In order to receive the notification, the registrant shall submit the following information to the Code Enforcement Officer:

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

(C) A registrant may use the electronic form provided on the city website to submit the information required by subsection (B) of this section. It shall be the responsibility of the registrant to maintain

and update the required contact information with the city. The city shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

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

(1) The name of the person charged with a violation;

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

(3) The last known mailing address for the owner of the premises where the violation occurred;

(4) A copy of the full citation;

(5) A copy of the full final order; and

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

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

(F) At the same time the electronic mail notification required under divisions (D) or (E) of this Section is sent, the city shall post the notification required by divisions (D) or (E) of this Section containing an updated link to the code enforcement database on the city website.

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

(Ord. 2017-01, passed 1-19-17; Am. Ord. 2017-19, passed 8-14-17)

' 35.153 LIENS.

(A) A lienholder of record who has registered pursuant to ' 35.152(B) of this chapter may, within 45 days from the date of issuance of notification under ' 35.152(D) of this chapter:

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

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

(B) Nothing in this section shall prohibit the city from taking immediate action under ' 35.147(C).

(C) The lien provided by ' 35.151 shall not take precedence over previously recorded liens if:

(1) The city failed to comply with the requirements of ' 35.152 of this Chapter for notification of the final order; or

(2) A prior lienholder complied with subsection (A) of this section.

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

(E) The city may record a lien before the 45 day period established in subsection (A) of this section expires. If the lien is fully satisfied prior to the expiration of the 45 day period, the city shall release the lien in the County Clerk's office where the lien is recorded within 15 days of satisfaction.

(F) Failure of the city to comply with ' 35.152 and ' 35.153 of this chapter, or failure of a lien to take precedence over previously filed liens as provided in subsection (C) of this section, shall not limit or restrict any other remedies the city has against the property of the violator.

(Ord. 2017-01, passed 1-19-17)

' 35.154 STATE STATUTES ADOPTED BY REFERENCE.

All of the terms, conditions and procedures of KRS 65.8801 to 65.8839 relating to the organization and powers of the Board, enforcement, procedure, appeals and other matters are hereby adopted by the city and incorporated herein by reference as if fully rewritten.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2017-01, passed 1-19-17)

' 35.155 CRITERIA AND PROCEDURES.

(A) Criteria. In the event the Board should consider the need to recommend to Council that judicial proceedings are necessary in order to enforce any particular lien for payment of unpaid civil fines or abatement costs, the Board is hereby directed to carefully consider the following factors before recommending judicial proceedings.

(1) Whether the violator has been given warning of the violation as set forth in ' 35.147(B).

(2) Whether a civil suit seeking money damages only against the violator or a civil proceeding seeking a judicially ordered sale of the subject property will be the appropriate course of action.

(3) Whether the conduct of the violator has demonstrated indifference to or disregard for the necessity of compliance with the applicable city ordinance by statement, conduct, or inaction with regard to the violation.

(4) Whether the violation(s) which is/are the subject of the lien(s) constitute a present danger to the public health, safety or welfare of the residents in the vicinity or materially interfere with the peaceful enjoyment of adjacent property.

(5) The period of time for which the violation has existed must be considered in relation to the severity of the threat to the public health, safety or welfare of the residents in the vicinity.

(6) Whether three convictions of the same violation have been found to exist since the enactment of these criteria.

(B) Procedures.

(1) The Board may make a formal recommendation to the City Council that judicial proceedings be initiated.

(2) The Board=s recommendation must state whether it is recommending either:

(a) A civil suit before the court of proper jurisdiction seeking money damages only; or

(b) A civil suit seeking monetary damages and an order of sale of the subject real estate.

(3) Upon receipt of a recommendation from the Board that judicial proceedings be initiated, City Council may follow the recommendation, seek different relief from that recommended by the Board, or take no action in response to the recommendation.

(Ord. 2010-16, passed 12-13-10; Am. Ord. 2015-12, passed 6-29-15; Am. Ord. 2017-01, passed 1-19-17)

E-911 DISPATCH COMMISSION

' 35.170 EFFECTIVE DATE AND DURATION.

(A) The Interlocal Agreement entered into between the City of Carrollton, Kentucky and Carroll County, Kentucky on November 23, 1994 shall be effective from and after:

(1) Its execution;

(2) The approval of this Interlocal Agreement by the Attorney General of the Commonwealth as required by KRS 65.260(2) and any other officer or agency of the state government whose approval may be required by virtue of KRS 65.300; and

(3) The filing of a certified copy of this Interlocal Agreement with the County Clerk of the county in which each of the parties thereto is located and with the Secretary of State of the Commonwealth as required by KRS 65.290.

(B) This Interlocal Agreement is intended to be perpetual in duration and shall continue in effect from and after its effective date so long as two or more signatories remain party to the Agreement.
(Ord. 94-17, passed 11-23-94)

' 35.171 ESTABLISHED.

There is hereby established the Carroll County/City of Carrollton C-911 Dispatch Commission which shall be a public agency as defined by KRS 61.805 of the Kentucky Open Meetings Act and KRS 61.870 of the Kentucky Open Records Act. It shall have the purpose, membership and structure as set forth in this subchapter.
(Ord. 94-17, passed 11-23-94)

' 35.172 PURPOSE.

The purpose of the Commission is to provide for and administer an enhanced 911 system to provide dispatch for law enforcement and emergency personnel within Carroll County, Kentucky, including the City of Carrollton, Kentucky.
(Ord. 94-17, passed 11-23-94)

' 35.173 MEMBERSHIP.

(A) Membership on the Commission shall be as follows:

- (1) County Judge;
- (2) Carrollton Mayor;
- (3) County Sheriff;

- (4) County Emergency Management Director;
- (5) Carrollton Police Chief/911 Dispatch Supervisor;
- (6) Carroll County Coroner;
- (7) Carroll County Fire Chief.

(B) The County Judge will serve as Chairperson of this Committee. This Committee is to meet no less than twice a year. The time and date of these meetings are at the discretion of the members.

(C) Recognizing that LINK/NCIC telecommunications terminals are restricted to dissemination to law enforcement or criminal justice agencies, nothing in this subchapter shall be construed to provide access to such terminals to any member of the Commission not previously authorized by law.

(Ord. 94-17, passed 11-23-94; Am. Ord. 95-10, passed 5-30-95; Am. Ord. 2013-17, passed 12-9-13)

' 35.174 TERMS.

(A) The parties hereby agree that the costs of administering the enhanced 911 system shall be borne equally between the two parties.

(B) The dispatchers and all other personnel employed by the E-911 system shall remain city employees and shall receive the annual increase in salaries as provided within the Personnel Policies and Procedures Handbook of the City of Carrollton. Each separate agency (that being the City of Carrollton, Kentucky, and Carroll County, Kentucky) shall be required to maintain their own equipment. Any equipment owned by the Commission shall be the property of the Commission.

(C) The Commission shall maintain a separate account with the Commission setting aside \$4,000 each year to be deposited in the account until there is contained in the account the sum of \$30,000 at which time the account shall be used for the expenses of the enhanced 911 system. Carroll County, Kentucky, shall pay unto the City of Carrollton, Kentucky, the sum of one-half of the operating costs of the enhanced 911 system, including the salary and benefits of all employees, as said payment shall be paid monthly to the Treasurer of the City of Carrollton. This shall take effect when the enhanced 911 system goes on line.

(Ord. 94-17, passed 11-23-94)

' 35.175 FUNDS DISBURSEMENT.

The disbursement of funds collected by the Commission will be handled by the County Judge Executive and the Mayor of the City of Carrollton with approval of Fiscal Court.

(Ord. 95-10, passed 5-30-95)

CHAPTER 36: PERSONNEL POLICIES

Section

General Provisions

- 36.01 Personnel System and Pay Plan adopted by reference
- 36.02 Participation in County Employees Retirement System

Affirmative Action Plan for Equal Employment Opportunity

- 36.15 Objectives
- 36.16 Dissemination of policy
- 36.17 Personnel actions
- 36.18 Equal Employment Opportunity Coordinator
- 36.19 Grievance procedures

Drug Awareness Policy

- 36.30 Policy statement
- 36.31 Definitions
- 36.32 Prohibited conduct
- 36.33 Drug-free awareness program
- 36.34 Certification of receipt

GENERAL PROVISIONS

' 36.01 PERSONNEL SYSTEM AND PAY PLAN ADOPTED BY REFERENCE.

The Personnel System and the Pay Plan for elected and nonelected personnel of the city, adopted November 16, 1984 and revised in April, 1986, is hereby adopted by reference and made a part of this code as if set out in full herein. Copies of these personnel regulations shall be on file in the office of the City Treasurer, for public inspection during normal business hours.

(Ord. 89-08, passed 5-24-89; Am. Ord. 89-27, passed 11-8-89; Am. Ord. 90-01, passed 2-14-90; Am. Ord. 90-02, passed 2-14-90; Am. Ord. 90-15, passed 10-10-90; Am. Ord. 96-13, passed 6-12-96)

' 36.02 PARTICIPATION IN COUNTY EMPLOYEES RETIREMENT SYSTEM.

(A) All employees of the city shall be authorized to participate in the County Employees Retirement System, effective July 1, 1988, and all eligible regular full-time officers and employees shall be authorized and directed to comply with the statutory requirements of this Retirement System.

(B) All city employees whose duties require an average of 100 hours during each working month shall be considered Aregular full-time@ employees for county retirement purposes, except those employees of agencies which may participate in the system as a separate agency and those other persons who are employed as Atemporary@, Apart-time@, and Aseasonal@ workers, as defined in KRS 78.510(21) of the County Employees Retirement Laws.

(Ord. 88-05, passed 6-8-88)

AFFIRMATIVE ACTION PLAN FOR EQUAL EMPLOYMENT OPPORTUNITY

' 36.15 OBJECTIVES.

(A) It is the objective of the city, through use of the Affirmative Action Plan to promote equal employment opportunity; to prohibit discrimination in employment because of race, color, religion, national origin, sex, handicapped status, or age; and to bring about a fair representation in utilization of minorities and women at all levels and in all phases of city government employment.

(B) Affirmative action will insure every employee or applicant, regardless of race, color, religion, national origin, sex, handicapped status, or age, equal opportunity with respect to terms and conditions of employment, the administration of rates of compensation, access to all types of training afforded, and participation in social and recreational programs and opportunity for both lateral movement and advancement in city government.

(Res., passed 12-14-77)

' 36.16 DISSEMINATION OF POLICY.

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

(Res., passed 12-14-77)

' 36.17 PERSONNEL ACTIONS.

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

(Res., passed 12-14-77)

' 36.18 EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR.

It is understood that the implementation of the Affirmative Action Plan is an ongoing process which will make the plan a living, effective document. The Mayor shall designate an Equal Employment Opportunity Coordinator who shall be responsible for implementation of the Affirmative Action Plan and shall have authority to require department heads to furnish such information as is necessary to keep current forms and reports under the direct authority and supervision of the Mayor.

(A) Duties. Under the direct authority of the Mayor, the Equal Employment Opportunity Coordinator shall disseminate the city=s equal employment opportunity policy as set forth in the Affirmative Action Plan; maintain current job classifications and minimum requirements based on the tasks to be performed by each position; update a work force analysis, applicant flow chart, and job roster; receive EEO progress reports from each department; and prepare reports as set forth in division (B).

(B) Reports. Under the direct authority of the Mayor, the Equal Employment Opportunity Coordinator shall monitor the operation of the Affirmative Action Plan and shall prepare a consolidated progress report for the Mayor quarterly together with indications of problem areas and recommendations for solutions. The Mayor shall prepare an annual written report for the City Council.

(C) Executive order #11246. The Equal Employment Opportunity Coordinator shall in addition to other duties outlined in the Affirmative Action Plan insure that the city is in compliance with KRS 45.550 et seq. with respect to contracts.
(Res., passed 12-14-77)

' 36.19 GRIEVANCE PROCEDURES.

The following procedure includes nonelected city officers. A grievance is an employee=s expressed dissatisfaction related to his job. Employees and supervisors shall work together to resolve any grievance which arises. In the absence of informal resolution of differences, one of the following procedures shall apply.

(A) The aggrieved employee shall present the grievance to his immediate supervisor within five working days of its occurrence or knowledge of its occurrence. The grievance and all subsequent appeals shall be in writing and shall set forth the reasons and grounds for the grievance with statement of relief sought. The immediate supervisor shall attempt to adjust the matter and shall respond to the employee in writing within five days.

(B) If the grievance remains unresolved, it may then be presented in writing by the employee to the Department Head within five working days after the response of the supervisor is due. The Department Head shall respond in writing to the party presenting the grievance within five working days.

(C) If the grievance remains unresolved, it may then be presented in writing by the employee to the Mayor within five working days after the response of the Department Head is due.

(D) If the decision of the Mayor does not satisfy the employee, he may request, in writing, a hearing before the City Council within five working days of the Mayor's decision.

(E) The City Council may conduct a hearing on all issues involved. The Mayor shall respond for the Council in writing to the party presenting the grievance within five working days from the date of filing of the grievance with the Council, notifying of the date, time, and place the hearing will be held unless additional time is agreed to by both sides.

(F) At each level, a copy of all previous written documents involved in the action shall be attached to the grievances and made a part thereof.

(G) The administrative decision of the City Council is final except in cases involving police officers who are subject to KRS Ch. 15.
(Res., passed 12-14-77; Am. Ord. 89-14, passed 5-24-89)

DRUG AWARENESS POLICY

' 36.30 POLICY STATEMENT.

It shall be the policy of the city to maintain a drug-free workplace in compliance with the Drug-Free Workplace in compliance with the Drug-Free Workplace Act of 1988 (PL 100-690, Title V, Subtitle D). The purpose of this statement is to outline prohibited, on-the-job employee conduct, to make employees aware of the dangers of on-the-job use of drugs and to advise employees of available sources of drug counseling, rehabilitation and employee assistance programs.
(Ord. 92-33, passed 10-14-92)

' 36.31 DEFINITIONS.

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

ACONTROLLED SUBSTANCES.@ An illegal drug or controlled substance as defined in attached Schedules I - V in Section 812 of Title 21 and as supplemented from time to time.

ACONVICTION.@ A finding of guilt (including a plea of no lo contendre) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

ACRIMINAL DRUG STATUE.@ A criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.

AEMPLOYEE.@ Any individual on the payroll of the city, working on a full or part-time basis.
(Ord. 92-33, passed 10-14-92)

' 36.32 PROHIBITED CONDUCT.

(A) Employees shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of controlled substance or alcohol on the job, or report to work under the influence of alcohol or controlled substances.

(B) Each employee shall notify his/her supervision via Aconfidential@ or work-related violation no later than five days after such conviction. Within 30 days after receipt of such notice of conviction or upon determination in accordance with personnel policies and procedures of on-the-use alcohol or controlled substances, the executive authority of the city shall:

(1) Take appropriate action against such employee, up to and including, termination from employment; or

(2) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency at the expense of the employee.

(C) Failure of any employee to report such convictions shall be cause for immediate dismissal from employment.

(D) Employees reporting to work on medication prescribed by their personal physician, which impairs their job performance, are to immediately notify their supervisors of such. They should indicate, via a doctor=s note, how the medication would affect the performance of their duty and/or health and safety or others, and appropriate steps should be taken by supervisors to alleviate any hazards.
(Ord. 92-33, passed 10-14-92)

' 36.33 DRUG-FREE AWARENESS PROGRAM.

(A) The city hereby establishes a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; and

(2) Available drug counseling, rehabilitation and employee assistance programs.

(B) Employees should review the attached drug free awareness program materials for further information. Additional materials will be distributed and programs conducted from time to time.
(Ord. 92-33, passed 10-14-92)

' 36.34 CERTIFICATION OF RECEIPT.

The certificate of receipt shall state as follows:

I, the undersigned employee of the city, certify through my signature below that I have received a copy of the Drug-Free Workplace Policy Statement and cover letter providing that the city shall maintain a Drug-Free Workplace in compliance with the Drug-Free Workplace Act of 1988 (PL 100-690, Title V, Subtitle D). I have read the Drug-Free Workplace Statement and understand that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances or alcohol is prohibited on-the-job conduct and that personnel actions as specified in the policy statement will be taken in the event of a violation by me. I acknowledge, by my signature, receipt of the policy statement and agree to abide by its terms during my employment.

Signature of Employee

Date

(Ord. 92-33, passed 10-14-92)

CHAPTER 37: TAX PROCEDURES

Section

- 37.01 Levy of ad valorem tax; purpose
- 37.02 Payment and collection of tax
- 37.03 Due date; delinquency and penalty
- 37.04 Notice to be published
- 37.05 Bank franchise and local deposit tax

' 37.01 LEVY OF AD VALOREM TAX; PURPOSE.

(A) There is hereby levied an ad valorem tax per each \$100 of the assessed valuation of all property, both real and personal, subject to taxation in the city. The tax rates shall be set annually by the City Council by ordinance.

(B) The tax levied by this chapter when collected shall be applied to the following purposes: 100% to the payment of the current expenses and lawful obligations of the city not otherwise provided for.
(Ord., passed 8-14-85)

' 37.02 PAYMENT AND COLLECTION OF TAX.

The tax levied by this chapter shall be paid to and collected by the City Clerk/Treasurer.
(Ord., passed 8-14-85; Am. Ord. 91-07, passed 5-8-91)

' 37.03 DUE DATE; DELINQUENCY AND PENALTY.

(A) The tax levied by this chapter shall be due and payable by October 31, and if unpaid by November 1 shall be considered delinquent as of that date and so endorsed.

(B) Any tax levied by this chapter which becomes delinquent by reason of nonpayment shall be subject to the penalty of 10% of the amount of such taxes unpaid before November 1, which penalty shall be added to such taxes which are unpaid on November 1 and which penalty shall be collectible as part of such taxes on and after November 1. Delinquent taxes and penalties thereon are applicable at the time of payment and shall bear interest at the rate of 12% per year from November 1 until paid, which interest shall likewise be collectible as part of such taxes.

(Ord., passed 8-14-85)

' 37.04 NOTICE TO BE PUBLISHED.

The notice required to be published by KRS 424.130(d) shall be published not less than seven days nor more than 21 days prior to collection.

(Ord., passed 8-14-85)

' 37.05 BANK FRANCHISE AND LOCAL DEPOSIT TAX.

(A) There is hereby imposed on all Afinancial institutions,@ as defined in KRS Chapter 136, located within the corporate limits of the city, for the 1996 tax year and all subsequent years, a franchise tax at the rate of 0.025% on all deposits, as defined in KRS Chapter 136, maintained by such financial institutions.

(B) The city will issue tax bills to financial institutions no later than December 1 of each year. Payment of the tax shall be due with a 2% discount by December 31 of each year, or without the discount by January 31 of each year.

(C) The city shall have a lien for taxes on the property assessed for taxes to the extent allowed under KRS 134.420.

(D) All taxes due in accordance with these sections which are not paid before June 30, 1997, for tax year 1996, or which are not paid before January 31, for all subsequent years tax years shall be deemed delinquent and shall be subject to a penalty of 10% and shall bear interest at the rate of 12% per annum.

(E) All moneys collected pursuant to these sections 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.
(Ord. 96-23, passed 8-27-96)

Section

General Provisions

- 38.01 Definitions
- 38.02 Construction

Open Meeting Requirements

- 38.10 Exceptions to open meetings
- 38.11 Closed sessions
- 38.12 Regular meetings; schedules
- 38.13 Special meetings
- 38.14 Minutes of meetings
- 38.15 Attendance of public at meetings
- 38.16 Video teleconferences
- 38.17 Enforcement
- 38.18 Noncompliance

- 38.99 Penalty

GENERAL PROVISIONS

' 38.01 DEFINITIONS.

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

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

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

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

PUBLIC AGENCY.@ Every city government board, commission, and authority; every city council and council board, commission and committee; every school district board, special district board, and municipal corporation; every city government agency, including the policy-making board of an institution of education created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government; any entity when the majority of its governing

body is appointed by a APUBLIC AGENCY@, as defined by this section; a member or employee of a APUBLIC AGENCY@, a state or local officer, or any combination thereof; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, council or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, or controlled by a APUBLIC AGENCY@ as defined in this section; an interagency body of two or more public agencies where each APUBLIC AGENCY@ is defined in this section.

(KRS 61.805(2))

AVIDEO TELECONFERENCE.@ One meeting, occurring in two or more locations, where individuals can see and hear each other by means of video and audio equipment.

(KRS 61.805(5))

' 38.02 CONSTRUCTION.

This chapter shall not be construed as repealing any of the laws of the state relating to meetings but shall be held and construed as ancillary and supplemental thereto.

(KRS 61.850)

OPEN MEETING REQUIREMENTS

' 38.10 EXCEPTIONS TO OPEN MEETINGS.

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

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

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

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

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

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

(6) Local cabinet meetings and executive cabinet meetings;

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

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

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

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

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

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

Cross-reference:

City Council meetings, see ' 32.21

Board of Ethics meetings, see ' 39.55

' 38.11 REQUIREMENTS FOR CLOSED SESSIONS.

(A) The following requirements shall be met as a condition for conducting sessions by those public agencies authorized by ' 38.10(A)(1) and (4) except as (4) relates to students:

(1) Notice shall be given in regular open meetings of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of ' 38.10 authorizing the closed session;

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

(3) No final matters may be discussed at a closed session; and

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

(B) Public agencies and activities identified in ' 38.10(A) paragraphs (2), (3), (4), but only so far as (4) relates to students, (5), (6), (7), (8), (9) and (10) are excluded from the requirements of division (A) of this section.

(KRS 61.815) Penalty, see ' 38.99

' 38.12 REGULAR MEETINGS; SCHEDULES.

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

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

(KRS 61.820) Penalty, see ' 38.99

' 38.13 SPECIAL MEETINGS.

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

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

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

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

(2) A public agency may satisfy the requirements of division (1) of this section by transmitting the written notice by electronic

mail to public agency members and media organizations that have filed a written request with the public agency indicating their preference to receive electronic mail notification in lieu of notice by personal delivery, facsimile machine, or mail. The written request shall include the electronic mail address or addresses of the agency member or media organization.

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

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

(KRS 61.823) Penalty, see ' 38.99

Cross-reference:

Special Council meetings, see ' 32.21

' 38.14 MINUTES OF MEETINGS.

The minutes of action taken at every meeting of any public agency, setting forth an accurate record of votes and actions at such meetings, shall be promptly recorded. These records shall be open to public inspection at reasonable times no later than immediately following the next meeting of the body.

(KRS 61.835) Penalty, see ' 38.99

' 38.15 ATTENDANCE OF PUBLIC AT MEETINGS.

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions, including adequate space, seating, and acoustics, which, insofar as is feasible, allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

(KRS 61.840) Penalty, see ' 38.99

' 38.16 VIDEO TELECONFERENCES.

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

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

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

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

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

(D) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.
(KRS 61.838)

' 38.17 ENFORCEMENT.

The provisions of this chapter shall be enforced pursuant to KRS 61.846 and 61.848 for enforcing KRS 61.805 to 61.850, as they pertain to that public agency, by injunction or other appropriate order on application of any person.

Statutory reference:

Enforcement by administrative procedure, see KRS 61.846

Enforcement by judicial action, see KRS 61.848

' 38.18 NONCOMPLIANCE.

Any rule, resolution, regulation, ordinance, or other formal action of a public agency without substantial compliance with the requirements of this chapter shall be voidable by a court of competent jurisdiction. A certificate by the clerk or secretary of the public agency at the meeting that the requirements of this chapter have been met, shall be prima facie evidence and admissible in any court of competent jurisdiction.

(KRS 61.830)

' 38.99 PENALTY.

(A) Any person who knowingly attends a meeting of any public agency as defined in ' 38.01, of which he is a member, not held in accordance

with the provisions of KRS 61.805 to 61.850 shall be punished by a fine of not more than \$100.

(B) (1) Any official of a public agency who wilfully conceals or destroys any record with the intent to violate KRS 61.870 to 61.884 shall be guilty of a Class A misdemeanor for each separate offense.

(2) Any official of a public agency who fails to produce any record after entry of final judgment directing that such record(s) be produced shall be guilty of contempt.

(KRS 61.991(1), (2))

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GENERAL PROVISIONS

' 39.01 TITLE.

This chapter shall be known and may be cited as the ACarroll County Code of Ethics.@
(Ord. 94-16, passed 11-23-94)

' 39.02 FINDINGS.

The legislative bodies of the cities involved and the Carroll County Fiscal Court find and declare that:

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

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

(C) The governments have a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.
(Ord. 94-16, passed 11-23-94)

' 39.03 PURPOSE AND AUTHORITY.

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

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

(C) This chapter is enacted under the power vested in the city and/or county by KRS 82.082 and pursuant to requirements of KRS 65.003 and/or KRS Chapter 67.
(Ord. 94-16, passed 11-23-94)

' 39.04 DEFINITIONS.

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

ABUSINESS.@ Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed

individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

ABOARD OF ETHICS.@ The Carroll County Board of Ethics which is created and vested by this chapter with the responsibility of enforcing the requirements of this code of ethics.

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

ACITY.@ Refers to the cities of Carrollton, Worthville, Sanders, Prestonville and Ghent.

ACOUNTY.@ Refers to Carroll County.

ACITY OR COUNTY AGENCY.@ Any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by any city covered by this code or the Carroll County Fiscal Court.

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

AFAMILY MEMBER.@ A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild. Also included for the city are aunt, uncle and cousins.

AIMMEDIATE 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.

AOFFICER.@ 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.
- (3) The city clerk.
- (4) Fire Chief.
- (5) Police Chief.
- (6) City Utility Manager.
- (7) County Elected Offices

- (a) Property Valuation Administrator;
- (b) Sheriff;
- (c) County Clerk;
- (d) County Treasurer;
- (e) County Enforcement Officer;
- (f) County Judge Executive;
- (g) Magistrate;
- (h) County Attorney;
- (i) Coroner;
- (j) Constables;
- (k) County Jailer.

(8) Members of the following boards and/or commissions.

- (a) Hospital Board;
- (b) Water District;
- (c) Library Board;
- (d) Health Department;
- (e) Carroll County Tourism Commission;
- (f) Carrollton Utilities Commission;
- (g) Housing Authority;
- (h) Fire Board - Ghent.

(9) Any person who occupies a nonelected office created under KRS 83A.080.

(10) A member of the governing body of any city or county agency who has been appointed to the governing body of the agency by the city or county.
(Ord. 94-16, passed 11-23-94)

STANDARDS OF CONDUCT

' 39.10 CONFLICTS OF INTEREST IN GENERAL.

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

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

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

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

(1) The officer or employee.

(2) A family member.

(3) An outside employer.

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

(5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship. There is a \$5,000 per year exemption for each business. After the \$5,000 is reached, the business must file a financial disclosure statement.

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

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

(F) No city and/or county government officer or employee, member of his immediate family, or business organization in which he has an

interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by the Kentucky Revised Statutes.

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

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.11 CONFLICTS OF INTEREST IN CONTRACTS.

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

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

(2) The prohibition in division (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer 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 subdivision (3) below are satisfied.

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

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

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

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

(d) The finding is made a part of the official record of the governing body of the city and/or county, or city and/or county 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 and/or county in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city and/or county.

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.12 RECEIPT OF GIFTS.

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

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

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

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.13 USE OF CITY AND/OR COUNTY PROPERTY, EQUIPMENT, AND PERSONNEL.

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

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

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.14 REPRESENTATION OF INTERESTS BEFORE CITY AND/OR COUNTY GOVERNMENT.

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

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

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

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.15 MISUSE OF CONFIDENTIAL INFORMATION.

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.16 POST-EMPLOYMENT RESTRICTION.

No officer or employee of the city and/or county, or any city and/or county agency shall appear or practice before the city and/or county, or any city and/or county agency with respect to any matter on which the officer or employee personally worked while in the service of the city and/or county, or city and/or county agency for a period of one year after the termination of the officer=s or employee=s service with the city and/or county, or city and/or county agency.

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.17 HONORARIA.

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

(B) Nothing in this section shall prohibit an officer or employee of the city and/or county, or any city and/or county agency from receiving and retaining from the city and/or county, or on behalf of the city and/or county 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 and/or county, or city and/or county agency and primarily for the benefit of the city and/or county, or city and/or county agency and not primarily for the benefit of the officer or employee or any other person.

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

FINANCIAL DISCLOSURE

' 39.30 WHO MUST FILE.

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

(A) Elected city and county officials.

(B) Candidates for elected city and county office.

(C) Members of the city planning and zoning commission and board of adjustment.

(D) Members of the Board of Ethics created by this chapter.

(E) Nonelected officers and employees of the city and county, and/or city and county agencies who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$500.

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

' 39.31 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4:00 p.m., November 1, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m., on November 1st each year, provided that:

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

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

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

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Board. (Ord. 94-16, passed 11-23-94)

' 39.32 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

The statement of financial interest shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, 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, by October 15th of each year with the form to be filed by November 1st of each year. The failure of the board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Ord. 94-16, passed 11-23-94)

' 39.33 CONTROL AND MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.

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

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

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

(2) Upon the expiration of three years after any election at which a candidate for elected city and/or county office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person. (Ord. 94-16, passed 11-23-94)

' 39.34 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 \$5,000 during the preceding calendar year, and the nature of the income (e.t., 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 \$10,000 at fair market value or 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 and/or county during the past three years, or which is anticipated to engage in any business transactions with the city and/or

county, 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 \$10,000 at fair market value or 5% ownership interest or more.

(7) A designation as commercial, residential, or rural, and the location of all real property within the city and/or 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 \$10,000 or more.

(8) Each source by name and address of gifts or honoraria having an aggregate fair market value of \$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 \$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.

(Ord. 94-16, passed 11-23-94)

' 39.35 NONCOMPLIANCE WITH FILING REQUIREMENT.

(A) The Board of Ethics, 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 Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under division (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed \$25 per day, up to a maximum total civil fine of \$500. Any civil fine imposed by the Board under this section may be recovered by the city and/or county 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. Civil fine to be used to offset costs of administration.

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

(Ord. 94-16, passed 11-23-94)

NEPOTISM

' 39.45 NEPOTISM PROHIBITED.

(A) No officer or employee of the city and/or county, or a city and/or county 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 and/or county, or a city and/or county agency.

(B) No officer or employee of the city and/or county, or a city and/or county 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 on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

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

(Ord. 94-16, passed 11-23-94) Penalty, see ' 39.99

ENFORCEMENT

' 39.55 BOARD OF ETHICS CREATED.

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

(B) The Board of Ethics shall consist of three members who shall be appointed by the Carroll County Fiscal Court. One member shall come from each of the three magisterial districts to constitute this Board.

The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city and/or county, or any city and/or county agency. The members shall serve for a term of three years; except that with respect to the members initially appointed, one member shall be appointed for a term of one year, one

member shall be appointed for a term of two years, and one member shall be appointed for a term of three years. Thereafter, all appointments shall be for a term of three years. Each member of the Board of Ethics shall have been a resident of Carroll County for at least one year prior to the date of the appointment and shall reside in Carroll County throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the executive authority, subject to the approval of the Fiscal Court for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body.

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

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

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

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

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

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

(Ord. 94-16, passed 11-23-94)

' 39.56 FACILITIES AND STAFF.

Within the limits of the funds appropriated by the Fiscal Court in the annual budget, the city and/or county shall provide the Board of

Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

(Ord. 94-16, passed 11-23-94)

' 39.57 POWER AND DUTIES OF THE BOARD OF ETHICS.

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

(A) To initiate on its 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 chapter.

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

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

(D) To refer any information concerning violations of this chapter to the Fiscal Court, 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/or county, and city and/or county agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.

(F) To enforce the provisions of this chapter with regard to all officers and employees of the city and/or county, and city and/or county agencies who are subject to its term by issuing appropriate orders and imposing penalties authorized by this chapter.

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

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

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

(Ord. 94-16, passed 11-23-94)

' 39.58 FILING AND INVESTIGATION OF COMPLAINTS.

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

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

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

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

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

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

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board 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/or county and its taxpayers, or lack of significant impact on public confidence in city and/or county 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 and/or county or city and/or county agency.

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

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer or employee of the city and/or county, or any city and/or county agency shall be guilty of a Class A misdemeanor.
(Ord. 94-16, passed 11-23-94)

' 39.59 NOTICE OF HEARING.

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within 30 days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued.
(Ord. 94-16, passed 11-23-94)

' 39.60 HEARING PROCEDURE.

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

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

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

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

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

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

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

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

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

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

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

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000.

(5) Refer evidence of criminal violations of this chapter or state laws to the county attorney or Commonwealth's attorney of the jurisdiction for prosecution.
(Ord. 94-16, passed 11-23-94)

' 39.61 APPEALS.

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the circuit court of the county within 30 days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.
(Ord. 94-16, passed 11-23-94)

' 39.62 LIMITATION OF ACTIONS.

Except when the period of limitation is otherwise established by

state law, an action for a violation of this chapter must be brought within one year after the violation is discovered.

(Ord. 94-16, passed 11-23-94)

' 39.63 ADVISORY OPINIONS.

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

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

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

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

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

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

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

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this chapter for action taken in reliance on that opinion.

(Ord. 94-16, passed 11-23-94)

' 39.64 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city and/or county, or any city and/or county 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 Board of Ethics or any other agency or official of the city, county and/or of the Commonwealth any facts or information relative to an actual or suspected violation of this chapter.

(B) This section shall not be construed as:

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

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

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

(4) Is confidential under any other provision of law.
(Ord. 94-16, passed 11-23-94)

' 39.65 MAINTENANCE OF RECORDS.

Notwithstanding any section of this chapter to the contrary, the Commission shall be required to maintain the records of the Commission in accordance with the regulations of the State Archives and Records Commission pursuant to KRS 171.420.
(Ord. 94-16, passed 11-23-94)

' 39.99 PENALTY.

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

(B) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city and/or county, or any city and/or county agency who is found by the Board of Ethics to have violated any provision of this chapter shall forfeit to the city and/or county, or the city and/or county agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city and/or county in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this chapter, a finding by the Board of Ethics that an officer or employee of the city and/or county, or any city and/or county agency is

guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city and/or county, or city and/or county agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this chapter shall be taken in accordance with all applicable ordinances and regulations of the city and/or county and all applicable laws of the Commonwealth.
(Ord. 94-16, passed 11-23-94)

Section

40.01 Residential Antidisplacement and Relocation Assistance plan
40.02 Tobacco free environment

' 40.01 RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN.

The Residential Antidisplacement and Relocation Assistance Plan is hereby adopted by reference as if fully set forth in this code of ordinances.

(Res. 03-24, passed 9-10-03)

' 40.02 TOBACCO FREE ENVIRONMENT.

All buildings owned and maintained by the city shall be a tobacco free environment. As such, the use of tobacco products inside any building owned or maintained by the city is prohibited.

(Ord. 2011-26, passed 7-25-11) Penalty, see ' 10.99

