

### TITLE III: ADMINISTRATION

#### Chapter

- 30. CITY OFFICERS AND EMPLOYEES
- 31. MAYOR-COUNCIL PLAN
- 32. PASSAGE OF ORDINANCES
- 33. FINANCE AND REVENUE
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(B) Possesses a delegation of a portion of the sovereign power of government;

(C) Has powers and duties to be discharged which are conferred directly or by implication by the city;

(D) Has duties performed independently and without control of a superior power other than law;

(E) Has some permanency;

(F) Requires an official oath;

(G) Is assigned by a commission or other written authority; and

(H) Provides for an official bond if required by proper authority.

"ORDINANCE." An official action of Council, which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.

"SUMMARY." A brief narrative prepared under the supervision of an attorney succinctly covering the main points of an official statement, ordinance, or rule in a way reasonably calculated to inform the public in a clear and understandable manner as to its meaning.  
(KRS 83A.010)

#### ELECTED OFFICERS

#### § 30.10 ELECTION PROCEDURE.

(A) The nomination and election of candidates for city office shall be under nonpartisan city election laws as provided in KRS 83A.050, 83A.170, and 83A.175.

(B) The city shall forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, pursuant to KRS 83A.050(2)(b).

(C) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.  
(Ord. 81-12, passed 2-16-81; Am. Ord. 81-14, passed 3-19-81; Am. Ord. 88-19, passed 10-17-88)

Statutory reference:

Election Procedure, See also KRS 83A.050

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§ 30.11 REMOVAL FOR MISCONDUCT, INABILITY, OR NEGLIGENCE.

(A) Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his or her office, may be removed from office by a unanimous vote of the members of Council exclusive of any member to be removed, who shall not vote in the deliberation of his or her removal.



(B) No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

(KRS 83A.040(6))

#### § 30.12 ABOLITION OF OFFICE.

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

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

(C) 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.

(KRS 83A.080(4))

#### § 30.13 CREATION OF ELECTED OFFICES PROHIBITED.

The city may not create any elected office. Existing elected offices may be continued under provision of § 30.12, but no existing elected office may be changed.

(KRS 83A.080(4))

#### § 30.14 MAYOR.

(A) Election; term of office. The Mayor 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. 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. 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.

(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 term of office.

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

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

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

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

(3) No vacancy by reason of a voluntary resignation in the office of Mayor shall occur unless a written resignation which specifies the resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the City Council 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.  
(KRS 83A.040(2)(d))

#### § 30.15 COUNCIL MEMBERS.

(A) Election; term of office. Each Council member 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. His term of office shall begin on the first day of January following his election and shall be for two years, except as provided by § 30.10.

(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.

(C) 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 shall be filled as provided in this section.

(1) No vacancy by reason of a voluntary resignation of a member of the City Council shall occur unless a written resignation

which specifies a resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the City Council occurring after the date specified in the written letter of resignation.

(KRS 83A.040(7))

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

(KRS 83A.040 (8))

(D) 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 (3), (4), (5))

#### NON-ELECTED OFFICERS

#### § 30.20 CREATION OF OFFICES.

All non-elected city offices shall be created by ordinance which shall specify:

(A) Title of office;

(B) Powers and duties of office;

(C) Oath of office; and

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

(KRS 83A.080(1))

#### § 30.21 APPOINTMENT AND REMOVAL.

(A) All non-elected city officers shall be appointed by the Mayor and all such appointments shall be with approval of Council.

(B) The officers may be removed by the Mayor at will unless otherwise provided by statute or ordinance. Upon removal of a non-elected officer at will, the Mayor shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at-will dismissal power of the Mayor.

(KRS 83A.080(2), (3))

#### Cross-reference:

Abolition of appointed office, see § 30.12

§ 30.22 CITY ADMINISTRATOR.

(A) There is created the office of City Administrator.

(B) The powers and duties of this office are established as follows:

- (1) Supervises and directs public works programs and personnel.
- (2) Supervises and directs maintenance programs and personnel.
- (3) Prepares and administers operating and capital improvement budgets.
- (4) Resolves citizens complaints and processes citizens requests.
- (5) Develops, applies, and administers all federal, state, and local grants as approved by Council.
- (6) Advises and recommends to the Mayor policy matters and personnel activities.
- (7) Administers the CATV Franchise to insure contract compliance.
- (8) Promulgates procedures to insure orderly administration of the functions of city government and compliance with state statute or ordinance.
- (9) Performs related work as required.

(C) The oath of office to be executed by the City Clerk shall be that set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Before entering on the duties of this office, the City Administrator shall execute bond to the city, with a corporate surety authorized and qualified to become surety on bond in this state in the amount of \$5,000.

(E) Compensation for this office shall be payable from the general fund.

(F) The personnel rules and regulations of Chapter 35 shall apply to this office.

(Ord. passed 12-29-81)

§ 30.23 CITY TREASURER.

(A) There is created the office of City Treasurer.

(B) The powers and duties of this office are established as follows:

(1) Supervises and directs the professional reporting of the financial operations and programs of the city.

(2) In coordination with the City Administrator and external auditors establishes and constantly reviews the city's accounting system, financial reporting procedures and systems, and accounts payable and receivable systems.

(3) Makes disbursements of city funds, on warrants drawn by the Mayor and countersigned by the City Clerk; administers the city payroll system subject to personnel policies and procedures established by the city.

(4) Administratively directs the preparation of the city annual budget under the direction of the City Administrator; develops the system to be used for department budget requests, provides technical assistance to the Mayor at budget review hearings and meetings.

(5) Directs the day-to-day administration of a current budget, reviews and analyzes the condition of budget accounts and funds in coordination with anticipated and actual revenues, directs the transfer of funds as necessary, reviews the availability of funds for investment.

(6) Supervises and directs the preparation of all city financial reports, financial analysis of revenues and disbursements, and all other financial and budgetary reports, analysis, and studies required.

(7) Administratively directs the operation of the city's revenue billing functions, including utilities, various taxes, and other reimbursable city services.

(8) Collects all franchise and special license fees; including payroll, occupational, and insurance taxes and permits. Develops and computes appropriate property tax rates.

(9) Maintains status of all employees benefits which includes vacation, holidays, sick leave, and the like. He or she shall ensure that these benefits are properly recorded and paid in accordance with the legislative bodies personnel plan.

(10) Acts as fiscal officer for the Police KLEFEF Program. He or she shall prepare and submit all required reports to the state agency and disburses the received funds to police personnel in accordance with established policy.

(11) Serves as Assistant City Clerk to provide for work continuity.





(12) Performs related work as required.

(13) Completes and submits the Uniform Financial Information Report to the Kentucky Department of Local Government.

(C) The oath of office to be executed by the City Clerk shall be that set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Before entering on the duties of this office, the City Treasurer shall execute bond to the city, with a corporate surety authorized and qualified to become surety on bond in this state, in the amount of \$25,000.

(E) Compensation for this office shall be payable from the general fund.

(F) The personnel rules and regulations of Chapter 35 shall apply to this office.

(Ord. passed 12-29-81; Am. Ord. 91-21, passed 11-18-91)

§ 30.24 [RESERVED].

§ 30.25 CITY CLERK/BILLING CLERK.

(A) There is created the office of City Clerk/Billing Clerk.

(B) The powers and duties of this office are hereby established as follows:

(1) Attends meetings of the City Council; sets up agenda for the City Council; ensures that every ordinance and official pronouncement of the Council is entered and officially documented with proof of publication date and passage.

(2) Arranges for publication of all notices, ordinances, resolutions, special meetings, and the like as legally required.

(3) Provides information to the general public concerning Council actions in pending matters.

(4) Directs the maintenance of the city code book; maintains the bond register of elected and appointed officials; and maintains custody of city seal.

(5) Records and prepares minutes of regular and called meetings of City Council, indexes minutes, transmits information to appropriate individuals and city departments regarding action taken by the City Council.



(6) Processes court authorized garnishment orders for city employees; attends hearings of charges leveled against city employees before City Council.

(7) Provides information to the general public on a wide variety of city operational-related matters.

(8) Prepares and mails utility bills; collects and accounts for payments; collects service charges, security deposits and makes refunds; takes service orders, and answers routine questions by the public as to service and billing practices.

(9) Serves as Assistant City Treasurer to provide for work continuity.

(10) Performs related work as required.

(C) The oath of office to be executed by the Mayor shall be that set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Before entering on the duties of this office, the City Clerk/Billing Clerk shall execute bond to the city, with a corporate surety authorized and qualified to become surety on bond in this state, in the amount of \$25,000.

(E) Compensation for this office shall be payable from the operation and maintenance fund.

(F) The personnel rules and regulations of Chapter 35 shall apply to this office.

(Ord. passed 12-29-81)

#### § 30.26 CITY ATTORNEY.

(A) There is hereby created the office of City Attorney, an employee of the City of Marion, Kentucky. The Attorney shall be appointed by the Mayor, by and with the advice and consent of the City Council.

(B) The Attorney shall be the legal advisor of the city and shall render advice on all legal questions affecting the city whenever requested to do so by the Mayor, City Administrator and/or City Council. Upon request by the Mayor, City Administrator or the Council, he shall reduce any such opinion to writing.

(C) It shall be the duty of the Attorney to draft or supervise the phraseology of any contract, lease or other documents or instruments to which the city may be a party; and upon request of the Council to draft ordinances covering any subjects within the power of the city.

(D) It shall be the duty of the Attorney to attend City Council meetings and other such meetings of the city as directed by the Mayor.

(E) The scope of representation, in addition to those duties herein, by the City Attorney for the Mayor and the city and compensation for the position of City Attorney shall be adopted by agreement prior to submission by the Mayor to the Council.

(F) The personnel rules and regulations of Chapter 35 shall not apply to this office.

(G) Compensation for this office shall be payable from the general fund. Further the compensation shall be based on an annual retainer plus an hourly rate and travel expenses in compliance with prevailing city policy regarding travel. Additionally, the amount of the annual retainer and hourly rate shall be set by the City Council on or before July 1 of each fiscal year.

(Ord. 02-16, passed 6-28-02; Am. Ord. 07-01, passed 3-19-07)

Cross-reference:

Other duties, see §§ 96.11, 151.14, 151.15 and 151.18

COMPENSATION OF OFFICERS AND EMPLOYEES

§ 30.30 ELECTED OFFICERS.

Council shall by ordinance fix 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.  
(KRS 83A.070(1))

§ 30.31 [RESERVED].

§ 30.32 CITY EMPLOYEES AND NON-ELECTED CITY OFFICERS.

Council shall fix the compensation of city employees and non-elected city officers in accordance with a personnel and pay classification plan which shall be adopted by ordinance.  
(KRS 83A.070(2), (3))

§ 30.33 FEES AND COMMISSIONS.

All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.  
(KRS 83A.070(4))

§ 30.34 EQUATING OF COMPENSATION RATE OF MAYOR AND COUNCIL MEMBERS WITH PURCHASING POWER OF DOLLAR.

(A) In order to equate the compensation of the Mayor and Council members with the purchasing power of the dollar, the Department for Local Government shall compute 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 other than first class and Council members shall be paid at a rate no greater than \$7,200 per annum.

(B) The City Council shall set the compensation of the officer in accordance with KRS 83A.070 at a rate no greater than that stipulated by the Department for Local Government.  
(KRS 83A.075)

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Cross-reference:

Salary ordinances, see T.S.O. V



Section

- 31.01 Form of government
- 31.02 Governing officers

Mayor

- 31.10 Powers and duties
- 31.11 Promulgation of administrative procedures
- 31.12 Participation in Council proceedings
- 31.13 Approval or disapproval of ordinances
- 31.14 Delegation of duties by executive order
- 31.15 Execution of bonds, notes, and contracts
- 31.16 Appointment of city employees
- 31.17 Procedure upon disability; vacancy

Council

- 31.30 Powers and duties
- 31.31 Meetings
- 31.32 Establishment of appointive offices
- 31.33 Management of city resources
- 31.34 Investigation of city government activities

§ 31.01 FORM OF GOVERNMENT.

The form of government provided in this chapter shall be known as the "Mayor-Council Plan."  
(KRS 83A.130 (1))

§ 31.02 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 may be provided for by statute or city ordinance.  
(KRS 83A.130 (2))

(B) The city shall have a Mayor and a City Council composed of six members.

MAYOR

§ 31.10 POWERS AND DUTIES.

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

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

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

(KRS 83A.130 (3))

Cross-reference:

Right to review statements submitted to Council pursuant to investigations, see § 31.34

§ 31.11 PROMULGATION OF ADMINISTRATIVE PROCEDURES.

Subject to disapproval of the Council, the Mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records as provided under § 32.07.

(KRS 83A.130 (4))

§ 31.12 PARTICIPATION IN COUNCIL PROCEEDINGS.

(A) The Mayor shall preside at meetings of the Council. As soon as practical after the beginning of each two year term of the City Council, the Council shall elect, by majority vote, one of its number to preside at meetings of the City Council in the absence of the Mayor.

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

(KRS 83A.130 (5)) (Ord. 82-13, passed 11-1-82)

Cross-reference:

Council Meetings, see § 31.31

Council's responsibility to select one of its own members to preside when there is a vacancy in the office of Mayor, see § 30.14(D)(5)

§ 31.13 APPROVAL OR DISAPPROVAL OF ORDINANCES.

(A) All ordinances adopted by the Council shall be submitted to the Mayor who shall within ten days after submission 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 or she 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))

Cross-reference:

Passage of ordinances, see Chapter 32

§ 31.14 DELEGATION OF DUTIES BY EXECUTIVE ORDER.

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 shall be kept in a permanent file.  
(KRS 83A.130(7))

§ 31.15 EXECUTION OF BONDS, NOTES, AND CONTRACTS.

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))

§ 31.16 APPOINTMENT OF CITY EMPLOYEES.

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))

§ 31.17 PROCEDURE UPON DISABILITY; VACANCY.

(A) The Mayor shall provide for the orderly continuation of the functions of city government at any time he or she is unable to attend to the duties of his or her office by delegating responsibility for any function to be performed in accordance with § 31.14, provided that, the Mayor shall not delegate the responsibility of presiding at meetings of the Council and that approving ordinances or promulgating 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.

(B) 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 § 30.14 shall apply.  
(KRS 83A.130(10))

#### COUNCIL

##### § 31.30 POWERS AND DUTIES.

The legislative authority of the city shall be vested in and exercised by the elected Council of the city. The Council shall not perform any executive functions except those functions assigned to it by statute.

(KRS 83A.130(11))

##### § 31.31 MEETINGS.

(A) The City Council shall meet in session at 6:00 p.m., prevailing time, on the third Monday in each and every month except for the month of January which shall be held on the second Monday, the meetings to be held at the city hall building. (Ord. 83-2, passed 3-7-83; Am. Ord. 03-26, passed 12-15-03)

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

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

(D) The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under § 32.07 and by the officer presiding at the meeting.

(KRS 83A.130(11)) (Am. Ord. 06-27, passed 12-18-06)

##### Cross-reference:

Mayor's participation in meetings, see § 31.12  
Quorum of Council, see § 32.01

##### § 31.32 ESTABLISHMENT OF APPOINTIVE OFFICES.

The Council shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare.

(KRS 83A.130(12))

§ 31.33 MANAGEMENT OF CITY RESOURCES.

The Council shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(KRS 83A.130(12))

§ 31.34 INVESTIGATION OF CITY GOVERNMENT ACTIVITIES.

(A) The Council shall have the right to investigate all activities of city government. The Council may require any city officer or employee to prepare and submit to it sworn statements regarding his or her performance of his or her official duties.

(B) 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 shall have the right to 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))



Section

- 32.01 Quorum of Council
- 32.02 One subject; title
- 32.03 Introduction; enacting clause
- 32.04 Form of amendment
- 32.05 Reading requirement; exception for emergency
- 32.06 Adoption of standard codes by reference
- 32.07 Official city records
- 32.08 Indexing and maintenance requirements
- 32.09 Publication requirements
- 32.10 Additional requirements for adoption
- 32.11 Periodic review required
- 32.12 Municipal orders
- 32.13 Proved by Clerk; received in evidence
- 32.14 Legislative immunity

§ 32.01 QUORUM OF COUNCIL.

Unless otherwise provided by statute, a majority of the Council shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(KRS 83A.060 (6))

§ 32.02 ONE SUBJECT; TITLE.

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

(KRS 83A.060 (1))

§ 32.03 INTRODUCTION; ENACTING CLAUSE.

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

(KRS 83A.060 (2))

§ 32.04 FORM OF AMENDMENT.

No ordinance shall be amended by reference to its title only, and ordinances to amend it 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))

Cross-reference:

Amendatory language, see § 10.14

§ 32.05 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 § 32.09 shall be complied with within ten days of the enactment of the emergency ordinance.

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

Cross-reference:

Approval of ordinances by Mayor, see § 31.13

§ 32.06 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))

§ 32.07 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 shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting.

(KRS 83A.060 (8))

§ 32.08 INDEXING AND MAINTENANCE REQUIREMENTS.

All ordinances adopted in the city shall, at the end of each month, be indexed and maintained 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 indexed in a composite index or maintained in a code of ordinances.

(KRS 83A.060 (8))

#### § 32.09 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))

#### § 32.10 ADDITIONAL REQUIREMENTS FOR ADOPTION.

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

(KRS 83A.060 (10))

#### § 32.11 PERIODIC REVIEW REQUIRED.

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

(KRS 83A.060 (11))

#### § 32.12 MUNICIPAL ORDERS.

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

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

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

§ 32.13 PROVED BY CLERK; RECEIVED IN EVIDENCE.

All ordinances and orders of the city may be proved by the signature of the City Clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.

(KRS 83A.060(14))

§ 32.14 LEGISLATIVE IMMUNITY.

For anything said in debate, Council members 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



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Cross-reference:

Budgets and appropriations, see T.S.O. IV  
Tourism Commission, see § 37.03

## FINANCIAL ADMINISTRATION

### § 33.01 DEFINITIONS.

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

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

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

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

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

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

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

§ 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. Notwithstanding any other provision of law, after July 15, 1980, the city shall not expend any moneys from any governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

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

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

(D) The budget ordinance of the city shall cover one fiscal year. However, if the city is required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky Constitution it may utilize for transition purposes a fiscal year of any length not to exceed 18 months. Any such adjustment shall be completed not later than two years from July 15, 1980.

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

(KRS 91A.030)

(F) The budget proposal shall be prepared in such form and detail as is prescribed by ordinance. The following standards shall apply to the form and detail in which the annual budget proposal of the city is to be prepared.

(1) The annual budget proposal shall detail the raising of revenue from all sources, including grants and transfers, and the detailed spending by line item of money for specified programs, functions activities, or objectives of the city, including all principal and interest due on debt, for the budget year. The total of

anticipated revenues shall equal or exceed the total of proposed expenditures.

(2) The form of the annual budget proposal shall be consistent in form, to the extent practical, with the accounting system of the city.

(3) The annual budget proposal shall provide a complete program and financial plan for all funds for the budget year.

(4) The annual budget proposal together with a budget message shall be submitted to the legislative body not later than 30 days prior to the beginning of the fiscal year.

(5) The annual budget proposal shall not provide for appropriations to exceed the revenues for the budget year.  
(Ord. 86-2, passed 4-19-86)

(G) 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 shall adopt a 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 be in 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 shall include the preparation and submission to Council of operating statements which shall include 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 unexpected balance of any appropriation made for the purpose.

(KRS 91A.030)

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

(A) After the close of each fiscal year, the city shall 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 (10)

days of the completion of the audit and its presentation to the City Council, pursuant to subsection (B)(5) of this section, the city shall forward an electronic copy or three (3) paper copies of the audit report to the Department for Local Government for information purposes.

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

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

(3) All audit information be prepared in accordance with generally accepted government 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 Council 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 accountant's work papers upon request.

(C) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to 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.

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

(1) The auditor's opinion letter;

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

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

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

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

(6) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by Section 309 of this Act, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

(F) Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$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 fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

(G) Within a reasonable time after the completion of a special audit or examination conducted pursuant to division (A), the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

(KRS 91A.040)

Statutory reference:

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

§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The 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. 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 shall state the name of the person to whom funds are payable, the purpose of the payment and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

(KRS 91A.060)

#### IMPROVEMENTS

§ 33.10 DEFINITIONS.

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

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

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

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

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

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



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

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

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

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

#### § 33.11 FINANCING OF IMPROVEMENTS.

(A) The city may not finance any improvement through special assessments except pursuant to this subchapter, or other statutory authority. (KRS 91A.200)

(B) The city may finance the cost of an improvement in whole or in part by special assessments made as provided in this subchapter.

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

(D) 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 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 shall be 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 shall be 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 as was 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, shall constitute a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien shall take 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 shall not be 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 benefitted 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 shall apply 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)

## AD VALOREM TAX

§ 33.25 IMPOSITION OF TAX.

(A) An ad valorem tax of \$.224 be and is hereby levied on each \$100 of fair cash value of all real property in the city.

(B) An ad valorem tax of \$.186 be and is hereby levied on each \$100 of fair cash value of all personal property in the city.

(C) An ad valorem tax of \$.224 be and is hereby levied on each \$100 of fair cash value of all public utilities.

(D) In accordance with KRS 132.487(2) and ad valorem tax of \$.229 be and is hereby levied on each \$100 of fair cash value of all motor vehicles in the City of Marion, Kentucky; and this accordance with KRS 132.488, and as valorem tax of \$.229 be and is hereby levied on each \$100 of fair cash value of all motorboats in the city.

(E) The tax under divisions (A), (B), (C), and (D) shall be levied for the purpose of providing public services such as fire protection, police protection, maintenance, repair and improvement of street and parks and for taking care of the general miscellaneous expenses of the city. All taxes listed, supra, shall be paid into the General Fund of the city.

(F) This tax levy ordinance DOES NOT pertain or relate to the franchise tax on all deposits, as defined in KRS Chapter 136, maintained by such financial institutions in the city, in that the bank franchise and local deposits tax has been enacted, as set forth in § 33.40.

(Ord. 84-13, passed 9-17-84; Am. Ord. 85-14, passed 8-19-85; Am. Ord. 86-12A, passed 8-16-86; Am. Ord. 87-31, passed 8-17-87; Am. Ord. 88-14, passed 8-15-88; Am. Ord. 90-22, passed 8-20-90; Am. Ord. 91-18, passed 9-16-91; Am. Ord. 92-20, passed 9-8-92; Am. Ord. 93-21, passed 8-30-93; Am. Ord. 94-9, passed 9-19-94; Am. Ord. 95-9, passed 9-21-95; Am. Ord. 96-14, passed 9-23-96; Am. Ord. 97-19, passed 9-15-97; Am. Ord. 98-07, passed 8-20-98; Am. Ord. 99-12, passed 8-26-99; Am. Ord. 00-08, passed 8-21-00; Am. Ord. 01-20, passed 8-20-01; Am. Ord. 02-20, passed 8-26-02; Am. Ord. 03-17, passed 8-18-03; Am. Ord. 05-13, passed 9-19-05; Am. Ord. 06-23, passed 8-24-06; Am. Ord. 07-08, passed 9-5-07; Am. Ord. 08-10, passed 8-25-08; Am. Ord. 09-07, passed 8-17-09; Am. Ord. 10-05, passed 8-23-10; Am. Ord. 11-06, passed 8-22-11; Am. Ord. 13-08, passed 8-26-13; Am. Ord. 14-07, passed 8-20-14; Am. Ord. 15-06, passed 8-24-15; Am. Ord. 16-11, passed 8-22-16)

§ 33.26 USE OF PROCEEDS.

The tax under § 33.25 shall be levied for the purpose of providing public services, such as fire protection, police protection, maintenance, repair, and improvement of streets and parks, and taking

care of the general miscellaneous expenses of the city. All taxes listed in § 33.25 shall be paid into the general fund of the city.

(Ord. 84-13, passed 9-17-84; Am. Ord. 85-14, passed 8-19-85; Am. Ord. 86-12A, passed 8-16-86; Am. Ord. 87-31, passed 8-17-87; Am. Ord. 88-14, passed 8-15-88; Am. Ord. 90-22, passed 8-20-90; Am. Ord. 91-18, passed 9-16-91; Am. Ord. 92-20, passed 9-8-92; Am. Ord. 93-21, passed 8-30-93; Am. Ord. 94-9, passed 9-19-94; Am. Ord. 95-9, passed 9-21-95; Am. Ord. 96-14, passed 9-23-96; Am. Ord. 97-19, passed 9-15-97; Am. Ord. 02-20, passed 8-26-02; Am. Ord. 03-17, passed 8-18-03; Am. Ord. 05-13, passed 9-19-05; Am. Ord. 06-23, passed 8-24-06; Am. Ord. 09-07, passed 8-17-09)

#### § 33.27 DUE DATE; PENALTIES AND INTEREST.

All taxes levied by this subchapter shall become due and payable on July, 2016. The city shall have a lien for taxes upon any and all property subject to taxation, which lien shall be superior to all encumbrances prior or subsequent; and all taxes which are not paid on or before November, 2016, shall be deemed delinquent and shall be subject to a penalty of 25%, and shall bear interest at the rate of 10% per annum. Furthermore, any individual, firm, or corporation failing to pay such taxes as are herein levied on or before November, 2016, shall pay the 25% penalty and interest at the rate of 10% per annum in addition to the amount of such tax then due and unpaid.

(Ord. 84-13, passed 9-17-84; Am. Ord. 85-14, passed 8-19-85; Am. Ord. 86-12A, passed 8-16-86; Am. Ord. 87-31, passed 8-17-87; Am. Ord. 88-14, passed 8-15-88; Am. Ord. 89-24, passed 8-21-89; Am. Ord. 90-22, passed 8-20-90; Am. Ord. 91-18, passed 9-16-91; Am. Ord. 92-20, passed 9-8-92; Am. Ord. 93-21, passed 8-30-93; Am. Ord. 94-9, passed 9-19-94; Am. Ord. 95-9, passed 9-21-95; Am. Ord. 96-14, passed 9-23-96; Am. Ord. 97-19, passed 9-15-97; Am. Ord. 99-12, passed 8-26-99; Am. Ord. 00-08, passed 8-21-00; Am. Ord. 02-20, passed 8-26-02; Am. Ord. 03-17, passed 8-18-03; Am. Ord. 05-13, passed 9-19-05; Am. Ord. 06-23, passed 8-24-06; Am. Ord. 08-10, passed 8-25-08; Am. Ord. 09-07, passed 8-17-09; Am. Ord. 10-05, passed 8-23-10; Am. Ord. 13-08, passed 8-26-13; Am. Ord. 14-07, passed 8-20-14; Am. Ord. 15-06, passed 8-24-15; Am. Ord. 16-11, passed 8-22-16)

#### OTHER TAXES

#### § 33.40 BANK FRANCHISE AND LOCAL DEPOSIT TAX.

(A) In accordance with KRS Chapter 136, there is hereby imposed on all financial institutions located within the corporate limits of the city for the 1996 tax year and all subsequent tax 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) For transition purposes, the 1996 tax year will be treated differently in terms of collection of taxes than for all subsequent

years. For the 1996 tax year, the following timetable is hereby established:

(1) The city will issue tax bills to the financial institutions no later than May 1, 1997.

(2) Payment of the tax shall be due with a 2% discount by May 31, 1997, or without discount by June 30, 1997.

(C) For all tax years subsequent to the 1996 tax year, the following timetable is hereby established:

(1) The city will issue tax bills to financial institutions no later than December 1 of each year.

(2) Payment of the tax shall be due with a 2% discount by December 31 of each year, or without discount by January 31, 1997 of each year.

(D) The city shall have a lien for taxes upon any and all property subject to taxation, which lien for taxes upon any and all property subject to the tax imposed by this section shall be superior to all encumbrances prior or subsequent.

(E) All taxes due in accordance with this section which are not paid before June 30, 1997, for tax year 1996, or which are not paid before January 31 for all subsequent years shall be deemed delinquent and shall be subject to a penalty of 25% and shall bear interest at the rate of 10% per annum.

(F) All moneys collected pursuant to this section shall be paid in to the general fund of the city to be used for the payment of proper expenditures as determined by the City Council.  
(Ord. 96-13, passed 8-19-96)

#### RESTAURANT TAX

#### § 33.55 PURPOSE.

For the purpose of the operation of the City of Marion Recreational, Tourist and Convention Commission and to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourism, including the park system, there is hereby imposed and levied a special tax of 3% of the gross retail sales of restaurants doing business within the city.  
(Ord. 03-18, passed 9-15-03)

§ 33.56 DEFINITION.

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

"RESTAURANT." Any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to, restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grilles; tea rooms; sandwich shops; soda fountains, roadside stands; street vendors; catering kitchens; delicatessen; or similar places in which food is prepared for sale for consumption on the premises or elsewhere. It does not include food vending machines, establishments serving beverages only in single service or original containers.  
(Ord. 03-18, passed 9-15-03)

§ 33.57 PAYMENT OF TAX; DUE DATE.

(A) On or after September 1, 2003, every person, company, corporation or other like, or similar persons, groups or organizations doing business as restaurants located in the city shall pay quarterly to the City Clerk a tax of 3% of the "GROSS RETAIL SALES," which is defined to mean gross sales excluding state sales tax collected by them during the preceding quarter.

(B) The tax shall be due and payable to the city 30 days after the last day of each quarter, together with a return on a form furnished or obtained from the City Clerk, setting forth an aggregate amount of gross sales charged and collected during the period to which the tax applies, together with such other pertinent information as the city may require.

(C) Restaurants will begin collecting the tax on October 1, 2003, and make the first payment before January 31, 2004.  
(Ord. 03-18, passed 9-15-03) Penalty, see § 33.99

§ 33.58 EXEMPTION.

Any restaurant as defined in § 33.56 that is not also required to obtain a business license under Chapter 110 is exempt from the tax imposed herein.  
(Ord. 03-18, passed 9-15-03)

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Cross-reference:

Business license, see Ch. 110

§ 33.59 DELINQUENCY; RATE OF INTEREST.

Any tax imposed by this subchapter which shall remain unpaid after it becomes due, as set forth herein, shall have added to it a penalty of 10%, together with interest at the rate of 12% against the total amount of tax overdue at any time. After 60 days, the amount of the penalty shall be compounded each month. These penalties shall also apply in the case of late payment of city occupational tax.  
(Ord. 03-18, passed 9-15-03) Penalty, see § 33.99

§ 33.60 TAXES IN ADDITION TO OCCUPATIONAL OR BUSINESS PERMIT FEES.

The tax imposed in this subchapter shall be in addition to the other general taxes as the occupational tax or business permit payable to the city.  
(Ord. 03-18, passed 9-15-03)

§ 33.61 COLLECTION FEE.

A collection fee in the amount of 1 1/2% shall be retained by the city.  
(Ord. 03-18, passed 9-15-03)

§ 33.62 AUDIT.

(A) The City Administrator or his or her designee shall have the right, on behalf of the city, to audit the books and records of any taxpayer or restaurant operator under this subchapter to determine if there has been complete and accurate reporting of gross receipts and to determine if a proper and accurate payment of the taxes due has been made.

(B) The City Administrator may use the services of an accounting professional to perform the audit or assist in the performance of the audit.  
(Ord. 03-18, passed 9-15-03)

§ 33.63 USE OF FUNDS BY TOURISM COMMISSION.

The Tourism Commission shall only expend the money transferred to it solely for the purpose of promoting recreational and tourist activity in the city as set out in KRS 91A.390, and the money shall not be used to provide a subsidy in any form to any hotel, motel or restaurant.

(Ord. 03-18, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10) Penalty, see § 33.99

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Cross-reference:

Tourism Commission, see § 37.03



§ 33.64 SPECIAL ACCOUNT; USE OF FUNDS.

The funds collected from this tax shall be maintained by the City Clerk in a special account and disbursed in accordance with its annual budget. Any money not expended by the Tourism Commission during any fiscal year will be used to make up a part of its budget for the next fiscal year.

(Ord. 03-18, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10)

§ 33.65 ANNUAL SUBMISSION BY COMMISSION TO REQUEST FUNDS.

The Tourism Commission shall annually submit by May 1 of each year to the City Council a request for funds for its operation in the ensuing year. The City Council shall include the Tourism Commission in its annual budget and shall provide funds for its operation in its annual budget.

(Ord. 03-18, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10)

Cross-reference:

Tourism Commission, see § 37.03

§ 33.66 FALSE OR FRAUDULENT RETURN.

No person shall purposefully refuse to file a return, pay the tax due, or shall knowingly file a false or fraudulent return required herein.

(Ord. 03-18, passed 9-15-03) Penalty, see § 33.99

HOTEL, MOTEL AND ROOMING HOUSE TAX

§ 33.75 DEFINITION.

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

"HOTEL," "MOTEL," "ROOMING HOUSE" and "BOARDING HOUSE." These terms shall not be construed to include apartment houses, or any other facility where rental periods are usually and customarily for the period of 30 days or longer.

(Ord. 03-19, passed 9-15-03)

§ 33.76 PROOF OF IDENTIFICATION AND REGISTRATION REQUIRED FOR ROOM RENTAL.

No business establishment within the city shall rent rooms or sleeping space for periods of less than one month until:

(A) The occupant has provided proof of identification to the business establishment; and

(B) The occupant has registered by declaring on a card register, to be retained for not less than 90 days by the business establishment, his or her name and address.

(Ord. 03-19, passed 9-15-03) Penalty, see § 33.99

§ 33.77 IMPOSITION AND ANNUAL AMOUNT OF LICENSE.

There is enacted a license tax equal to 3% of each room charge made, incurred or collected by all hotels, motels, rooming houses and boarding houses and all other businesses furnishing lodging for transient persons and other persons for hire without the city.

(Ord. 03-19, passed 9-15-03)

§ 33.78 PAYMENT OF TAX; DUE DATE.

(A) The tax shall be collected and paid by the keeper of each hotel, motel, rooming house or boarding house within the city and shall be paid by such keeper to the City Clerk.

(B) The tax shall be due and payable to the city 30 days after the last day of each quarter, together with a return on a form furnished or obtained from the City Clerk, setting forth an aggregate amount of gross sales charged and collected during the period to which the tax applies, together with such other pertinent information as the city may require.

(C) This tax collection will begin on October 1, 2003, and the first payment shall be due before January 31, 2004.

(Ord. 03-19, passed 9-15-03) Penalty, see § 33.99

§ 33.79 PURPOSE; DISPOSITION OF TAX.

The purpose of the tax shall be for the promotion of tourism, recreation and transient type activities and all purposes permitted under KRS 91A.350 and 91A.390. The funds shall be collected and segregated from the general fund by either separate account of the city books or separate bank account.

(Ord. 03-19, passed 9-15-03)

§ 33.80 DELINQUENCY; RATE OF INTEREST.

Any tax imposed by this subchapter which shall remain unpaid after it becomes due, as set forth herein, shall have added to it a penalty of 10%, together with interest at the rate of 12% against the total amount of tax overdue at any time. After 60 days, the amount of the penalty shall be compounded each month. These penalties shall also apply in the case of late payment of city occupational tax.

(Ord. 03-19, passed 9-15-03) Penalty, see § 33.99

§ 33.81 TAXES IN ADDITION TO OCCUPATIONAL OR BUSINESS PERMIT FEES.

The tax imposed in this subchapter shall be in addition to the other general taxes as the occupational tax or business permit payable to the city.

(Ord. 03-19, passed 9-15-03)

§ 33.82 COLLECTION FEE.

A collection fee in the amount of 1 1/2% shall be retained by the city.

(Ord. 03-19, passed 9-15-03)

§ 33.83 AUDIT.

(A) The City Administrator or his or her designee shall have the right, on behalf of the city, to audit the books and records of any taxpayer under this subchapter to determine if there has been complete and accurate reporting of gross receipts and to determine if a proper and accurate payment of the taxes due has been made.

(B) The City Administrator may use the services of an accounting professional to perform the audit or assist in the performance of the audit.

(Ord. 03-19, passed 9-15-03)

§ 33.84 USE OF FUNDS BY TOURISM COMMISSION.

The Tourism Commission shall only expend the money transferred to it solely for the purpose of promoting recreational and tourist activity in the city as set out in KRS 91A.390, and the money shall not be used to provide a subsidy in any form to any hotel, motel or restaurant.

(Ord. 03-19, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10) Penalty, see § 33.99

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Cross-reference:

Tourism Commission, see § 37.03

§ 33.85 SPECIAL ACCOUNT; USE OF FUNDS.

The funds collected from this tax shall be maintained by the City Clerk in a special account and disbursed in accordance with its annual budget. Any money not expended by the Tourism Commission during any fiscal year will be used to make up part of its budget for the next fiscal year.

(Ord. 03-19, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10)

§ 33.86 ANNUAL SUBMISSION BY COMMISSION TO REQUEST FUNDS.

The Tourism Commission shall annually submit by May 1 of each year to the City Council a request for funds for its operation in the ensuing year. The City Council shall include the Tourism Commission in its annual budget and shall provide funds for its operation in its annual budget..

(Ord. 03-19, passed 9-15-03; Am. Ord. 10-04, passed 7-20-10)

Cross-reference:

Tourism Commission, see § 37.03

§ 33.87 FALSE OR FRAUDULENT RETURNS.

No person shall purposefully refuse to file a return, pay the tax due, or shall knowingly file a false or fraudulent return required herein.

(Ord. 03-19, passed 9-15-03) Penalty, see § 33.99

§ 33.99 PENALTY.

(A) Any person who violates §§ 33.55 through 33.66, or §§ 33.75 through 33.87 shall be deemed to have committed a violation and shall be fined not less than \$20 and not more than \$50 for each offense.

(B) Each day the tax is past due shall constitute a separate offense.

(Ord. 03-18, passed 9-15-03; Am. Ord. 03-19, passed 9-15-03)

Section

- 34.01 Chief of Police
- 34.02 Police Officer/patrolman
- 34.03 Department policies and procedures adopted by reference

Cross-reference:

Dangerous buildings, duties of Police Department, see § 150.20

§ 34.01 CHIEF OF POLICE.

(A) There is created the office of Chief of Police of the city.

(B) The powers and duties of this office are established as follows:

(1) Plans, organizes, and directs all activities of the Police Department; appraises crime prevention and law enforcement problems of the city, develops efficient police solutions, and adjusts departmental methods to meet new situations and to improve existing operations and effectiveness. Controls expenditures of departmental appropriations and prepares budget estimates.

(2) Supervises and participates in training of members of the police force in police methods, procedures, and duties, with particular attention to personnel at the administrative and supervisory level.

(3) Advises and assists police officers in nonroutine criminal or other investigations, and personally participates in dealing with the more difficult police situations.

(4) Receives and disposes of complaints; attends meetings at public gathering to explain the activities and functions of the Police Department and to establish favorable public relations.

(5) Cooperates with state and federal officers in the apprehension and detention of wanted persons, and other agencies where activities of the Police Department are involved.

(6) Performs related work as required.

(C) The oath of office to be executed by the City Clerk shall be that set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Before entering on the duties of this office, the Chief of Police shall execute bond to the city, with a corporate surety authorized and qualified to become surety on bond in this state, in the amount of \$1,000.

(E) Compensation for this office shall be payable from the general fund.

(F) The personnel rules and regulations of Chapter 35 shall apply to this office.

(Ord. passed 12-29-81)

§ 34.02 POLICE OFFICER/PATROLMAN.

(A) There is created the office of Police Officer/Patrolman of the city.

(B) The powers and duties of this office are established as follows:

(1) Patrols a designated area on foot or in an automobile to keep law and order; prevent and discover the commission of crime; apprehend violators; direct traffic at school crossings and street intersections, and to enforce traffic and parking regulations; and answers calls and complaints involving fire, automobile accidents, and any robbery, misdemeanor or felony.

(2) At the scene of crimes or accidents, administers first aid, conducts preliminary investigations, gathers evidence, obtains witnesses, and makes arrests, prepare detailed reports, and testifies or presents evidence in court.

(3) May fingerprint and photograph prisoners or persons applying for identification; develops photographs; develops and lifts prints; classifies and compares prints and maintains print files; visits scenes of crime and searches for and collects, preserves, and identifies evidence; photographs scenes of crime and accidents; operates bullet reloading equipment.

(4) Makes specialized vice investigations and raids, and apprehends violators; checks pawn shops, second hand stores, and junk shops for stolen property; ascertains information or secures evidence for the arrest of persons alleged to have committed a crime; interviews and takes statements from suspects, prisoners, complainants, and witnesses.

(5) Investigates complaints of bad checks; investigates reports of missing persons; maintains surveillance over a suspect criminal; and participates in the return of persons wanted in the city from outside the state or from other cities.

(6) Patrols parking meters; and issues citations to violators of §§ 72.45 through 72.56.

(7) Performs related work as required.

(C) The oath of office to be executed by the City Clerk shall be that set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Before entering on the duties of this office, the Police Officer/Patrolman shall execute bond to the city, with a corporate surety authorized and qualified to become surety on bond in this state, in the amount of \$1,000.

(E) Compensation for this office shall be payable from the general fund.

(F) The personnel rules and regulations of Chapter 35 shall apply to this office.  
(Ord. passed 12-29-81)

§ 34.03 DEPARTMENT POLICIES AND PROCEDURES ADOPTED BY REFERENCE.

The policies and procedures for the Police Department of the City of Marion, as established by Ord. 93-22, passed 8-30-93, and any subsequent amendments thereto, are hereby adopted by reference and made a part hereof as if fully copied herein.

(Ord. 93-22, passed 8-30-93; Am. Ord. 97-02, passed 1-23-97; Am. Ord. 97-06, passed 3-18-97)





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Cross-reference:

Job descriptions; salary ordinances, see T.S.O. V

§ 35.01 STATEMENT OF PURPOSE.

(A) The city recognized that a personnel system which recruits and retains a competent, productive work force is essential to effective, efficient local government. These policies and procedures have been developed in order to achieve optimum efficiency, economy, and equity in the pursuit of the city goals and the utilization of its human resources.

(B) The policies and procedures will be maintained by the Personnel Officer, and will be reviewed annually in cooperation with other units of the government's administration. Recommended

revisions will be made by the Personnel Officer or Mayor to the legislative body for final approval, and will be finalized by the beginning date of the budget cycle each year for incorporation into the policies and procedures manual.

(C) In the Mayor form of municipal government, the Mayor may cause the adoption of policies and procedures by order; however, the classification and compensation plans must be adopted by ordinance in accordance with KRS Chapter 83A.

(D) The city is an at-will workplace, meaning that no employment contract exists between the city and its employees and officers. Employees may resign at any time and the city may discharge employees at any time with or without cause.

(Ord. passed 12-29-81; Am. Ord. 09-06, passed 8-17-09)

#### § 35.02 SCOPE OF COVERAGE.

(A) The following officers and employees of the city are explicitly exempted from coverage unless otherwise specified:

- (1) All elected officials;
- (2) All members of boards or commissions;
- (3) Consultants, advisors, and counsel rendering temporary professional services;
- (4) Independent contractors;
- (5) Seasonal/part-time employees; and
- (6) Members of volunteer organizations.

(B) All officers and employees not explicitly exempted from coverage of these policies and procedures shall be subject to its provisions.

(C) An employee (as opposed to officer) is interpreted by these policies and procedures as a person:

- (1) Whose position was not created by the Constitution, Kentucky Revised Statutes, or local ordinance;
- (2) Who possesses no part of the sovereign power of the city;
- (3) Whose powers were not conferred directly by the city;

(4) Who is supervised by someone in a higher position; and

(5) Whose petition has no established permanency.

(Ord. passed 12-29-81; Am. Ord. 84-5, passed 5-29-84)

§ 35.03 EQUAL EMPLOYMENT OPPORTUNITY.

The city seeks to provide equal opportunity to all of its employees and applicants and to prohibit discrimination based on race, color, religion, sex, national origin, political affiliation, physical handicaps, age, or marital status. The city promotes equal opportunity in matters of hiring, promotion, transfer, compensation, benefits, and all other terms, privileges, and conditions of employment, actively pursuing an affirmative action program.

(Ord. passed 12-29-81)

Cross-reference:

Affirmative action, see §§ 36.05 - 36.10

§ 35.04 ADMINISTRATIVE RESPONSIBILITIES.

(A) The personnel policies and procedures shall be administered by the City Administrator, who shall serve as the Personnel Officer.

(B) In addition to the duties set forth in the policies and procedures, the Personnel Officer shall:

(1) Administer the provisions of these policies and procedures and all rules and regulations; and

(2) Maintain current records of all employees, including position title, pay rate, and other relevant employment data.

(C) It shall be the duty of the Personnel Officer to insure that the policies and procedures reflect all subsequent amendments or additions made by the legislative body. Changes to these policies and procedures shall be made in the following manner:

(1) List of all city personnel having custody of the policies and procedures manual shall be maintained;

(2) Immediately upon official modification of a personnel policy or procedure, the change shall be written in a manner and format consistent, with this manual;

(3) The effective date of the change shall be noted after the word supercedes in the lower right-hand corner of each replacement page or addition; and

(4) A memorandum explaining the changes, with the new policy and procedure attached, shall be distributed to all personnel assigned custody of a copy of the manual. The memorandum shall direct all employees as to which pages of the original should be removed and replaced by amendments or where new additional policies and procedures should be placed.

(Ord. passed 12-29-81)

§ 35.05 PERSONNEL RECORDS.

(A) A personnel file for each employee of the city shall be maintained by the Personnel Officer.

(B) The file shall contain:

- (1) Employee's name and permanent address;
- (2) Position title;



- (3) Departmental assignment;
- (4) Salary;
- (5) Past changes in city employment status;
- (6) All EEO-4 requirements; and
- (7) Such additional employment information as may be required by the Personnel Officer.

(C) All changes in the status of employees shall be recorded in these personnel files.

(D) The personnel file shall be retained by the Personnel Officer for at least:

- (1) Five years after his employment by the city ends; or
  - (2) Whatever additional time the Personnel Officer prescribes in writing.
- (Ord. passed 12-29-81)

§ 35.06 RESERVED.

§ 35.07 STATUS OF PRESENT EMPLOYEES.

(A) Employees filling permanent positions with the city who have served in the position on a continuing basis throughout the six months preceding enactment of this chapter shall have permanent status conferred upon the effective date of this chapter.

(B) Employees filling permanent positions with the city who have not served in the position on a continuing basis throughout the previous six months upon enactment of this chapter shall not be granted permanent status upon the effective date of this chapter. Those employees will be eligible for permanent status upon completion of six months continuous satisfactory service in positions on record as of the effective date of this chapter.

(C) Upon enactment of this chapter, all newly appointed permanent personnel will be eligible for permanent status upon completion of six months continuous satisfactory service in the position.

(Ord. passed 12-29-81)

## EMPLOYMENT PROCESS

§ 35.15 PROCEDURE FOR FILLING VACANCIES.

The procedures for filling vacancies in permanent positions or additional newly established permanent positions shall consist of accepted professional personnel practices of announcement; application; certification of eligibility; and appointment.

(Ord. passed 12-29-81)

§ 35.16 ANNOUNCEMENT OF POSITION.

(A) Announcement of position shall include such information as to where to apply, deadlines for application, pay ranges for the position, summary of duties of the position, and the position qualifications suggested. All written announcements of a position shall contain the following statement: "An Equal Opportunity Employer".

(B) Announcements for positions shall be made publicly in newspapers of general circulation as per law and among the city service.

(Ord. passed 12-29-81)

§ 35.17 APPLICATION FOR POSITION.

(A) Application forms completed by applicants for positions shall include:

(1) Information about the applicant's training, experience, and character; and

(2) Such additional information as required to effectively evaluate the applicant's ability to perform the duties required by the position.

(B) No person may be appointed to a position unless verified information on an official application form indicates that the person meets the qualifications for the position set forth in the class specification.

(C) All application forms must be signed by the applicant.  
(Ord. passed 12-29-81)

§ 35.18 CERTIFICATION OF ELIGIBILITY FOR POSITION.

(A) The qualifications of an applicant for a position shall be ascertained on the basis of one or more of the following:

(1) Information the applicant supplies on an official application form;



(2) Written, performance, or physical tests or examinations, or any combination which may be required by the employing authority;

(3) Personal interview;

(4) Information and evaluations supplied by references given by the applicant on the application form;

(5) Satisfactory security check; and

(6) Other appropriate means.

(B) Each application shall be reviewed to ascertain the applicant's qualifications for the position in the following manner:

(1) The names of all applicants who qualify for appointment to positions of a particular class shall be placed on the eligibility list for that class. When a vacancy occurs in a position in that class, the Personnel Officer shall select one applicant and recommend employment to the Mayor.

(2) Sworn city police personnel must be certified in accordance with procedures stated in KRS Chapter 95 (if applicable). (Ord. passed 12-29-81)

#### § 35.19 APPOINTMENT TO POSITION.

(A) Vacancies may be filled by promotion from within. Where vacancies cannot be filled from within, persons on the eligibility list for the position shall be considered.

(B) In cases where vacancies cannot be filled from within the city service or from a current eligibility list, provisional appointments may be recommended for a period not to exceed six months by the Personnel Officer with the approval of the Mayor. Approval of the City Council shall be required at the next regular meeting following the provisional appointment.

(C) Provisional appointments shall terminate as soon as the position in question may be filled by a qualified person in accordance with the policies and procedures. (Ord. passed 12-29-81)

#### § 35.20 EMPLOYMENT OF RELATIVES.

The city does not expressly prohibit the employment of relatives to permanent positions within the government so long as one does not directly supervise the work of the other. (Ord. passed 12-29-81)

§ 35.21 ORIENTATION OF NEWLY EMPLOYED PERSONNEL.

(A) An orientation will be made available to all new employees as soon as possible after their first day of employment.

(B) The orientation shall consist of the following elements:

- (1) Explanation of the purpose and goals of the city;
- (2) Overview of the city history, structure, and operations;
- (3) Overview of management policies and administrative procedures; and

(4) Other elements deemed appropriate.

(Ord. passed 12-29-81)

§ 35.22 EMPLOYEE HANDBOOK.

The Personnel Officer, with assistance from the department directors and other personnel, will prepare and distribute to all employees a copy of the employee handbook. The handbook is a condensed version of these policies and procedures and is meant to provide employees with a ready-reference on employment practices, employee benefits, and government operations.

(Ord. passed 12-29-81)

§ 35.23 EXIT INTERVIEW.

Employees departing employment with the government are encouraged to participate in an exit interview. The exit interview enables the Personnel Officer to obtain information to reduce employee turnover, provide better employee selection, improve working conditions, and obtain information that could lead to improved employee morale.

(Ord. passed 12-29-81)

CONDITIONS OF EMPLOYMENT

§ 35.30 PROBATION.

(A) A person initially appointed to a position shall be on probationary status for six months.

(B) Any employee who has served an initial probationary period and is promoted from within the city service to a new position shall be on probation in the new position for six months.

(C) While on probation, a new employee may be dismissed at any time without right of appeal. An employee serving a probationary period as a result of promotion may be reinstated without right of appeal to the position from which he was promoted or to a position comparable to the one from which he was promoted.

(D) Probation and dismissal proceedings for sworn city police personnel shall be instituted in accordance with KRS 15.520 (and KRS Chapter 95 if applicable).  
(Ord. passed 12-29-81)

#### § 35.31 TRANSFER.

A permanent employee may request a transfer from one position to a comparable position by making a request through the department director to the Personnel Officer, provided the position to which the employee is transferred is one for which he possesses the appropriate qualifications, and provided that the position applied for is vacant.  
(Ord. passed 12-29-81)

#### § 35.32 PROMOTION.

(A) An employee may be promoted from one position to another only if the employee has the qualifications for the higher position. The same procedures as those authorized for ascertaining qualifications for initial appointment to a position shall be followed.

(B) When a vacancy occurs in a position above the entrance level, preference shall be given to promotion of present employees. All employees shall be notified of the vacancy, including position title, grade, summary of duties, position qualifications, and the time limit for applying. Employees may apply for the position by submitting written notification to the Personnel Officer.

(C) If, however, the appointing authority deems that the best interest lie outside the city service, the position may be filled by appointment of a person from outside the government.

(D) When a vacancy occurs, the names of all persons who qualify for promotion to the vacant position shall be transmitted along with a recommendation by the Personnel Officer to the Mayor for consideration for filling the vacancy by promotion.  
(Ord. passed 12-29-81)

#### § 35.33 DEMOTION.

(A) Upon the recommendation of the Personnel Officer, the Mayor may demote an employee for the following reasons, provided the employee possesses the qualifications for the position to which he is demoted:

- (1) For his inability to carry out duties in accordance with the standards prescribed for the position in the position specification;
- (2) For disciplinary reasons; and
- (3) To a vacant position in lieu of layoff.

(B) Written notice shall be given to the employee before a demotion becomes effective.

(C) This section does not apply to City Police Departments, who may be demoted only after the following procedure provided for in KRS 15.520 (and KRS Chapter 95 if applicable).  
(Ord. passed, 12-29-81)

#### § 35.34 SUSPENSION.

(A) The Personnel Officer may recommend temporary suspension of any employee with or without pay until the Mayor acts on the matter for the following reasons:

(1) Disciplinary reasons; or

(2) In anticipation of the results of investigation of charges against the employee.

(B) The Mayor may indefinitely suspend an employee from a position at any time, with or without pay. Any suspended employee shall receive written notice of suspension within 72 hours after the time of suspension. The notice shall state:

(1) The reasons for the suspension; and

(2) The duration of the suspension.

(C) This section does not apply to members of the City Police Departments, who may be suspended only after following the procedure provided for in KRS 15.520 (and KRS Chapter 95 if applicable).  
(Ord., passed 12-29-81)

#### § 35.35 DISMISSAL.

(A) The Mayor may dismiss an employee for reasons of:

(1) Unsatisfactory performance of duties;

(2) Action that reflects discredit upon the government;

(3) Hindrance of the performance of city functions; and

(4) Falsifying any time card, expense voucher, purchase voucher, or any other city record.

(B) The Mayor may be required to give specific reasons for dismissal in writing upon the written request of the employee.  
(Ord., passed 12-29-81; Am. Ord. 83-3, passed 3-21-83)

#### § 35.36 RESIGNATIONS.

(A) An employee wishing to resign should inform his immediate supervisor as soon as is practical after the decision to resign.

Such notice shall be in writing and should contain at least the scheduled date on which the employee intends to leave.

(B) An employee may be regarded as having resigned his position if found able to notify his immediate supervisor of the reason for absence, but fails to do so for three consecutive working days.

(C) A resignation made without sufficient notice may be regarded as cause for denying the resigning employee future employment by the government.

(D) An employee's resignation and its attending reasons, if noted, shall be recorded in the employee's personnel file.

(E) The employment date of an employee who resigns and is reinstated shall be the latest date of employment unless specified by the Personnel Officer.  
(Ord., passed 12-29-81)

#### § 35.37 LAYOFF.

(A) The Mayor, upon recommendation of the Personnel Officer, may lay off an employee or employees after due consideration because of lack of work or funds.

(B) The order of layoffs shall be determined on the basis of needs of the city as recommended by the Personnel Officer.

(C) Consideration shall be given to both the seniority and merit of persons being considered for layoff.

(D) Temporary, seasonal, and probationary employees shall be laid off before permanent employees.

(E) No less than one week before the effective date of the layoff of a permanent employee, the Personnel Officer shall in writing:

(1) Notify the employee of the layoff;

(2) Explain to the employee the reasons for the layoff; and

(3) Certify whether the employee's service has been satisfactory.

(F) A copy of the notice shall be retained in the employee's personnel file.

(G) An employee who has given satisfactory service, and is laid off, shall be eligible for reemployment in other positions which require basically the same qualifications and involve basically the same duties and responsibilities as the position from which the employee has been laid off.  
(Ord., passed 12-29-81)

§ 35.38 REINSTATEMENT.

(A) The Mayor may reemploy any former employee:

(1) Who has resigned from that service with a satisfactory employment record; or

(2) Who has been laid off because of lack of work or funds.

(B) The Mayor shall reinstate any employee who has been demoted or dismissed for a reason prohibited by local, state, or federal employment rules and regulations. The reinstated employee shall receive at least the rate of pay which was received prior to the termination or suspension.

(C) The Mayor may reinstate into the former position any employee who fails during his probationary period to serve satisfactorily in a position to which he has been promoted. The reinstated employee shall receive at least the rate of pay which was received at the time of promotion.

(D) Reinstatement of an employee shall:

(1) Restore him to the former position at the former salary; or

(2) Place him in a position of the same class or a class comparable to that of his former position at the former salary.

(E) The former employment date shall apply when an employee is reinstated after being dismissed for reasons prohibited by local, state, or federal employment rules and regulations.  
(Ord., passed 12-29-81)

§ 35.39 RETIREMENT.

The city does not have a mandatory retirement age for the employees. However, the city may require any employee to submit to a physical or mental examination by a medical doctor, designated by the city to insure competency to complete assigned duties and responsibilities. The city shall pay the costs for any examinations administered.

(Ord., passed 12-29-81)

§ 35.40 POLITICAL ACTIVITY.

While in the service of the city, an employee shall not:

(A) Be required to contribute to any political fund.

(B) Be a candidate for an elective municipal office.

(Ord., passed 12-29-81)

§ 35.41 ALLOCATIONS.

In the classification plan in §§ 35.75 through 35.82 authorized by this chapter:

(A) Each position shall, on the basis of the duties and responsibilities be allocated to an appropriate class.

(B) A class may include either a single position or two or more positions.

(Ord., passed 12-29-81)

§ 35.42 WRITTEN SPECIFICATIONS.

(A) Each class shall have a specification that includes:

(1) A concise, descriptive title.

(2) A description of the duties and responsibilities of each position in the class.

(3) A statement of desirable qualifications for the position.

(B) All positions in a single class shall be sufficiently alike to permit:

(1) The use of a single descriptive title for the class.

(2) A concise, general description of the duties of each position in the class.

(3) Description of the same qualifications for each position.

(4) The use of the same tests of competence for each position, and

(5) Application of the same pay range to each position.  
(Ord., passed 12-29-81)

§ 35.43 REGULAR REVIEW; EVALUATION.

At least once each year the Personnel Officer shall review the duties and responsibilities of each class. If necessary, he shall recommend to the Mayor on the basis of the review:

(A) A reclassification of positions.

(B) The creation of one or more new classes.

(C) The abolition of one or more existing classes.  
(Ord., passed 12-29-81)

§ 35.44 RECLASSIFICATION.

(A) The Personnel Officer may, with the approval of the Mayor, reclassify a position whenever its duties change materially.

(B) Reclassification of positions must be accomplished within the limits of the current city budget.

(C) Whenever the duties of a position so change that no appropriate class for it exists, the Personnel Officer shall prepare an appropriate class specification for the position and submit it to the Mayor for appropriate reclassification.

(D) Reclassification of a position may not be used to avoid a restriction concerning demotion, promotion, or compensation.

(E) The Personnel Officer may, with approval of the Mayor, create a new position upon either his own initiative or the recommendation of the department head. In creating a new position, the Personnel Officer shall:

(1) Describe in detail the duties and responsibilities of the position;

(2) Suggest desirable entrance qualifications for the position; and

(3) Allocate the position to an appropriate class, or create an appropriate class for the position necessary.  
(Ord., passed 12-29-81)

§ 35.45 CATEGORIES OF EMPLOYMENT.

(A) All employees of the city shall be classified as full-time, part-time, temporary or seasonal, or assigned. These categories are defined as of August 16, 1982 as follows:

(1) Full-time employee. An employee who works at least 35 hours per week on a regularly scheduled basis;

(2) Part-time employee. An employee who works less than 35 hours per week;

(3) Temporary or seasonal employee. An employee who works in a position which is of a temporary nature not to exceed six months per year;

(4) Assigned employee. An employee made available to the city by another agency.

(B) Full-time employees shall be entitled to all benefits provided by the city. Part-time employees, temporary employees, assigned employees, and all other employees working less than 35



hours per week shall not be entitled to any benefits unless specified by the Mayor.

(Ord., passed 12-29-81; Am. Ord. passed 9-7-82)

§ 35.46 HOURS OF WORK.

(A) All full-time employees shall work at least 35 hours per week.

(B) All employees shall work according to a schedule of hours recommended in writing by supervisors.

(C) Flexible work schedules may be utilized as agreed to in writing between the employees, supervisors, and the Personnel Officer.

(Ord., passed 12-29-81)

§ 35.47 OVERTIME.

(A) Overtime work shall be approved in advance and in writing whenever possible by the department director.

(B) In order to determine whether an employee will receive overtime pay or compensatory time for hours worked in excess of 40 hours per week, the Personnel Officer shall declare employees exempt or nonexempt according to provisions of existing labor laws. Exempt employees shall not receive overtime pay or compensatory time; nonexempt employees shall receive overtime pay at the rate of 1-1/2 times the regular amount for all hours over 40 per week.

(C) Overtime shall be kept at the minimum consistent with maintenance of essential city services and its financial resources.

(Ord., passed 12-29-81)

§ 35.48 PERIODIC REVIEW.

At least once each year the Personnel Officer shall:

(A) Compare the salary rates, compensation policies, and the personnel developments of the city with those of other employers, public and private, in the labor market area.

(B) Analyze fluctuations in the cost-of-living.

(C) Examine the salary range for each class of positions in the classified service to ascertain whether minimum and maximum salaries should be raised or lowered for a particular position or class during the succeeding 12 months.

(D) Upon the basis of the comparison, analysis, and examination, submit to the Mayor the recommendations for amendment of the pay plan.

(Ord., passed 12-29-81)

§ 35.49 IMPLICATIONS OF PERSONNEL ACTIONS.

(A) Reclassification of an employee's position from one class to another of comparable pay range shall effect no change of salary for the employee.

(B) An employee whose position is reclassified from one class to a higher class shall enter the higher class at its minimum salary. If the minimum is lower than, or the same as, his salary at the time of the reclassification he shall retain at least the present salary.

(C) If the employee's salary is the same as the minimum, the Personnel Officer shall determine what salary the employee shall receive in his reclassified position.

(D) An employee whose position is reclassified from one class to a lower class shall:

(1) Retain that salary if his salary at the effective time of the reclassification does not exceed the maximum salary for positions of the lower class;

(2) Receive only the maximum if that salary exceeds that maximum.

(E) Whenever the Personnel Officer submits to the Mayor a recommendation that a position be reclassified to a class that requires a higher salary, he shall submit with the recommendation an estimate of the financial implications of the recommended reclassification.

(F) In the event that an employee enters a higher class by promotion his salary in the higher class shall be the minimum salary for that class, unless that minimum is lower than, or the same as, his salary at the time of promotion. In such a case, the Personnel Officer shall determine what salary the employee shall receive within the pay range of the higher class.

(G) In the event an employee is demoted, the Personnel Officer shall set for the employee a salary within the salary range of the class to which the employee has been demoted.

(H) For an employee transferred from a position in one class to a position in an equivalent class, the transfer shall effect no change in rate of pay.

(Ord., passed 12-29-81)

§ 35.50 MERIT INCREASES.

At least once each year, the Personnel Officer, in cooperation with the department directors, shall review the performance of each employee in the classified service for purposes of recommending individual merit salary adjustments to the Mayor. Such

recommendations shall be based on the quality and length of service of the employee.

(Ord., passed 12-29-81)

§ 35.51 MINIMUM SALARY.

(A) An appointee to a new position shall receive the minimum salary for the class to which the position is allocated. The Personnel Officer may cause appointment to be made at a salary above the minimum, but not more than the maximum, for a class for the following reasons:

- (1) In cases of unusual difficulty in filling the position; or
- (2) In hiring exceptionally qualified personnel.

(B) In these instances, appropriate documentation of the need to appoint at the higher salary shall be made.

(Ord., passed 12-29-81)

BENEFITS

§ 35.55 BENEFITS GENERALLY.

Employee benefits constitute a basic ingredient in personnel administration. Benefits provided by the city include the following sections of this subchapter, with the benefits subject to annual fiscal year review by the Common Council. All part time employees working between 35 and 39 hours are entitled to the benefits provided in this Chapter.

(Ord., passed 12-29-81; Am. Ord. 85-17, passed 11-18-85; Am. Ord. 99-10, passed 6-21-99)

§ 35.56 HOLIDAY.

(A) The city adopts the holiday schedule as observed by the Commonwealth of Kentucky State Government as promulgated by the Kentucky Personnel Cabinet and as it may be amended from time to time by the Commonwealth, to wit:

- |                               |   |
|-------------------------------|---|
| (1) New Year's Day*           | January 1;  |
| (2) Martin Luther King Day    | Third Monday in January;                                  |
| (3) Memorial Day              | Last Monday in May;                                       |
| (4) Independence Day          | July 4;   |
| (5) Labor Day                 | First Monday in September;                                |
| (6) Presidential Election Day | First Tuesday in November of presidential election years; |
| (7) Veterans Day              | November 11;  |

- |                       |                                |
|-----------------------|--------------------------------|
| (8) Thanksgiving Day* | Fourth Tuesday in<br>November; |
| (9) Christmas Day*    | December 25;                   |
| (10) Good Friday      | Full Day.                      |

\*An extra day is given for Thanksgiving, Christmas and New Year's.

(B) When any holiday listed above falls on Saturday, the preceding business day shall be considered the holiday. When any holiday listed above falls on Sunday, the following business day shall be considered the holiday. In addition to the above, any day may be designated as a holiday by proclamation of the Mayor.

(C) In order for an employee to be entitled to a holiday, he shall have been employed by the city at least 30 calendar days preceding the holiday and must have actually worked the day before and the day after the holiday unless on vacation or sick leave.

(D) When it is essential for an employee to work on a declared holiday, he shall be compensated for actual hours worked at the regular rate of pay in addition to holiday pay, or he shall receive a regular working day off with pay.

(Ord., passed 12-29-81; Am. Ord. passed 9-20-82; Am. Ord. 05-10, passed 5-24-05)

#### § 35.57 VACATION.

(A) All full-time employees of the city, are entitled to earn vacation leave with pay.

(B) A new employee shall begin accumulating earned vacation leave beginning on the date of full-time employment. The employee's first vacation leave will be granted after January 1, following the date of employment and every calendar year thereafter, except that no vacation may be taken prior to six consecutive months of employment and, in the event employment is terminated during the first six months, no compensation will be paid for any accrued time.

(C) Vacation accrual will be at the rate of ten working days per year. For any employment period of less than a full year, earned vacation will be computed to the nearest, rounded off, full day at the rate of 5/6 day per month.

(D) After the employee's tenth anniversary year, the employee shall receive 15 working days vacation per year. Partial years shall then be computed based on 1.25 earned vacation days per month rounded off as above.

(E) Vacation days must be taken as whole days, or half days, no fractions thereof will be considered. Employees are urged to take their vacation leave each year. Monetary compensation for vacation



written approval of the department director, and in the event of sick leave for any purpose, the department director may require a certificate from a medical doctor giving information as to the circumstances involved.

(B) Sick leave shall be accrued at the rate of one-twelfth of the annual rate per month of employment.

(C) For accrual purposes, a new employee who reports for work on or before the fifteenth of the month shall accrue the full amount for that month. If employed on or after the sixteenth, a new employee shall begin accruing sick leave time the beginning of the following month.

(D) An employee on sick leave shall inform his department director of the fact and the reason as soon as possible; failure to do so by noon of the first day of illness may be cause for denial of sick leave with pay for the period of absence.

(F) Absence for part of a day that is chargeable to sick leave shall be charged proportionately in an amount not smaller than  $\frac{1}{2}$  day.

(G) Sick leave may be accumulated indefinitely, but employees who terminate employment with the city shall not be compensated for unused sick days.

(H) The City Treasurer shall keep records of sick leave allowance, sick leave taken, and balance of sick leave allowance for each employee. Any employee fraudulently obtaining sick leave shall be suspended or dismissed.

(Ord. passed 12-29-81; Am. Ord. passed 9-20-82)

#### § 35.59 EXCUSED TIME-OFF FOR INJURY.

(A) All employees suffering an injury which restricts them in the performance of their job duties and assignments shall be placed on excused time-off.

(B) If sick days have been accumulated, then they shall be used. However, if no sick days have been accumulated, then the affected employee shall be on excused time-off without pay until the attending physician gives the employee a written release to return to work.

#### § 35.60 DISABILITY LEAVE.

(A) Any employee who suffers injury or illness as the result of service connected accident or illness shall be compensated at the current negotiated rate with the workmen's compensation insurance company.

(B) Maternity leave shall be treated as any other disability.  
(Ord. passed 12-29-81)

§ 35.61 BEREAVEMENT LEAVE (FUNERAL).

All full-time employees may be absent up to three regularly scheduled working days without loss of pay in case of death in the immediate family. Immediate family for this purpose shall include parents, step-parents, grandparents, spouse, children, step-children, brothers, sisters, step-brothers, step-sisters, mother-in-law, father-in-law, sister-in-law, and brother-in-law. Employees may request bereavement leave for other family members. Said request must be made in writing to the Personnel Officer, who shall make the determination of whether or not the employee's request complies with the intent of the bereavement leave policy (i.e. whether the family member in question is "immediate family" to the employee).

(Ord. passed 12-29-81; Am. Ord. passed 9-20-82; Am. Ord. 09-06, passed 8-17-09)

§ 35.62 SPECIAL LEAVE.

(A) The Personnel Officer may authorize an employee to be absent without pay for personnel reasons for a period not to exceed ten working days in any calendar year.

(B) The Mayor may authorize special leaves of absence with or without pay for full-time employees for any period for any purposes that are deemed beneficial to the city service.

(Ord. passed 12-29-81; Am. Ord. passed 9-20-82)

§ 35.63 MILITARY LEAVE.

All employees of the city who are members of the National Guard or any reserve component of the Armed Forces of the United States, or of the Reserve Corps of the United States Public Health Services, shall be entitled to leave of absence with full pay for a period not exceeding 15 calendar days in any one calendar year for the purpose of attending annual mandatory training.

(Ord. passed 12-29-81)

Statutory reference:

Military leave, see KRS 61.394, 61.396

§ 35.64 JURY DUTY.

In the event an employee is requested to serve on a jury, he shall be entitled to reimbursement for loss earnings due to jury duty as follows:

(A) If the employee is called to serve on a jury of any court in the state, the employee shall be reimbursed for the difference between any compensation received for jury duty and his regular rate of pay.

(B) A statement of earnings must be submitted for verification of earned income during such period of jury duty.

(Ord. passed 12-29-81)

§ 35.65 INSURANCE.

All persons employed full-time by the city are eligible for the following:

(A) Health insurance coverage including Comprehensive Major Medical for the employee and his family (if applicable).

(B) Pension plan, city rate set by CERS, employee rate 4%.

(C) Social security. The city and the employee contribute equal amounts at the rate determined by Congress.

(D) Workmen's compensation. The city pays the total costs for workmen's compensation insurance.

(E) Term insurance. In the sum of \$10,000, with double indemnity for accidental death.

(Ord. passed 12-29-81; Am. Ord. 85-17, passed 11-18-85; Am. Ord. 87-37, passed 12-21-87; Am. Ord. 93-09, passed 6-21-93; Am. Ord. 97-15, passed 7-21-97)

§ 35.66 GRIEVANCE PROCEDURE.

(A) Any grievance or dispute which may arise from employment with the government shall be settled in the following manner:

(1) The employee shall present the grievance to his immediate supervisor within three working days of its occurrence or written three working days of knowledge of the occurrence by the employee. The supervisor shall then attempt to adjust the matter and shall respond to the employee within one working day;

(2) If the grievance has not been settled, it shall be presented in writing by the employee to the department director within three working days after the supervisor's response is due. The department director shall respond in writing to the party presenting the grievance within five working days;

(3) If the grievance remains unadjusted, it may then be presented by the employee to the Personnel Officer in writing within three working days after the response of the department director is due. The Personnel Officer shall respond in writing to the party presenting the grievance within five working days;

(4) If the grievance remains unresolved, it may then be presented by the employee to the Mayor in writing within three working days after the response of the Personnel Officer is due. The statement of the grievance shall be filed with the Personnel Officer not later than the close of business on the last day permitted for the filing of



the grievance. The written statement of appeal of the grievance shall set forth the reasons and grounds for the grievance with a statement of the relief sought.

(5) A copy of all previous written documents involved on the action shall be attached to the grievance and made a part thereof. The Mayor may conduct a hearing on all issues involved, and it shall respond in writing to the parties presenting the grievance within ten working days from the date of filing of the grievance unless additional time is agreed to by both sides.

(B) The decision of the Mayor shall be final.  
(Ord., passed 12-29-81)

#### § 35.67 EXPENSE REIMBURSEMENT.

(A) Any official or employee of the city incurring expenses for approved travel on behalf of the city shall be reimbursed at the actual rate of expenditures. Receipts for all expenditures shall be obtained and attached to the request for reimbursement form, which must be completed as soon as possible upon completion of travel.

(B) If an employee must use his private automobile, he shall be reimbursed at the rate of \$.20 per mile; however, all employees must use city vehicles if available.

(C) All request for reimbursement forms shall be signed by the department director, Mayor, and Treasurer.  
(Ord. passed 12-29-81)

#### CLASSIFICATION PLAN

#### § 35.75 USE AND MAINTENANCE OF CLASSIFICATION PLAN.

The personnel rules shall operate in conjunction with a position classification plan covering certain positions in the city. The plan shall provide a complete inventory of positions, accurate job description, and specifications for each class of employment.

(A) Use of the classification plan. The classification plan shall be used;

(1) As a measure of the abilities needed to perform certain jobs;

(2) In determining lines of promotion and developing employee training programs;

(3) In determining salaries to be paid for various types of work; and

(4) In providing uniform job terminology, understandable by all city officers, city employees, and the general public.

(B) Maintenance of the classification plan. It is the duty of the Mayor to see that the classification plan is kept current and provides an inventory of positions in the city service. Changes in the plan must be approved by the Mayor and the City Council.  
(Ord., passed 12-29-81)

#### § 35.76 CLASS SPECIFICATIONS.

The class specifications are intended to be descriptive and explanatory, defining classes rather than prescribing restrictions. They should be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples should not be isolated and treated as the full description of the class. The various sections of the specifications should be interpreted as described below.  
(Ord., passed 12-29-81)

#### § 35.77 CLASS TITLE.

The class title is a brief and descriptive designation of the work performed.  
(Ord., passed 12-29-81)

#### § 35.78 GENERAL DESCRIPTION OF WORK.

This section is a general description of the work with emphasis on those basic factors which distinguish the class from other classes above or below if in the same series or in a closely related series, with mention of the salient features of the work, hazards, responsibility, difficulty, and supervision received, or exercised.  
(Ord., passed 12-29-81)

#### § 35.79 EXAMPLES OF WORK PERFORMED.

This section is intended to enable the reader to obtain a more complete understanding of the actual work performed in positions of the class. The list is descriptive, but not limiting. It is not intended to describe all the work performed in all the positions in the class. It merely serves to illustrate the more typical portions of the work. The mere performance of one or even several individual tasks listed as examples of work of a particular class should not be considered conclusive evidence that the position belongs in a particular class. A position belongs in a class only when it is the criteria described and defined by the specification as a whole.  
(Ord., passed 12-29-81)

#### § 35.80 KNOWLEDGE, SKILLS, AND ABILITIES.

This section lists those abilities, skills, or knowledge which are necessary for successful performance of the work for the class.

In setting forth these requirements, use has been made of such terms as extensive knowledge, knowledge, and some knowledge. For clarity in interpreting the specifications, definitions of these terms are set forth below.

(A) Extensive knowledge. The most advanced degree of knowledge likely to be found and means that work calls for complete mastery and understanding of the subject. It has been used sparingly and only for unusually exacting classes.

(B) Knowledge. Almost complete coverage of the subject matter area. The work calls for sufficient comprehension of the subject to solve unusual as well as commonplace work problems.

(C) Some knowledge. Sufficient knowledge of the subject to enable the employee to work effectively in a limited range of work situations with little supervision at the very least, sufficient familiarity with the subject to know elementary principles and terminology and to understand simple problems.

(D) Skills. Abilities and dexterity of a manual or manipulative nature.

(E) Abilities. The present state of development of innate capacities making possible the application of knowledge and skills (physical, mental, and social pressures) to work situations.  
(Ord., passed 12-29-81)

#### § 35.81 EXPERIENCE, TRAINING, AND SPECIAL REQUIREMENTS.

(A) This section includes a statement of the background experience and training which would ordinarily provide a person with the knowledge, skills, and abilities necessary for successful performance of work characteristic of the class. It does not, in any way, have reference to qualifications such as honesty and dependability, which are expected of all employees.

(B) In outlining the background of desirable experience and training for the appointee to a position in a given class, use has been made of such terms as some experience. For clarity in interpreting the specifications, definitions of these terms are set forth below.

(1) Extensive experience. Unusually broad and intensive experience in both commonplace and unusual work situations and problems of the occupational field. It means sufficient experience to enable the employee to plan and administer major work programs, resolve unusual problems, and determine or advise on major policy matters.

(2) Experience. A small amount of experience sufficient to enable persons to acquire some familiarity with methods and terminology in common work situations of the occupational field.

(3) Special requirements. A few cases where legal requirements limit the practice of a profession or occupation to persons who possess a specific license or certificate issued by an authoritative board; or where there is a specific prerequisite which must be met by applicants for positions in the class before otherwise qualifying.  
(Ord., passed 12-29-81)

#### § 35.82 USE AND ADMINISTRATION OF CLASSIFICATION PLAN.

(A) The classification plan, if continuously kept up-to-date, will prove helpful to administrators and employees in several ways. One of its most important uses will be to provide the Mayor and the City Council a realistic basis in establishing pay schedules which provide similar pay for similar work. The plan is also important as a source of information in recruiting and selecting employees, in developing employee training programs, and establishing uniform fiscal and personnel records. Finally, the plan gives employees an understanding of promotional opportunities available in the city service and the public a better idea of the character and variety of municipal services.

(B) It must be recognized that the classification plan is not status, nor is it intended to fix positions permanently into classes. Instead, the plan must continually be administered so that it is kept abreast of changing conditions. Such changes may be due to many different conditions, including the assumption of new county services, the extension of certain activities, changes in organization and work methods, and the assignment of broader responsibilities to individual employees. The classification plan should, therefore, be continually reviewed with regard to the adequacy and accuracy of class specification and the correct allocation of positions or classes. This responsibility is jointly shared by the Mayor and City Administrator.  
(Ord., passed 12-29-81)

### PAY PLAN

#### § 35.90 PAY PLAN GENERALLY.

The personnel rules shall operate in conjunction with a pay plan. The pay plan shall set forth the basic salary schedule as approved by the Mayor and City Council. The salary ranges shall consist of minimum median and maximum rates of pay and appropriate grade for all positions in city government. A copy of the pay plan is on file in the City Clerk's office and is available for public inspection during normal business hours.

(Ord., passed 12-29-81; Am. Ord. 06-07, passed 5-2-06; Am. Ord. 12-03, passed 5-30-12)

§ 35.91 MAINTENANCE OF PAY PLAN.

The Mayor may conduct studies of other employees in order to evaluate the need for adjustments in the city's pay plan. The Mayor may make proposals for changes in the city's pay plan to the Council for their consideration on an annual basis.

(Ord., passed 12-29-81)

§ 35.92 APPOINTMENT RATE.

The minimum rate established for a position shall be paid upon appointment. However, a rate above minimum may be authorized if a candidate has exceptional qualifications or there is inability to employ eligible candidates at the minimum rate. All appointments above the minimum rate shall be approved by the Mayor.

(Ord., passed 12-29-81; Am. Ord. 06-07, passed 5-2-06)

§ 35.93 SALARY INCREASES.

The City Administrator shall submit annually to the Mayor for approval a list of those employees who, based on meritorious performance of their jobs, are recommended to have their pay increased.

(Ord., passed 12-29-81; Am. Ord. 06-07, passed 5-2-06)

§ 35.94 HOURS OF WORK.

(A) All full-time employees shall work at least 35 hours per week.

(B) All employees shall work according to a schedule of hours recommended in writing by supervisors.

(C) Flexible work schedules may be utilized as agreed to in writing between the employees, supervisors, and the Personnel Officer.

(Ord., passed 12-29-81)

§ 35.95 OVERTIME.

(A) Overtime work shall be approved in advance and in writing whenever possible by the department director.

(B) In order to determine whether an employee will receive overtime pay or compensatory time for hours worked in excess of 40 hours per week, the Personnel Officer shall declare employees exempt or nonexempt according to provisions of existing labor laws. Exempt employees shall not receive overtime pay or compensatory time; nonexempt employees shall receive overtime pay at the rate of 1-1/2 times the regular amount for all hours over 40 per week.

(C) Overtime shall be kept at the minimum consistent with maintenance of essential city services and its financial resources.  
(Ord., passed 12-29-81)

§ 35.96 PAY PERIOD.

The basic pay period for all city employees shall be every two weeks.  
(Ord., passed 12-29-81)

§ 35.97 RESERVED.

§ 35.98 RESERVED.

§ 35.99 COMPENSATION FOR PART-TIME AND SEASONAL EMPLOYEES.

All part-time employees working between 35 and 39 hours per week are entitled to benefits as provided in the personnel, policies, procedures and compensation plan. No other part-time or seasonal employees are entitled to such benefits.  
(Ord. 89-12, passed 6-19-89; Am. Ord. 11-03, passed 5-23-11; Am. Ord. 12-03, passed 5-30-12)



Section

Persons with Disabilities

36.01 Nondiscrimination on the basis of handicapped status

Affirmative Action Plan Regarding  
Community Development Block Grants

- 36.05 Statement of policy
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PERSONS WITH DISABILITIES

§ 36.01 NONDISCRIMINATION ON THE BASIS OF HANDICAPPED STATUS.

(A) Anyone who believes he or she has been discriminated against by the city based on handicapped status with respect to federally-funded programs, may follow the grievance procedures attached to Ord. 85-16, on file at the office of the City Clerk and available for public inspection during normal business hours.

(B) The administration of these procedures and related federal and state regulations shall be the responsibility of the City Administrator.

(C) These procedures may be amended by ordinance to comply with court directives or additional federal and state regulations.  
(Ord. 85-16, passed 9-16-85)



AFFIRMATIVE ACTION PLAN REGARDING  
COMMUNITY DEVELOPMENT BLOCK GRANTS

§ 36.05 STATEMENT OF POLICY.

The affirmative action policy of the city is to promote equal employment opportunity; to prohibit discrimination in city employment on account of race, color, religion, national origin, sex, age, or handicapped status not related to performance of the job; and to bring about a fair representation and utilization of females and minorities on all levels of city employment.

(Ord. 87-14, passed 6-15-87)

§ 36.06 DISSEMINATION OF POLICY.

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

(Ord. 87-14, passed 6-15-87)

§ 36.07 PERSONNEL ACTIONS.

The city will take affirmative action to ensure 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.

(Ord. 87-14, passed 6-15-87)

§ 36.08 WORKFORCE ANALYSIS.

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

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

(C) Goals and timetables.

(1) The city examined each category in which the number of females and minorities were fewer than the number required for fair

selection. Appropriate goals for women and for minorities were established to bring the city's utilization to a level comparable to the community workforce. Timetables were based on the anticipated annual job openings in each category.

(2) Where a disparity exists between the percentage of a protected group in the community population and the percentage in the community workforce, the goals are adjusted to overcome this disparity. The goal of fair utilization of minorities and females in each category is to be met within the next five years through the personnel procedures established by this plan without discrimination of any kind. The maintenance of this policy will be continuing effort.  
(Ord. 87-14, passed 6-15-87)

#### § 36.09 IMPLEMENTATION OF AAP.

(A) It is understood that implementation of this AAP is an ongoing process which will make the plan a viable, effective document.

(B) Responsibility. The City Administrator/Coordinator shall be responsible for implementation of this affirmative action plan and shall have authority to require department heads to furnish such information as is necessary to keep current forms and reports.

(C) Duties. The Administrator/Coordinator shall disseminate the city's equal employment opportunity policy as set forth in the AAP; maintain current job classifications and minimum requirements based on the tasks to be performed by each position, an updated workforce analysis, an applicant flow chart and job roster; and prepare a consolidated report for the entire city government.

(D) Reports. The Administrator/Coordinator shall monitor the operation of this AAP and shall prepare a consolidated annual progress report together with indications of problem areas and recommendations for solutions for the City Commission.  
(Ord. 87-14, passed 6-15-87)

#### § 36.10 GRIEVANCE PROCEDURE.

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

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

(2) If, following the discussion, the decision of the supervisor regarding the grievance does not satisfy the employee, he may discuss it with the Administrator/Coordinator.

(3) If the decision of the Administrator/Coordinator does not satisfy the employee, he may request a hearing with the Council by submitting a written request for the hearing. The decision of the Council regarding the grievance shall be final.

(4) In thus discussing the grievance, the employee may designate any person of his choice to appear with him and participate in the discussion. The Council may require the supervisor to participate in the discussion of the grievance when it is brought before the Council.

(B) Any prospective employee or applicant for employment who is denied employment with the city and believes that denial was based in whole or in part on the race, religion, sex, age, or physical condition of the applicant may file a written complaint with the Administrator/Coordinator who shall make every effort to resolve the matter impartially and expeditiously. The appeal procedure above is also available to the grievant.

(Ord. 87-14, passed 6-15-87)

#### TRAVEL REIMBURSEMENT

##### § 36.30 INTRODUCTION.

The City Council recognizes that it is necessary to adopt a uniform, fair, and equitable policy relating to the reimbursement for travel of persons incurring out of pocket expense while traveling on city affiliated matters.

(Ord. 97-05, passed 3-10-97)

##### § 36.31 COVERAGE.

This policy shall apply to all city elected officials, appointed officials, and employees who may incur expenses associated with travel relating to local governmental matters.

(Ord. 97-05, passed 3-10-97)

##### § 36.32 ENFORCEMENT.

(A) Department responsibility. Each department supervisor shall be responsible for ensuring that travel expense from his department is as economical as it is feasible.

(B) Records required. Any person who travels for matters relating to city business shall:

- (1) Maintain records and receipts to support his claim; and

(b) Provide himself with sufficient personal funds to defray his travel expense.

(C) Advanced travel funds. Special arrangements may be made for any person proposing to travel who may not possess sufficient personal funds to defray anticipated travel expense.

(Ord. 97-05, passed 3-10-97)

#### § 36.33 PROCEDURE.

(A) Any person, prior to traveling, must submit a travel requisition (form COM.01) for approval which shall be signed by the person to be traveling and the departmental supervisor, and final authorization shall given by the city administrator.

(B) Upon return from travel, a travel voucher (form COM-02) shall be submitted to the city treasurer, who shall:

(1) Verify the accuracy of the voucher and sufficient documented receipts.

(2) If incurred expenses are within the guidelines of this policy, final reimbursement will be made.

(3) In instances where arrangements have been made to advance travel funds to a person, upon return of the person from travel and completion of the travel voucher and actual receipts, the city treasurer will compare the amount of advanced funds to the actual expenses incurred and make the necessary financial adjustments.

(C) In instances where expenses incurred are not in accordance with this policy, the City Administrator may:

(1) Disallow or reduce the amount of claim that violates the provision of this policy; or

(2) Require written justification from a department head for amounts claimed by the employee.

(Ord. 97-05, passed 3-10-97)

#### § 36.34 ELIGIBILITY.

Except as provided by this policy, reimbursement shall not be claimed for expenses of any person other than those listed under the coverage section of this policy.

(Ord. 97-05, passed 3-10-97)

§ 36.35 TRANSPORTATION; ECONOMY REQUIRED.

(A) Any person or persons subject to this policy shall use the most economical, standard transportation available and the most direct and usual travel routes.

(B) City vehicles. When available, it is encouraged that city-owned vehicles be used for transportation.

(C) Privately-owned vehicles. Mileage claims for use of privately owned vehicles will be allowed under the provisions of this policy.

(D) Special transportation. The cost of hiring cars or other special conveyances in lieu of ordinary transportation shall be allowed only if written justification is submitted and approved by the Mayor. (Ord. 97-05, passed 3-10-97)

§ 36.36 ACCOMMODATIONS.

(A) Lodging shall be the most economical as feasible. The person or persons traveling should give utmost consideration to lodging facilities that have contracted with the training event sponsor for group rates or commercial rates as applicable.

(B) Request for prepayment of lodging. To prepay lodging, the person or persons requesting such prepayment shall complete a requisition form (this does not refer to form COM-01) and submit to the city treasurer's office for processing in accordance with city established policies for purchasing. (Ord. 97-05, passed 3-10-97)

§ 36.37 REIMBURSEMENT RATES.

(A) A person or persons covered under this policy shall be reimbursed for the actual cost of lodging if the:

(1) Lodging is determined by administration to be the most economical; and

(2) The person incurring such expense submits sufficient documentation of the expense incurred.

(B) Other allowable travel expenses that will be reimbursed are:

(1) Toll charges (receipts required for out-of-state only);

(2) Registration fees (documentation required);

(3) parking and cabs (receipts required);

(4) Porter fees; and

(5) Other expenses incurred which the Mayor authorizes and approves.

(Ord. 97-05, passed 3-10-97; Am. Ord. 02-17, passed 7-17-02)

§ 36.38 MEALS.

(A) (1) Reimbursement for meal expense incurred during authorized travel shall be made for actual out-of-pocket expenses incurred not to exceed the maximum allowed rates listed as follows:

MEAL	ALLOWED RATE
Breakfast	\$ 8.00
Lunch	\$10.00
Dinner	\$20.00

(2) For travel of more than ten hours duration or overnight travel, the following shall apply:

Out-of-State	In State
\$39.00/24 hours	\$32.00/24 hours
\$9.75/quarter	\$8.00/quarter

(B) Transportation expenses.

(1) Reimbursement for authorized use of privately-owned vehicle shall:

(a) Be made at \$.42 per mile; or

(b) Be made for the actual expenses incurred due to gas, oil, and toll expense during travel, provided that receipts are attached to travel voucher.

(2) If a city-owned vehicle is used for travel, reimbursement shall be made for actual expenses incurred due to gas, oil, and toll expense incurred while traveling.

(C) Mileage.

(1) Mileage commuting between home and work station shall not be paid.

(2) If the point of origin is the claimant's home, mileage shall be paid for the shorter of mileage between:

(a) Claimant's home and travel destination; or

(b) Work station and travel destination.

(Ord. 97-05, passed 3-10-97; Am. Ord. 02-17, passed 7-17-02; Am. Ord. 10-08, passed 10-18-10)

§ 36.39 FORMS AND PROCEDURE.

(A) A request for authorization to travel shall be made on a travel requisition (form COM-01).

(1) This form shall be signed by person to be traveling and the department supervisor (applicable to employees).

(2) The travel requisition form shall be reviewed by and final authorization given by the City Administrator.

(B) Upon completion of travel, the person traveling shall submit a completed travel voucher (form COM-02) along with sufficient receipts to the City Treasurer, who shall verify the accuracy of the documentation in accordance with this policy.

(C) The travel voucher shall contain, at a minimum, the following information:

(1) The name of the person traveling.

(2) Purpose of travel.

(3) Month, day, departure time, return time, and destination.

(4) Information relative to the use of city-owned or privately-owned vehicle.

(5) Allowed reimbursement rates for transportation and meals.

(6) Name of lodging establishment used for accommodations and total lodging expense (when applicable).

(7) Claimant's signature and date voucher was submitted for review/approval.

(8) A signature line for the Department of Finance review (City Treasurer).

Section

Specific Boards and Commissions

- 37.01 Industrial Development Authority
- 37.02 Downtown Development Authority
- 37.03 Tourism Commission

Code Enforcement Board

- 37.10 Definitions
- 37.11 Creation and membership
- 37.12 Enforcement powers
- 37.13 Appointment of members; term of office; removal from office; oath; compensation
- 37.14 Organization of Board; meetings; quorum
- 37.15 Conflict of interest
- 37.16 Powers of the Code Enforcement Board
- 37.17 Enforcement proceedings
- 37.18 Hearing; notice; final order
- 37.19 Presentation of cases
- 37.20 Appeals; final judgment
- 37.21 Ordinance fine schedule
- 37.22 Liens; fines; charges; fees
- 37.23 Lienholder notification system
- 37.24 Liens
- 37.25 Immediate action

SPECIFIC BOARDS AND COMMISSIONS

§ 37.01 INDUSTRIAL DEVELOPMENT AUTHORITY.

(A) There is hereby established the local Industrial Development Authority pursuant to KRS 152.820 to 152.930.

(B) The Authority shall consist of six members appointed by the Mayor pursuant to KRS 152.860.  
(Ord. 87-11, passed 6-15-87)

§ 37.02 DOWNTOWN DEVELOPMENT AUTHORITY.

(A) There is hereby created the Downtown Development Authority for the city, an advisory council for the city. The purpose of the Council shall be to give advice in connection with the city policies and in connection with the development of the downtown area of the city. No recommendation of the Development Council shall be binding on the city, and the advice of the Development Council is not required for a prerequisite for any action by the city. The purpose of the Development Council is to provide mutual communications for the convenience of the parties.



(B) All meetings of the Downtown Development Authority, all meetings of any city officer with the Authority, and all meetings of the City Council or any committee thereof with the Authority, shall be open to the public at all times.

(C) The Downtown Development Authority shall consist of such members as shall be appointed by the Mayor with the approval of the City Council. Each person appointed shall serve for a term expiring on January 1 of the next year following the appointment. Any member may be reappointed for an additional year, and there is no limit on the number of times an individual may be reappointed. In selecting members the Mayor shall give consideration to obtaining a variety of points of view, and persons with a variety of interests and professional skills.

(D) The Authority shall advise the City Council from time to time on matters pertaining to development of the downtown area of the city. A majority of the members present at any meeting will be sufficient to submit advice, and a minority of those present may also submit advice, provided that the minority's advice shall be clearly labeled "minority advice."

(E) Members of the Authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the Authority.

(F) The Authority shall be composed of seven members.

(G) The Mayor shall appoint one member of the Council as chairman and one member as secretary. The chairman shall preside at meetings but shall have no authority to act independently of the Council. The secretary shall keep records of the minutes of meetings.

(H) Meetings may be called when necessary for business of the Council by the chairman or any two members of the Council and may have such regular meetings as they may determine.  
(Ord. 87-12, passed 6-15-87)

#### § 37.03 TOURISM COMMISSION.

(A) There is hereby created a commission to be known as the City of Marion KY Tourism Commission.

(B) (1) The City of Marion KY Tourism Commission shall be composed of seven members to be appointed by the Mayor with consent of the majority of the City Council, in the following manner:

(a) Three Commissioners from a list submitted by the local hotel and motel association.

(b) One Commissioner from a list submitted by the local restaurant association.

(c) One Commissioner from a list submitted by the Chamber of Commerce.

(d) Two Commissioners by the Mayor.

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The Commissioners shall be appointed for terms of three years; provided, that in making the initial appointments, the Mayor shall appoint two Commissioners for terms of three years, two Commissioners for terms of two years, and three Commissioners for terms of one year.

(4) The City Administrator shall, each year, request each of the organizations in division (B)(1) above, if in existence, to submit to the city its list of recommendations for the Commissioners, the lists to be submitted not later than April 1 of each year. In the event that the organizations or associations do not exist or fail to submit the lists to the City Administrator by April 1 of each year, after having received written request to so submit the lists at least 30 days prior to April 1, the Mayor may appoint to the Commission any citizen, resident and voter of the city. The appointments shall be made by the Mayor to the Commission not later than April 30 of each year.

(C) (1) The City of Marion KY Tourism Commission shall elect from its membership a chairperson and a treasurer, and may employ such personnel and make such contracts as are 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 recreational, tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations and firms with experience and qualifications for providing promotional services and material such as advertising firms, chambers of commerce, publishers and printers.

(2) The Commission shall annually submit to the local governing body which established it a request for funds for the operation of the Commission for the ensuing year.

(Ord. 03-22, passed 9-29-03; Am. Ord. 10-04, passed 7-20-10)

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Cross-reference:

Request for funds, see §§ 33.65 and 33.86

## CODE ENFORCEMENT BOARD

§ 37.10 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:

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

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

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

"FINAL ORDER." Any order:

(1) Issued by the Code Enforcement Board following a hearing in accordance with § 37.18(E);

(2) Created because a violator neither paid nor contested the citation within seven days as provided in § 37.17(F); or

(3) Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in § 37.18(C).

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

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

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

"PREMISES." A lot, plot or parcel of land, including any structures upon it.  
(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.11 CREATION AND MEMBERSHIP.

There is hereby created within the city pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board which shall be composed of no fewer than five nor more than seven members, all of whom shall be residents of the city for a period of at least one year prior to the creation of the Board and shall reside there throughout the term in office.

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.12 ENFORCEMENT POWERS.

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

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

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.13 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; COMPENSATION.

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

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

(1) Two members shall be appointed for a term of one year;

(2) Two members of the Board shall be appointed for a term of two years; and

(3) One members of the Board shall be appointed for a term of three years.

(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 executive authority, subject to approval of the legislative body, within 60 days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Enforcement Board 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 executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority shall submit a written statement to the member and the legislative body 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 Code Enforcement Board shall, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

(G) Members of the Code Enforcement Board shall be reimbursed for actual expenses and compensated in the amount of \$83.15 per month.

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

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.14 ORGANIZATION OF BOARD; MEETINGS; QUORUM.

(A) The Code Enforcement 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. In the absence of the Chair, the remaining members of the Board shall select a member to preside in place of and exercise the powers of the chair.

(B) Regular meetings of the Code Enforcement Board shall be set held on the first Monday of every month. 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 Code Enforcement 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 Code Enforcement Board and the vote of any member on any issue decided by the Board shall be recorded in the minutes.

(Ord. 03-14, passed 6-16-03; Ord. 16-13, passed 12-19-16)

§ 37.15 CONFLICT OF INTEREST.

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

(Ord. 03-14, passed 6-16-03; Ord. 16-13, passed 12-19-16)

§ 37.16 POWERS OF THE CODE ENFORCEMENT BOARD.

The City of Marion Code Enforcement Board shall have the following powers and duties:

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

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

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

(D) To take testimony under oath. The 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 impose civil fines, as authorized, on any person found to have violated an ordinance over which the Board has jurisdiction.  
(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.17 ENFORCEMENT PROCEEDINGS.

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

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

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

(1) Personal service to the alleged violator;

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

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

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

(1) The date and time of issuance;

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

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

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

(5) The facts constituting the offense;

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

(7) The name of the code enforcement officer;

(8) The civil fine that may be imposed for the violation, 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 Code Enforcement Board to contest the citation; the determination that the violation was committed shall be final; the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation; and the person shall be deemed to have waived the right to appeal the final order to District Court.

(D) After issuing a citation to an alleged violator, the code enforcement officer shall notify the Code Enforcement Board by delivering the citation to the City Administrator and the Chairman and members of the Code Enforcement Board with a copy to the City Attorney. Such notification may be by email with the citation attached.

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

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

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

§ 37.18 HEARING; NOTICE; FINAL ORDER.

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

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

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

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

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

(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 delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

#### § 37.19 PRESENTATION OF CASES.

Each case before the Code Enforcement Board shall be presented by an attorney selected by the city, a code enforcement officer for the city, or by a member of the city's administrative staff. The City Attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but shall in no case serve in both capacities.

(Ord. 03-14, passed 6-16-03; Am. Ord. 16-13, passed 12-19-16)

#### § 37.20 APPEALS; FINAL JUDGMENT.

(A) An appeal from a final order of a Code Enforcement Board following a hearing conducted pursuant to § 37.18(E) of this subchapter may be made to the Crittenden County District Court within 30 days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) If the citation is contested and a hearing before the Code Board is required, the following maximum penalties may be imposed at the discretion of the Code Board:

VIOLATION	1ST OFFENSE	2ND OFFENSE	ALL OTHERS
Animals	\$100 per animal	\$200 per animal	\$250 per animal
Building and Construction Codes	\$500	\$750	\$1,000
Garbage	\$75	\$150	\$250
Occupational Licenses	\$500	\$750	\$1,000
Junked vehicles	\$75	\$125	\$225
Weeds, nuisances, if not otherwise stated plus cost of abatement	\$50	\$75	\$200

(C) In addition to the above fines as stated in division (A) and (B) there shall be assessed administrative expenses in the amount of \$35.

(Ord. 03-14, passed 6-16-03; Am. Ord. 05-3, passed 2-21-05; Am. Ord. 16-13, passed 12-19-16)

#### § 37.22 LIENS; FINES; CHARGES; FEES.

(A) The city shall possess a lien on property owned by the person found by a nonappealable final order as defined by § 37.10(D) of this subchapter, or by a final judgment of the court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance, including abatement costs. An affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

(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 until paid. The lien shall continue for ten years following the date of the nonappealable final order or final court judgment.

(B) If the citation is contested and a hearing before the Code Board is required, the following maximum penalties may be imposed at the discretion of the Code Board:

VIOLATION	1ST OFFENSE	2ND OFFENSE	ALL OTHERS
Animals	\$100 per animal	\$200 per animal	\$250 per animal
Building and Construction Codes	\$500	\$750	\$1,000
Garbage	\$75	\$150	\$250
Occupational Licenses	\$500	\$750	\$1,000
Junked vehicles	\$75	\$125	\$225
Weeds, nuisances, if not otherwise stated plus cost of abatement	\$50	\$75	\$200

(C) In addition to the above fines as stated in division (A) and (B) there shall be assessed administrative expenses in the amount of \$35.

(Ord. 03-14, passed 6-16-03; Am. Ord. 05-3, passed 2-21-05; Am. Ord. 16-13, passed 12-19-16)

#### § 37.22 LIENS; FINES; CHARGES; FEES.

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(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 until paid. The lien shall continue for ten years following the date of the nonappealable final order or final court judgment.

(C) Subject to § 37.24 of this subchapter, 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 division (A) of this section, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the city in connection with the enforcement of the subchapter. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(Ord. 03-14, passed 6-16-03; Am. Ord. 03-24, passed 11-17-03; Am. Ord. 16-13, passed 12-19-16)

#### § 37.23 LIENHOLDER NOTIFICATION SYSTEM.

The city shall obtain and maintain priority over previously filed liens, as provided in § 37.22 of this subchapter, in accordance with the following provisions:

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

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

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

(C) When available, a registrant may use the electronic form provided on the city website to submit the information required by division (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 month the city shall send electronic mail notification of all final orders entered pursuant to this subchapter since the last date of notification to each party registered pursuant to this section. The notification shall provide an electronic link to the city code enforcement database located on the city website. The database shall include the following information regarding each final order:

- (1) The name of the person charged with a violation;
- (2) The physical address of the premises where the violation occurred;
- (3) The last known mailing address for the owner of the premises where the violation occurred;
- (4) A copy of the full citation;
- (5) A copy of the full final order; and
- (6) The status of the final order regarding its ability to be appealed pursuant to this subchapter.

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

(F) Within ten days of the issuance of a final order pursuant to this section, the city shall update its code enforcement database to reflect the issued final order, and shall post the notification required by division (D) 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. 16-13, passed 12-19-16)

§ 37.24 LIENS.

(A) A lienholder of record who has registered pursuant to § 37.23(B) of this subchapter may, within 45 days from the date of issuance of notification under § 37.23(D) of this subchapter:

(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 subchapter, including abatement costs.

(B) Nothing in this section shall prohibit the city from taking immediate action if necessary under § 37.25 of this subchapter.

(C) The lien provided by § 37.22 shall not take precedence over previously recorded liens if:

(1) The city failed to comply with the requirements of § 37.23 for notification of the final order; or

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

(D) A lien that does not take precedence over previously recorded liens under division (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 division (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 §§ 37.23 and 37.24, or failure of a lien to take precedence over previously filed liens as provided in division (C) of this section, shall not limit or restrict any other remedies the city has against the property of the violator. (Ord. 16-13, passed 12-19-16)

#### § 37.25 IMMEDIATE ACTION.

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

(Ord. 16-13, passed 12-19-16)



Section

- 38.01 Compliance with statute
- 38.02 Definitions
- 38.03 Competitive sealed bidding
- 38.04 Competitive negotiation
- 38.05 Negotiations after competitive sealed bidding when all bids exceed available funds; action when no bids received
- 38.06 Noncompetitive negotiation
- 38.07 Small purchases by the city
- 38.08 Cancellation
- 38.09 Determination of responsibility; right of nondisclosure
- 38.10 Prequalification of bidders and offerors
- 38.11 Cost of pricing data
- 38.12 Inspection of contractor's place of business; audit of records
- 38.13 Specifications; items considered equal may be furnished; proprietary products
- 38.14 Cooperative purchasing; price agreement with Commonwealth
- 38.15 Surplus or excess property
- 38.16 Bid bonds
- 38.17 Contract performance and payment bonds
- 38.18 Conflict of interest; gratuities and kickbacks; use of confidential information
- 38.19 Statement of public policy
- 38.20 Recovery of value of anything transferred or received in breach of ethical standards

§ 38.01 COMPLIANCE WITH STATUTE.

The intent of this chapter is to establish procedures which are in conformance with the Kentucky Model Procurement Code, KRS 45A.345 through 45A.460. It is the intent of the city to comply with the letter and spirit of the statute in making all contracts and purchases whether or not each requirement of the statute is specifically referred to in this chapter.

(Ord. 09-09, passed 10-19-09)

§ 38.02 DEFINITIONS.

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

"CONFIDENTIAL INFORMATION." Any information which is available to an employee only because of his or her status as an employee of the city and is not a matter of public knowledge or available to the public on request.

"CONSPICUOUSLY." Written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.



"DEBARMENT." The disqualification of a person to receive invitations for bids or requests for proposals, or the award of a contract by the city for a specified period of time.

"FINANCIAL INTEREST."

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has, within the past three years, received or is presently or in the future entitled to receive more than \$1,000 per year, or its equivalent; or

(2) Ownership of more than a 10% interest in any business; or

(3) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

"GRATUITY." A payment, loan, subscription, advance, deposit of money, services, or anything of more than \$50 value, present or promised, unless consideration of substantially equal or greater value is received.

"IMMEDIATE FAMILY." A spouse, children, grandchildren, parents, grandparents, brothers and sisters, and such other relatives as designated by the city.

"OFFICIAL RESPONSIBILITY." Direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct city actions.

"SUSPENSION." The disqualification of any person to receive invitations for bids or requests for proposals, or to be awarded a contract by the city for a temporary period, pending the completion of an investigation and any legal proceedings that may ensue.  
(Ord. 09-09, passed 10-19-09)

§ 38.03 COMPETITIVE SEALED BIDDING.

(A) All contracts or purchases shall be awarded by competitive sealed bidding, except as otherwise provided by KRS 45A.370 to 45A.385 and for the purchase of wholesale electric power by municipal utilities as provided in KRS 96.901(1).

(B) The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(C) Adequate public notice may include posting on the Internet or publication in a newspaper of general circulation in the local jurisdiction not less than seven days before the date set for the opening of the bids. The public notice shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.

(D) The bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this section.

(E) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price.

(F) The city may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.  
(Ord. 09-09, passed 10-19-09)

#### § 38.04 COMPETITIVE NEGOTIATION.

(A) The city may contract or purchase through competitive negotiation upon a written finding that:

(1) Specifications cannot be made sufficiently specific to permit award on the basis of either the lowest bid price or the lowest evaluated bid price, including, but not limited to, contracts for experimental or developmental research work, or highly complex equipment which requires technical discussions, and other nonstandard supplies, services, or construction; or

(2) Sealed bidding is inappropriate because the available sources of supply are limited, the time and place of performance cannot be determined in advance, the price is regulated by law, or a fixed price contract is not applicable; or

(3) The bid prices received through sealed bidding are unresponsive or unreasonable as to all or part of the requirements, or are identical or appear to have been the result of collusion; provided each responsible bidder is notified of the intention to negotiate and is given a reasonable opportunity to negotiate, and the negotiated price is lower than the lowest rejected bid by any responsible bidder.

(B) Proposals shall be solicited through public notice pursuant to KRS 45A.365(3) or any other means which can be demonstrated to notify

an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement. The request for proposals shall indicate the factors to be considered in the evaluation and the relative importance of each factor.

(C) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(1) With respect to prices, where such prices are fixed by law or regulation except that consideration shall be given to competitive terms and conditions; or

(2) Where time of delivery or performance will not permit discussions; or

(3) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with that particular supply, service, or construction item that acceptance of an initial offer without discussion would result in fair and reasonable prices and the request for proposal notifies all offerors of the possibility that award may be made on the basis of initial offers.

(D) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions. A request for proposals based on revised specifications or quantities shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror. No discussion shall be conducted with offerors after submission of revised proposals except for a compelling reason as determined in writing by the city. The request for proposals shall state that an award is to be made without discussion except as herein provided.

(E) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city based upon the evaluation factors set forth in the request for proposals.  
(Ord. 09-09, passed 10-19-09)

§ 38.05 NEGOTIATIONS AFTER COMPETITIVE SEALED BIDDING WHEN ALL BIDS EXCEED AVAILABLE FUNDS; ACTION WHEN NO BIDS RECEIVED.

(A) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.365 result in bid prices in excess of the funds available for the purchase, and the city determines in writing:

(1) That there are no additional funds then available from any source so as to permit an award to the lowest responsive and responsible bidder; and

(2) The best interest of the city will not permit the delay attendant to a resolicitation under revised specifications or revised quantities under competitive sealed bidding as provided in KRS 45A.365; then a negotiated award may be made as set forth in divisions (B) or (C).

(B) Where there is more than one bidder, competitive negotiations pursuant to KRS 45A.370 shall be conducted with the three (two if there are only two) bidders determined in writing by the city to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(1) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(2) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror. No discussion shall be conducted with offerors after submission of proposals except for a compelling reason as determined in writing by the city. The request for proposals shall state that award is to be made without discussions except as herein provided.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.380.

(Ord. 09-09, passed 10-19-09)

#### § 38.06 NONCOMPETITIVE NEGOTIATION.

The city may contact or purchase through noncompetitive negotiation only when a written determination is made that competition is not feasible and it is further determined in writing by the City Administrator or his designee that:

(A) An emergency exists which will cause public harm as a result of the delay in competitive procedures; or

(B) There is a single source within a reasonable geographical area of the product or service to be procured; or

(C) The contract is for the services of a licensed professional, such as attorney, physician, psychiatrist, psychologist, certified public accountant, registered nurse, or educational specialist; a technician such as a plumber, electrician, carpenter, or mechanic; or an artist such as a sculptor, aesthetic painter, or musician, provided, however, that this provision shall not apply to architects or engineers providing construction management services; or

(D) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, such as fresh fruits, vegetables, fish or meat;

(E) The contract is for replacement parts where the need cannot be reasonably anticipated and stockpiling is not feasible;

(F) The contract is for proprietary items for resale;

(G) The contract or purchase is for expenditures made on authorized trips outside of the boundaries of the city.

(H) The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids;

(I) The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, and unemployment insurance; or

(J) The contract is for a sale of supplies at reduced prices that will afford a purchase at savings to the city.  
(Ord. 09-09, passed 10-19-09)

#### § 38.07 SMALL PURCHASES BY THE CITY.

The city may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed \$20,000 if small purchase procedures are in writing and available to the public.

(Ord. 09-09, passed 10-19-09)

#### § 38.08 CANCELLATION.

An invitation for bid, a request for proposal or other solicitation may be canceled, or all bids or proposals may be rejected, if it is determined in writing that such action is in the best interest of the city.

(Ord. 09-09, passed 10-19-09)

§ 38.09 DETERMINATION OF RESPONSIBILITY; RIGHT OF NONDISCLOSURE.

(A) A written determination of responsibility of a bidder or offeror shall be made, based on a reasonable inquiry conducted by the city. The unreasonable failure of a bidder or offeror to promptly supply information upon request may be grounds for a determination of non-responsibility of such bidder or offeror.

(B) A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the city with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "KNOWINGLY" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

(C) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the city without prior written consent of the bidder or offeror.

(Ord. 09-09, passed 10-19-09)

§ 38.10 PREQUALIFICATION OF BIDDERS AND OFFERORS.

(A) Suppliers may be pre-qualified as responsible prospective contractors for particular types of supplies, services, and construction.

(B) No supplier shall be pre-qualified as a responsible prospective contractor until the supplier provides the city with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth.

(C) "KNOWINGLY" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

(D) Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include, but shall not be limited to, such pre-qualified prospective contractors. Pre-qualification shall not foreclose a written determination:

(1) Between the time of bid opening or receipt of offers in the making of an award that a pre-qualified prospective contractor is not responsible; or

(2) That a prospective contractor who is not pre-qualified at the time of the bid opening or receipt of offers is responsible.  
(Ord. 09-09, passed 10-19-09)

§ 38.11 COST OR PRICING DATA.

(A) A contractor shall submit cost or pricing data and shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date prior to the date of:

(1) Pricing of any negotiated contract where the total contract price is expected to exceed \$50,000, or such lesser amount as may be prescribed by the city; or

(2) Pricing of any change order or contract modification which is expected to exceed \$25,000, or such lesser amount as may be prescribed by the city.

(B) Any contract, change, or modification thereto under which a certificate is required shall contain a provision that the price to the City of Marion, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

(C) The requirement of this section need not be applied to contracts where the price negotiated is based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation, or in exceptional cases where it is determined in writing that the requirements of this section may be waived, and the reasons for such waiver are enumerated in the determination.  
(Ord. 09-09, passed 10-19-09)

§ 38.12 INSPECTION OF CONTRACTOR'S PLACE OF BUSINESS; AUDIT OF RECORDS.

(A) The city may inspect the plant or place of business of a contractor or any subcontractor under any contract awarded or to be awarded by the city.

(B) The city may audit the books and records of any person who has submitted cost or pricing data under KRS 45A.405, at any time until the period of record retention as set forth in division (C) shall have expired. The right to audit hereunder shall only extend to those books and records reasonably connected with cost or pricing data submitted under KRS 45A.420, and such books and records shall be maintained by the contractor or subcontractor for the period specified in division (C).

(C) The city shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-priced type contract, provided, however, that this subparagraph shall not limit the right to audit as set forth in division (B). Such books and records shall be maintained by the contractor for a period of five years from the date of final payment under the prime contract and by the subcontractor for a period of five years from the date of final payment under the subcontract. (Ord. 09-09, passed 10-19-09)

§ 38.13 SPECIFICATIONS; ITEMS CONSIDERED EQUAL MAY BE FURNISHED; PROPRIETARY PRODUCTS.

(A) The city shall use specifications which assure the maximum practicable competition to meet the city's needs.

(B) The city shall ensure that every invitation for bids or request for specifications may be furnished. The specifications may identify a sole brand in cases where, in the written opinion of the Chief Procurement Officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the owner and the design professional responsible for the specifications:

(1) It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate.

(2) It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and

(3) It conforms substantially to the detailed requirements for the item in the specifications.

(C) A specification which describes a product which is proprietary to one company may be used only when no other kind of specification is reasonably available to describe requirements. (Ord. 09-09, passed 10-19-09)

§ 38.14 COOPERATIVE PURCHASING; PRICE AGREEMENT WITH COMMONWEALTH.

(A) The City of Marion may enter into an agreement for cooperative purchasing with any other local public agency. When the city contracts for supplies, services, or construction pursuant to KRS 45A.365, 45A.370, 45A.375, or 45A.380, all other parties to the agreement shall be deemed to have complied with the provisions of those sections.

(B) Nothing in KRS 45A.345 to 45A.990 shall deprive the city from negotiating with vendors for supplies where such supplies are the



subject of a price agreement with the Commonwealth of Kentucky provided, however, that no contract executed under this section would authorize a price higher than is contained in the price agreement with the Commonwealth of Kentucky for such specific supplies.

(Ord. 09-09, passed 10-19-09)

§ 38.15 SURPLUS OR EXCESS PROPERTY.

(A) The city may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.

(B) A written determination as to need of suitability of any personal property of the city shall be made; and such determination shall fully describe the personal property; its intended use at the time of acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.

(C) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with KRS 45A.365.

(D) In the event that the city receives no bids for surplus or excess personal property, either at public auction or by sealed bid, such property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the city. In such instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of surplus or excess personal property shall be transferred to the general fund of the city.

(Ord. 09-09, passed 10-19-09)

§ 38.16 BID BONDS.

(A) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the city to exceed \$25,000. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the city. Nothing herein prevents the requirement of such bonds on construction contracts under \$25,000 when the circumstances warrant.

(B) Bidder's security shall be in an amount equal to at least 5% of the amount of the bid.

(C) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided,

however, that the city may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(D) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

(Ord. 09-09, passed 10-19-09)

§ 38.17 CONTRACT PERFORMANCE AND PAYMENT BONDS.

(A) When a construction contract is awarded in an amount in excess of \$25,000, the following bonds shall be furnished to the city, and shall become binding on the parties upon the award of the contract:

(1) A performance bond satisfactory to the city executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the city, in an amount equal to 100% of the contract price as it may be increased; and

(2) A payment bond satisfactory to the city, executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or his or her subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the original contract price.

(B) Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in division (A), including, but not limited to, bonds for the payment of taxes and unemployment insurance premiums.

(Ord. 09-09, passed 10-19-09)

§ 38.18 CONFLICT OF INTEREST; GRATUITIES AND KICKBACKS; USE OF CONFIDENTIAL INFORMATION.

(A) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefore, in which to his or her knowledge:

(1) He, she, or any member of his immediate family has a financial interest therein; or

(2) A business or organization in which he, she or any member of his or her immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(3) Any other person, business, or organization with whom he, she or any member of his or her immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(B) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefore.

(C) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(D) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in the city's written contract and solicitation therefore.

(E) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.  
(Ord. 09-09, passed 10-19-09)

#### § 38.19 STATEMENT OF PUBLIC POLICY.

(A) Public employment is a public trust.

(B) It is the policy and purpose of KRS 45A.345 to 45A.460 to promote and balance the object of protecting government integrity and of facilitating the recruitment and retention of personnel needed by the city by prescribing essential restrictions against conflict of interest without creating unnecessary barriers to public service and by

facilitating development of fair and competitive access to the city purchasing by responsible contractors.

(C) Employees must discharge their duties and responsibilities fairly and impartially. They should also maintain a standard of conduct that will inspire public confidence in the integrity of the government of the city.

(Ord. 09-09, passed 10-19-09)

§ 38.20 RECOVERY OF VALUE OF ANYTHING TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS.

(A) The value of anything transferred or received in breach of the ethical standards of KRS 45A.345 to 45A.990 or regulations or rules issued thereunder by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

(B) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery against other offending parties.

(Ord. 09-09, passed 10-19-09)



Section

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GENERAL PROVISIONS

§ 39.01 PURPOSE.

The purpose of the City of Marion Revolving Loan Fund is to provide incentive financing or gap financing for existing or potential businesses creating gainful employment for residents of Crittenden County. The RLF will be used in a secondary or supplementary role with company equity and other financing in the financing structure of an applicant's project.  
(Ord. 87-27, passed 6-29-87)

§ 39.02 GOALS AND OBJECTIVES.

(A) A goal of the city is job creation and retention. Through the Revolving Loan Funds, the city can take an active, leading role in the economic development of the community and provide necessary assistance in meeting the stated goal.

(B) Objectives of the Revolving Loan Fund include, but are not limited to approving projects that are sound and capable of repaying the loan and to maximize earnings through investments.  
(Ord. 87-27, passed 6-29-87)

#### ORGANIZATION AND ADMINISTRATION

##### § 39.10 REVOLVING LOAN FUND BOARD.

(A) The City Council will establish a Revolving Loan Fund Board composed of seven members, one of which shall be a Councilmember. The RLF Board will be representative of a cross section of area leaders with experience and expertise in business finance and economic development. Members will be appointed by the Mayor with approval by the City Council.

(B) The RLF Board will establish, evaluate, and carry out policy, establish loan conditions, and recommend disposition of loans under the Revolving Loan Fund.

(C) The Mayor shall serve as Loan Fund Manager and will act as liaison between potential borrowers and RLF Board of Directors. The Mayor may delegate this authority or request assistance as needed.

(D) In addition, three members of the Board will serve as a Loan Review Committee. This Loan Review Committee will, with the assistance of the RLF Manager, review all loan requests and make recommendations to the full Board regarding the various requests.

(E) The RLF Board of Directors shall present a written report regarding RLF activities and status of the fund to the City Council annually.

(Ord. 87-27, passed 6-29-87)

##### § 39.11 PROCESSING FEES.

A fee of \$100 may be charged to cover the costs of processing an application. This fee may be levied only on those applicants desiring to submit an application for consideration. No charge shall be made for initial contact or preliminary discussions required for the development of a possible application.

(Ord. 87-27, passed 6-29-87)

##### § 39.12 TECHNICAL AND MANAGERIAL ASSISTANCE.

Due to their involvement with and knowledge of other sources of financing, the Pennyryle Area Development District may provide technical and managerial assistance and secretarial support to the Revolving Loan Fund Board and potential applicants. Technical assistance shall consist of: working with applicants and other loan participants to develop a feasible project, seeking additional loan

sources which may be available, and reviewing proposals and advising the RLF Board and Manager on merits of the loan.  
(Ord. 87-27, passed 6-29-87)

#### § 39.13 SERVICING OF LOANS.

The Revolving Loan Fund will not directly engage in the servicing of its portfolio. The Board will negotiate with outside sources, preferably the first lender, who possess the necessary skills to service the loans. Funds will, however, be on deposit in a specially created account at a local financial institution and managed by the office of the City Administrator and any checks shall require the signature of the City Treasurer.  
(Ord. 87-27, passed 6-29-87)

#### § 39.14 MONITORING OF LOAN.

The RLF Manager or his designee will conduct a monitoring visit of each project at least twice a year to determine if there are any problems that jeopardize the loan. The RLF and servicing agency will keep each other informed about problems they encounter. If they so desire, the Board may request periodic financial reports from the company as a condition of loan approval.  
(Ord. 87-27, passed 6-29-87)

#### § 39.15 SOLICITATION OF LOANS.

The Revolving Loan Fund will recruit potential borrowers through several methods. The RLF Manager will actively solicit participation through private lenders, referrals from the Kentucky Development Finance Authority, Community Development Block Grant Program, Pennyriple Area Development District, and other sources as appropriate.

These development agencies will be in the position of making RLF program information available to various enterprises with which they have contact.  
(Ord. 87-27, passed 6-29-87)

#### § 39.16 EVALUATION MECHANISM.

(A) Every six months the RLF Manager will monitor the projects in the RLF portfolio, evaluate the loans made, and determine progress made in obtaining goals and objectives cited in the RLF administration plan. Factors such as jobs created, jobs retained, potential for future job creation, tax revenues created, types of jobs created, minority and/or women's business assisted, and the ratio of RLF dollars to jobs retained/created will be considered in this evaluation process. Results of all project evaluations will be presented to the RLF Board and the city in an annual report of RLF activity.

(B) All assurances as specified in Community Development Block Grant regulations shall be agreed to by the borrower in order to receive funds. No application shall be approved unless the



statement of assurances is properly signed. The Loan Manager will submit request for use forms to the Department of Local Government prior to release of funds. This notification process shall be to ensure conformance with CDBG regulations.

(C) Investments of idle funds shall be in conformance with Kentucky Revised Statutes as they relate to investment practices of local governments.

(Ord. 87-27, passed 6-29-87; Am. Ord. 07-10, passed 11-19-07; Am. Ord. 08-07, passed 5-29-08)

#### ELIGIBILITY REQUIREMENTS

##### § 39.25 ELIGIBLE APPLICANTS.

(A) The applicant must be a registered sole proprietorship, partnership, or corporation with an eligible project under the Fund's criteria, intending to operate a business in Crittenden County.

(B) The applicant must possess good character and reputation. Character references will be required. References may include creditors, past employers, or others who possess knowledge of the applicant.

(Ord. 87-27, passed 6-29-87)

##### § 39.26 ELIGIBLE PROJECTS.

The following are eligible projects.

(A) Loans for acquisition and assembly of land for industrial or commercial use.

(B) Loans for acquisition of properties with redevelopment potential for industrial and commercial use.

(C) Loans for the acquisition and related costs of machinery and equipment.

(D) Loans for the start-up or expansion of industries in the county.

(E) Loans for the rehabilitation and renovation of usable vacant buildings for specific industrial or commercial industries.

(F) Loans or combination loans/grants for the acquisition of land, construction of new facilities, and/or rehabilitation of existing buildings for public use by government agencies or institutions.

(G) The City Council may vote to fund the activities of the Crittenden County Economic Development Corporation with revolving loan fund proceeds.

(Ord. 87-27, passed 6-29-87; Am. Ord. 07-10, passed 11-19-07; Am. Ord. 14-06, passed 8-18-14)

#### § 39.27 INELIGIBLE PROJECTS.

The following are ineligible projects.

(A) Business selling or serving alcoholic beverages as its principal means of business.

(B) Speculative building.

(C) Loans to retire existing debt.

(D) Business activity located outside the boundaries of Crittenden County.

(E) Any other projects determined not to be in the best interests of the citizens of Crittenden County.

(Ord. 87-27, passed 6-29-87; Am. Ord. 03-21, passed 9-29-03)

#### § 39.28 ELIGIBLE COSTS.

Loans and grants made under the RLF can be used to finance:

(A) Land costs. All related costs related to the acquisition and development of land for industrial or commercial use.

(B) Building costs. All costs associated with acquisition, construction, and rehabilitation of buildings for industrial or commercial use, including leasehold improvements.

(C) Machinery and equipment costs. All related costs associated with acquisition and installation of machinery and equipment.

(D) Working and start-up capital. Under special conditions, loans of this nature will be considered.

(E) Facility development costs. Costs for facility development necessary for project completion (i.e., water lines, sewer lines, access roads, etc.)

(Ord. 87-27, passed 6-29-87)

#### LOAN PROCEDURES

#### § 39.40 LOAN REVIEW FACTORS.

The following factors will be considered in the loan review process of all RLF applications:

(A) Highest priority will be given to creating at least one job per every \$15,000 of RLF monies. Except under exceptional circumstances, the RLF will not consider projects where the ratio exceeds \$30,000 per new, permanent, job created. Jobs used for purposes of this ratio are those existing at the end of two years after start-up. Construction jobs in the building of a facility are not included.

(B) No RLF loans shall be made if funding is otherwise available from private lenders on terms that would allow for the successful completion of the project. The applicant should be able to produce a letter of commitment from private lenders setting forth the amount, the terms, and expected collateral of the loan.

(C) The RLF will give priority to loans made on a joint participation with other private sector sources. In addition, the RLF will require minimum owner equity in the project of 10%. The RLF will give priority to projects where its participation does not exceed 50% of total project costs. The RLF will strive to limit participation to 25%, but will accept applications in excess of 25% but not to exceed 50% on a case-by-case basis.

(D) No RLF loans can be used to refinance existing debt.

(E) The RLF will not participate in projects outside the geographical boundary of Crittenden County.  
(Ord. 87-27, passed 6-29-87; Am. Ord. 03-21, passed 9-29-03)

#### § 39.41 TERMS AND CONDITIONS.

The RLF shall exercise flexibility in negotiating terms with applicants and the participating financial institutions. The following conditions, however, are set as minimum guidelines:

(A) The RLF reserves the right to sell their interest in a loan package where the Revolving Loan Fund Board deems advisable.

(B) The RLF would accept convertible subordinated debt, with or without deferral provisions for either principal or interest.

(C) Where appropriate in debt position, liens will be taken covering all assets. A subordinated position will not be accepted where an inordinate amount of risk is evident.

(D) Personal guarantees may be required of owners who control at least 20% of the company.

(E) The RLF will impose the following maximum term requirements and restrictions on loans:

(1) Building: 10 - 20 years.

(2) Machinery and equipment: 5 - 7 years or the usable life of the equipment.

(3) Working capital: 2 - 4 years.

(F) Rates will be negotiated by the RLF Board, but in no case shall it be less than 4%.

(G) In negotiating terms for potential borrowers, terms will not be made that cannot be feasibly met. A thorough credit analysis will be undertaken prior to negotiating loan terms.

(H) Where the applicant is a government agency requesting a combination loan/grant in accordance with § 39.26(F), the RLF Board shall not consider such applications where the grant-to-loan amount requested is higher than 1:1. In other words, the loan amount in a combination loan/grant application must be 50% or more of the total amount requested.

(Ord. 87-27, passed 6-29-87; Am. Ord. 03-21, passed 9-29-03; Am. Ord. 07-10, passed 11-19-07)

#### § 39.42 APPLICATION PROCEDURES.

(A) Initial meeting. The initial meeting that the RLF Manager will conduct with a potential borrower will be to determine eligibility, generally discuss the project, and explain the application process and needed information. At this point, projects which are ineligible or which do not look strong should be referred to proper funding sources or discouraged from applying. The Loan Manager will explain that the following items will be required from the applicant prior to the next meeting:

(1) A brief description of the request, including total project cost, loan amount requested, purpose of loan, terms requested, business plan and marketing study, if available.

(2) The Loan Fund Manager and the potential borrower will make the first attempt at structuring the financing of the project.

(3) An economic impact statement, including the number and type of jobs to be retained or created at the end of two years.

(4) Historical financial data, both company and personal.

(5) Three-year financial projections or pro forma.

(6) Resumes of key personnel.

(7) Any other items requested of applicant by the RLF Manager of Board.

(B) Loan application process. Upon determination of applicant eligibility, the borrower will complete the loan application form. Prior to this, the borrower will have been issued full information on the loan selection criteria and standard conditions and federally required assurances and conditions. In conjunction with the above cited standard forms, the RLF Board of Directors shall request the following information, much of which will be included as part of the applicant's business plan.

(1) Financial information, where relevant, which shall include:

(a) Current audited financial statement, including balance sheets, income statement with auditor's footnotes, and supporting statements for the applicant's three most recent years, where applicable, and audited consolidated financial and income statements, with auditor's footnotes, of any parent company for the three most recent fiscal years, also where applicable.

(b) Most recent interim financial statements of the applicant and, if applicable, of its parent company, certified by officers of the respective companies and maintained current during the loan application process.

(c) Projected pro forma balance sheets, income statements, cash flow, and supporting statements of the applicant on a quarterly basis, from the date of the latest interim financial statement through a three-year period of operation. Such statements should reflect the applicant's ability to repay principal out of earnings.

(2) Such non-financial information as the RLF Board of Directors deems necessary to substantiate the pro forma projections. These may include, but not be limited to:

(a) Estimates, firm quotations, receipts, contracts, orders, invoices, leases or equivalent documentation from architects, engineers, contractors, subcontractors, material suppliers, lessors, or others involved in the sale, lease, or construction of fixed assets, if any, for applicant's project including schedules of implementation.

(b) Any backup information regarding the applicant's operating costs, including projected employment by job category and applicable wage rate, cost, and availability of raw materials and energy.

(3) General information about company management capabilities, including resumes of top management and detailed marketing strategies.

(4) Such additional information as the RLF Board of Directors may require regarding collateral, appraisals, valuations of nonproject assets, and guarantees.

(5) Completed applications.

(6) Signed statement of assurances.  
(Ord. 87-27, passed 6-29-87)

Editor's note:

The RLF full loan application form is attached to Ordinance 87-27 (on file in the City Clerk's office) as Appendix I.

§ 39.43 SELECTION AND APPROVAL OF LOANS.

(A) Application review and evaluation. Upon completion of the RLF full application, the RLF Loan Review Committee will carry out a loan review and submit its recommendations for approval or disapproval and the basis for such recommendation to the full Board. The RLF Board will then consider the recommendation made by the Loan Review Committee. The Board may solicit or allow additional comment or advisement if it so desires. The Board shall then approve or deny the loan. The RLF Board of Directors will utilize and fully consider all loan selection criteria to ascertain whether the proposed project is consistent with the economic development strategy for city. The Board will determine whether all loan requirements can be met and shall apply their financial experience and judgment to the project having considered all available information.

(B) Loan Fund Board approval. Upon final approval, the RLF Board Chairman will forward the entire package to the City Administrator, with a request to draw down funds to the borrower. If an agreement has been reached with a local financial institution for servicing the RLF's loans, then the package shall be forwarded to that institution.  
(Ord. 87-27, passed 6-29-87)

§ 39.44 LOAN CLOSING PROCEDURES.

(A) The RLF will closely coordinate all loan closing activity with the first participation lender to avoid duplication and to hold closing costs to a minimum. The RLF, working with the participating lender, will make all necessary preparations for the closing. After scheduling the date of closing, the RLF will prepare the information and documentation for closing, including:

- (1) RLF Agreement.
- (2) Participating Agreement between RLF and the first position lender.
- (3) Promissory or mortgage notes.
- (4) Check from City of Marion Revolving Loan Fund.

(B) All closing costs incurred will be paid by the borrower at the time of closing.  
(Ord. 87-27, passed 6-29-87)

Section

- 40.01 Title
- 40.02 Findings
- 40.03 Purpose and authority
- 40.04 Definitions
- 40.05 Standards of conduct
- 40.06 Financial disclosure
- 40.07 Nepotism
- 40.08 Creation
- 40.09 Powers and duties

§ 40.01 TITLE.

This chapter shall be called the "City of Marion Code of Ethics."  
(Ord. 94-14, passed 12-19-94)

§ 40.02 FINDINGS.

The City Council finds and declares that public office and employment with the city are public trust and the vitality and stability of the city's 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 interest and public duties of a city officer or employee that confidence is undermined.

(Ord. 94-14, passed 12-19-94)

§ 40.03 PURPOSE AND AUTHORITY.

(A) The purpose of this chapter is to provide a method of assuring that standards of ethical conduct for local government officers and employees shall be clear, consistent and uniform in their application, and to provide local officers and employees with advice and information concerning possible conflicts of interest that might arise in the conduct of their public duties.

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

(Ord. 94-14, passed 12-19-94)

§ 40.04 DEFINITIONS.

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

"APPOINTEE." Any person appointed by the executive authority, City Council or any board, commission, committee or other subdivision of the city.

"BOARD OF ETHICS." The City of Marion Board of Ethics, hereinafter



referred to as the Board which is created and vested by this chapter. The Board shall have the responsibility of enforcing the requirements of this chapter.

"BUSINESS." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed individual, holding company, joint stock company, a general or limited partnership.

"CANDIDATE." An individual who seeks nomination or election to a county government office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the Crittenden County Court 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 court clerk or Secretary of State.

"CITY." The City of Marion, Kentucky.

"CITY AGENCY." Any board, commission, authority, nonstock corporation, committee, or other entity formed by the city government. This chapter applies only to officers and employees of agencies created solely by the city. This chapter does not encumber members of boards or commissions that are joint undertakings created by the city and county.

"CITY GOVERNMENT EMPLOYEE." Any person, whether compensated or not, whether full-time or part-time, employed by or serving the city government or city governmental agency who is not a city government officer, but shall not mean any employees of a school district or school board. The term "EMPLOYEE" shall not include any contractor or subcontractor or any of their employees.

"CITY GOVERNMENT OFFICER." Any person, whether compensated or not, whether full-time or part-time, who is elected to any city government office; or any person who serves as a member of the governing body of any city government agency or special taxing or nontaxing district, but shall not mean any officer of a school district or school board.

"FAMILY MEMBER." A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

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

(Ord. 94-14, passed 12-19-94)

#### § 40.05 STANDARDS OF CONDUCT.

(A) No city officer or employee, or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in

substantial conflict with the proper discharge of his/her public duties.

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

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

(D) No city officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice his/her independence of judgment in the exercising of his/her official duties.

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

(F) No city 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 housing, including travel and expenses, entertainment, or meals furnished in connection with public events, appearance, ceremonies or fact-finding trips related to official city business.

(G) No city officer or employee shall use, or allow to be used, any information he/she has knowledge of to achieve financial gain for himself/herself or any member of his/her immediate or family members or for any business or business organization in which he/she may have vested interest.

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

(I) City officers or employees are not prohibited from making inquiries for information or providing information or assistance on behalf of a constituent provided that no fee, reward or thing of value is promised or received by the officer, member of his/her immediate family or family member.

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

(K) No officer, employee, appointee or volunteer of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property of the city for private use of any person, unless the use is so small in nature that it confers no substantial benefit upon the officer, employee, appointee or volunteer; and does not interfere in any way with the city's needed or desired use of such property. The exception to this provision may be, at the discretion of the Mayor and/or City Administrator, the authorization of the loan of city time, personnel or equipment to the county, or joint city/county undertakings, such as jointly created boards or commissions.

(Ord. 94-14, passed 12-19-94)

#### § 40.06 FINANCIAL DISCLOSURE.

(A) Who must file. The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

(1) Elected city officials.

(2) Candidates for elected city office.

(3) Nonelected officers and employees of the city or any city agency who are authorized to make purchases of materials or services or award contracts, leases or agreements involving the expenditure of more than \$500.

(B) When to file statements. Financial disclosure statements shall be filed no later than February 15, 1995. All subsequent financial disclosure statements shall be filed no later than February 15 of each year. Candidates shall be required to file the statement no later than 21 days after the filing date or the date of nomination. Newly appointed officers and employees should be required to file their initial statement no later than 21 days after date of appointment.

(C) Form of statement of financial interest. The statement of financial interest shall be filed on a form prescribed by the Board of Ethics. The Board shall deliver a copy of the form to each officer and employee required to file the statement by first class mail or hand delivery, no later than January 30 of each year. Failure of the Board to deliver said statement shall not relieve the officer or employee of the obligation to file.

(D) Content of statement of financial interest. The statement of financial interest shall include the name, current address, business and home telephone number and the occupation of the filer and the filer's spouse.

(1) Filer's name, current home and business addresses, home and business phone numbers, filer's and spouse's occupation.

(2) Any source(s) of income of the filer and the filer's immediate family members that exceeds \$10,000 from any business or entity that has done business with the city or any city agency in the preceding 12 months or anticipates doing business with the city within the next 12 months.

(E) Other conflicts of interest. Any member of the City Council, the Mayor, or a member of his/her immediate family, who has a private interest in any matter pending before the City Council or any city agency shall disclose such private interest to the City Council and the Board of Ethics and shall disqualify himself or herself from participating in any decision or vote relating thereto.

(F) Control and maintenance of statements of financial interest. The statements shall be maintained by the administrative official designated by the Board as the custodian of records for the Board. Records shall be maintained in accordance with the current standards of the Kentucky Department of Libraries and Archives.

(G) Failure to comply with this section will result in a fine of \$500.

(Ord. 94-14, passed 12-19-94)

#### § 40.07 NEPOTISM.

Upon passage of this chapter pursuant to state law, no city officer or employee shall act in his/her official capacity to hire or cause to be hired any member of his/her immediate family at an hourly pay rate or with benefits more than any other employee with similar job duties, responsibilities and qualification requirements.

(Ord. 94-14, passed 12-19-94)

#### § 40.08 CREATION.

(A) There is hereby created a Board of Ethics for the city 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 Mayor, subject to the approval of the City Council. The initial members of the Board of Ethics shall be appointed within 45 days of the effective date of this chapter. The Board, upon the initial appointment of its members, and annually thereafter, shall elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board. No member of the Board of Ethics shall hold any elected or appointed

office, whether paid or unpaid, or any position of employment with the city or any city agency. The members shall serve for a term of no longer than four years. Members shall receive no compensation but may be reimbursed all necessary expenses. Terms shall be staggered.

(C) Vacancies on the Board shall be filled within 45 days by the Mayor subject to the approval of the City Council. If a vacancy is not filled by the Mayor within the specified period, the remaining members of the Board shall fill the vacancy and it shall be filled for the remainder of the unexpired term.

(D) Meetings of the Board shall be held as necessary upon the call of the chairperson or at the written request of a majority of the members.

(E) The presence of two or more members shall constitute a quorum and the affirmative vote of two or more members shall be necessary for any official action to be taken.

(F) Minutes of each meeting shall be recorded and transcribed by the administrative official designated by the Board of Ethics as the official custodian of records. The vote of each member on any issue decided by the Board shall be recorded in the minutes.

(G) The City Council shall appropriate in the annual budget funds to provide the Board with the facilities, materials, supplies, and staff needed for the conduct of its business (including, but not limited to, clerical and legal services). Documents shall be received by the designated administrative official, and filed on or on behalf of the Board of Ethics, who shall immediately communicate to the Board the facts and contents of any and all documents.  
(Ord. 94-14, passed 12-19-94)

#### § 40.09 POWERS AND DUTIES.

(A) The Board of Ethics shall, on the written request of any official, candidate, nominee or employee coming under the Code of Ethics, render advisory opinions concerning the provisions of this chapter. The Board may at its discretion publish its advisory opinion with such deletions as may be necessary to prevent disclosure of the individual or individuals involved or concerned.

(B) The Board shall receive, hear and investigate complaints concerning violations of this chapter. In any instance in which the Board of Ethics finds that a violation of this chapter exists, the Board may impose a civil penalty of not more than \$500 per violation. Any person violating any of the provisions of this chapter shall also be liable to the city for any expense, loss or damage occasioned by the city by reason of such violation. In hearing and investigating complaints concerning violations of this chapter, the Board shall have the power to subpoena witnesses, administer oaths, take testimony and require other production of evidence.

(C) 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.

(D) Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Board of Ethics shall be guilty of a Class A misdemeanor.

(E) Decisions of the Board of Ethics regarding violations shall be appealable to the circuit court.  
(Ord. 94-14, passed 12-19-94)

