

TITLE III: ADMINISTRATION

Chapter

- 30. MAYOR-COUNCIL PLAN**
- 31. CITY OFFICIALS**
- 32. CITY COUNCIL**
- 33. FINANCE AND REVENUE**
- 34. PUBLIC RECORDS**
- 35. TAXATION**
- 36. DISCRIMINATION BASED ON HANDICAPPED STATUS**
- 37. PERSONNEL POLICIES**
- 38. POLICE DEPARTMENT**
- 39. IDENTITY THEFT PREVENTION PROGRAM**

CHAPTER 30: MAYOR-COUNCIL PLAN

Section

- 30.01 Form of government
- 30.02 Governing officers

§ 30.01 FORM OF GOVERNMENT.

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

§ 30.02 GOVERNING OFFICERS.

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

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

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

- 31.01 Oath; bond
- 31.02 Compensation
- 31.03 Removal from office

Elected Officials

- 31.20 Election procedure
- 31.21 Mayor
- 31.22 Councilmembers

Nonelected City Officials

- 31.35 Establishment of nonelected city offices
- 31.36 City Clerk/Treasurer
- 31.37 City Administrator
- 31.38 Industrial Development Authority

GENERAL PROVISIONS

§ 31.01 OATH; BOND.

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

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

§ 31.02 COMPENSATION.

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

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

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

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

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

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

Statutory reference:

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

§ 31.03 REMOVAL FROM OFFICE.

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

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

Statutory reference:

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

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

ELECTED OFFICIALS

§ 31.20 ELECTION PROCEDURE.

(A) The election of candidates to all elected city offices shall be governed by the provisions of this section and by the applicable provisions of KRS Chapter 83A and Chapters 116 to 121.

(1) All candidates for elected city offices shall file their nomination papers with the County Clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Ch. 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.

(2) All nomination papers shall be filed no later than 4 p.m. prevailing local time when filed on the last day on which such papers are permitted to be filed.
(KRS 83A.045(1)(a)) (Ord. 3-6-89, passed 3-20-89)

(3) The election of city officers and council members shall be held at the time of the general election as provided in KRS 83A.045(2)(b). (Ord. 12-11-95A, passed 12-18-95)

(B) The city may change the manner of election of city officers within the provisions of division (A) of this section by ordinance, except that no change shall be made earlier than five years from the last change. (KRS 83A.050(2))

(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. (KRS 83A.050(3))

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

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

(F) No ordinance abolishing any elected office shall be enacted later than 240 days preceding the regular election for that office, except in the event of a vacancy in the office.
(KRS 83A.080(4))

(G) The city may not create any elected office. Existing elected offices may be continued under provision of divisions (D), (E), and (F) above, but no existing elected office may be changed. (KRS 83A.080(5))

(H) As of the effective date of this division (H), the nonpartisan primary election for the nomination of candidates to elected city offices is hereby eliminated as authorized by KRS 83A.045(2)(b).

Statutory reference:

Election of city officers, see KRS 83A.050

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

2008 S-7

§ 31.21 MAYOR.

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

(B) Qualifications. The Mayor shall be at least 25 years of age, shall be a qualified voter in the city, shall be a resident of the city for not less than one year prior to his or her election, and shall reside in the city throughout his term of office.
(KRS 83A.040(1))

(C) Vacancy. If a vacancy occurs in the office of Mayor, the following provisions shall apply:

(1) 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(2), (6))

(2) 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))

(3) 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 legislative body occurring after the date specified in the written letter of resignation. (KRS 83A.040(7))

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

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

(D) Powers and duties.

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

(2) The Mayor shall maintain liaison with related units of local government respecting

interlocal contracting and joint activities.

2008 S-7

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

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

2008 S-7

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

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

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

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

(E) Compensation.

(1) Effective January 1, 2011, the Mayoral salary is hereby established at the rate of \$2,286.56 per month.

(2) The work undertaken by the Mayor benefits five departments presently in place for the benefit of the city: water, sewer, streets, sanitation, and general government. Each of these departments shall be responsible for its pro-rated share of the Mayoral salary on a monthly basis.

(3) The Mayor may participate in the county employee retirement plan. The Mayor may decline retirement benefits from the city. If the Mayor declines retirement benefits from the city and later chooses to receive retirement benefits from the city, the city shall not retroactively provide the Mayor retirement benefits for any portion of the time during which the Mayor decline retirement benefits from the city.

(4) The Mayoral salary shall be reviewed on an annual basis to determine whether or not the salary should be adjusted for cost of living changes, as provided by KRS 83A.075, based on the consumer price index as used by the Governor's Office for Local Development.

(5) The Mayor shall enjoy the option to purchase individual or family health insurance coverage under the plan available to city employees. Any insurance coverage purchased by the Mayor shall be paid in full by the Mayor.
(Am. Ord. 12-20-96-A, passed 1-6-97; Am. Ord. 11-2-98-B, passed 11-16-98; Am. Ord. 12-4-00-A, passed 12-14-00, eff. 1-1-03; Am. Ord. 2010-3-20, passed 4-5-10)

2013 S-8

§ 31.22 COUNCILMEMBERS.

For provisions concerning City Council, see Chapter 32.

NONELECTED CITY OFFICIALS**§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.**

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

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

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

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

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

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

Statutory reference:

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

§ 31.36 CITY CLERK/TREASURER.

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

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

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

2013 S-8

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

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

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

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

1. City Clerk;
2. City Treasurer;
3. City Manager;
4. City Attorney;
5. Finance Director;
6. Police Chief;
7. Fire Chief; and
8. Public Works Director;

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

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

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

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

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

§ 31.37 CITY ADMINISTRATOR.

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

(B) The City Administrator shall serve at the will of the executive authority.

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

2013 S-8

Eddyville - Administration

(1) Develops, applies and administers all federal, state and local grants as approved by the Council.

(2) Performs related work as required.

(3) Advises and recommends to the Mayor policy matters.

(4) Promulgates procedures to insure orderly administration of the functions of the city government and compliance with statutes or ordinances.

(5) Advises Mayor and Council regarding public works programs and personnel.

(6) Advises Mayor and Council regarding maintenance programs and personnel.

(D) 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.

(E) Compensation for this office shall be payable from the General Fund in an amount as approved by the Council.

(Ord. 4-6-92-A, passed 5-4-92)

§ 31.38 INDUSTRIAL DEVELOPMENT AUTHORITY.

(A) Creation of Authority. Pursuant to KRS 152.820 through 152.930, the Eddyville Industrial Development Authority is established, which shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the duties prescribed herein and by KRS 152.810 to 159.930.

(B) Function.

(1) The purpose, duties and powers of the Authority shall be to:

(a) Acquire, retain and develop land for industrial and commercial purposes in the City of Eddyville and Lyon County; aid in the development and promotion of industrial sites, parks and subdivisions to meet industrial and commercial needs in the city and county.

(b) Encourage the acquisition, retention and development of land for industrial and commercial needs in the city and county by other local development organizations, both public and private.

(c) Cooperate with the U.S. Army Corps of Engineers and other federal agencies in formulating development plans and in acquiring and developing land for industrial and commercial purposes in accordance with these plans.

(d) Acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks or subdivisions. The Authority may dispose of any real or personal property, or rights therein, which

in the opinion of the Authority are no longer needed to carry out the purposes of this section. The Authority may sell or convey any or all land owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing or operating any

2001 S-5

City Officials

12A

industrial or commercial facility, provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed

a written contract with the Authority providing that, if no actual construction of an industrial facility is commenced within two years, the organization or industry shall reconvey the land, free and clear of liens and encumbrances, to the Authority, and the Authority shall return to the organization or industry 95% of the purchase price paid therefor.

(2) Upon the adoption by the Authority of a resolution reciting that property is needed for industrial sites, parks and subdivisions and cannot be acquired by negotiation and purchase at its fair market value, the governmental units in which such land is located may direct and institute condemnation proceedings in the name of such governmental units, for the use and benefit of the Authority. The procedure for condemnation shall conform to the procedure set out in the Eminent Domain Act of Kentucky. Upon acquisition of the property, the governmental unit shall convey the property to the Authority upon payment by the Authority to the governmental unit of an amount of money equal to the judgment and costs paid by the governmental unit.

(3) Notwithstanding subdivision (B)(2), and any other provision of this section, no governmental unit shall have the power to condemn property under this section or KRS 152.810 to 152.930 unless the governmental unit has first given proper public notice as required by law stating the specific purpose for which the property to be condemned shall be used and such purposes shall be pleaded and proved in such condemnation action. The property shall be developed within a period of five years pursuant to the purpose stated, and the failure of the Authority to so develop shall entitle the person or persons whose property was condemned to repurchase the property at the price the Authority paid to the governmental unit for the same. The person from whom the land is taken by condemnation shall have the right to reacquire the land as aforementioned by application to the court of competent jurisdiction, if such procedure is necessary, and shall be entitled to recovery of his costs and reasonable attorney's fees necessary to reacquire the land.

(C) Membership.

(1) The Authority shall be composed of six members, three of which shall be appointed by virtue of office and consisting of the Mayor of Eddyville, the Eddyville City Attorney and the Lyon County Judge/Executive, and three of which shall be appointed by the Mayor of Eddyville, which appointments shall be subject to the approval of City Council.

(2) Members of the Authority shall serve for a term of four years each and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that the Mayor shall appoint one member for one year, one member for two years, and one member for three years. Upon expiration of these staggered terms, successors shall be appointed for a term of four years.

(3) An Authority member may be replaced by the appointing Authority upon a showing to such appointing Authority of misconduct as an Authority member or upon conviction of a felony.

(4) 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.

(D) Meetings.

(1) The Authority shall conduct regular meetings as it deems necessary for the transaction of its business. The schedule for regular meetings shall be expressed in by-laws adopted by the Authority.

Eddyville - Administration

(2) Special meetings of the Authority may be called by the chairman or by four members of such Authority.

(3) A quorum for the transacting of the business of the Authority shall consist of four members. All members of the Authority shall be entitled to vote and, after a quorum has been established, a vote of the majority members present shall constitute passage of an issue. In case of tie voting by the Authority, the issue shall be deemed to have failed passage.

(E) Authority of Officers and Employees.

(1) The Authority shall, upon the appointment of its members, select a chairman, vice-chairman and secretary/treasurer, who shall serve for terms of one year. The Authority may fix a salary for the secretary/treasurer, and the secretary/treasurer shall execute an official bond to be set and approved by the Authority, and the costs thereof shall be paid by the Authority.

(2) The secretary/treasurer shall keep the minutes of all meetings of the Authority and shall also keep a set of books showing the receipts and expenditures of the Authority. He/she shall preserve on file duplicate vouchers for all expenditures and shall present to the Authority, upon request, complete reports of all financial transactions and the financial condition of the Authority. Such books and vouchers shall at all times be subject to examination by City Council. He/she shall transmit at least once annually a detailed report of all acts and doings of the Authority to the body.

(3) The Authority may employ necessary council, agents and employees to carry its work and functions and prescribe such rules and regulations as it deems necessary.

(F) Financing of Authority.

(1) In order to provide money for the purchase of property necessary to develop industrial sites, parks and subdivisions, City Council may make appropriations from their general funds for such industrial development.

(2) The Authority may borrow money on its own credit in anticipation of revenue to be derived from appropriations or monies borrowed.

(3) The Authority is authorized to defray the costs of acquiring and developing any industrial sites, parks and subdivisions through the issuance of revenue bonds issued under the terms, conditions, and procedures set forth in KRS 103.200 to 103.285.

(4) The Authority may, as an alternative method and in addition to all other methods provided by law, acquire and develop land for industrial and commercial use, and issue revenue bonds in connection therewith under the terms and provisions of KRS Chapter 58.

(G) Dissolution of Authority. The city may, by a written notice to the industrial development Authority, dissolve the Authority and may further provide that upon such complete termination, all funds, property and other assets held by the Authority shall be returned to the city. No dissolution shall be made until such time as all legal obligations of the Authority shall be satisfied and all existing commitments fulfilled unless, however, it is the will of the city to assume such legal obligations and existing commitments.

(H) Consolidation of Entities.

(1) The Lyon County Riverport Authority and the Eddyville Industrial Development Authority, Inc. have been consolidated to form one entity that shall be known as the Eddyville Riverport and Industrial Development Authority, Inc. and is owned by the City of Eddyville and governed by the Riverport Authority Board.

(2) The Riverport Authority Board governing this consolidated entity shall be composed of six members appointed by the Mayor of Eddyville as per the provisions of KRS 65.540. (Ord. 6-5-95B, passed 6-19-95; Am. Ord. 8-6-01-B, passed 8-13-01; Am. Ord. 5-6-02-B, passed 5-24-02)

2004 S-6

12D

Eddyville - Administration

CHAPTER 32: CITY COUNCIL

Section

General Provisions

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

Rules of Procedure

- 32.20 Mayor as Presiding Officer
- 32.21 Meetings
- 32.22 Quorum

Ordinances

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

GENERAL PROVISIONS

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

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

(B) Qualifications. A member shall be at least 21 years of age, shall be a qualified voter in the city, shall be a resident of the city for not less than one year prior to his or her election, and shall reside in the city throughout his term of office.

(KRS 83A.040(4))

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

§ 32.02 VACANCIES.

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

(1) No vacancy by reason of a voluntary resignation of a member of the 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 legislative body 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))

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

(KRS 83A.040(6))

Statutory reference:

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

§ 32.03 POWERS AND DUTIES.

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

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

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

(KRS 83A.130(12))

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

2008 S-7

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

RULES OF PROCEDURE

§ 32.20 MAYOR AS PRESIDING OFFICER.

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

(B) The Mayor may participate in Council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie.
(KRS 83A.130 (5))

Cross-reference:

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

§ 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held at 6:00 p.m. on the first Monday of each month at the city hall.

(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 as provided under § 31.36 and by the officer presiding at the meeting.
(KRS 83A.130 (11))

§ 32.22 QUORUM.

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

2001 S-5

ORDINANCES**§ 32.35 ONE SUBJECT; TITLE.**

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

(KRS 83A.060 (1))

§ 32.36 INTRODUCTION; ENACTING CLAUSE.

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

(KRS 83A.060 (2))

§ 32.37 FORM OF AMENDMENT.

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

(KRS 83A.060 (3))

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

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

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

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

§ 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

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

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

(KRS 83A.130 (6))

§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

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

(KRS 83A.060(5))

§ 32.41 OFFICIAL CITY RECORDS.

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

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

(KRS 83A.060(8))

§ 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8))

§ 32.43 PUBLICATION REQUIREMENTS.

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

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

(1) The title of the ordinance;

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

2008 S-7 Repl.

(3) The full text of each section that imposes taxes or fees.

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

(KRS 83A.060(9))

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

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

(KRS 83A.060(10))

§ 32.45 PERIODIC REVIEW REQUIRED.

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

(KRS 83A.060(11))

§ 32.46 MUNICIPAL ORDERS.

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

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

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

§ 32.47 PROVED BY CLERK/TREASURER; RECEIVED IN EVIDENCE.

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

(KRS 83A.060(14))

§ 32.48 LEGISLATIVE IMMUNITY.

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

(KRS 83A.060(15))

Statutory reference:

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

2008 S-7

CHAPTER 33: FINANCE AND REVENUE

Section

Financial Administration

- 33.01 Definitions
- 33.02 Accounting records and financial reports
- 33.03 Annual budget ordinance
- 33.04 Annual audit of city funds
- 33.05 Official depositories; disbursement of city funds
- 33.06 Procurement standards

Improvements

- 33.10 Definitions
- 33.11 Financing of improvements
- 33.12 Apportionment of cost
- 33.13 Comprehensive report required
- 33.14 Public hearing required
- 33.15 Adoption of ordinance; notice to affected owners
- 33.16 Affected owner may contest
- 33.17 When city may proceed; assessment constitutes lien
- 33.18 Effect of additional property or change in financing

FINANCIAL ADMINISTRATION

§ 33.01 DEFINITIONS.

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

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

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

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

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

GENERALLY ACCEPTED GOVERNMENTAL AUDITING STANDARDS. Those standards for audit of governmental organizations, 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. No moneys shall be expended from any governmental or proprietary fund except in accordance with a budget ordinance adopted pursuant to this section.

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

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

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

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

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

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

2001 S-5

previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

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

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

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

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

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

(L) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in § 33.02.

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

(KRS 91A.030)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten days of the completion of the audit and its presentation to the city legislative body, pursuant to division (B)(5) this section, each city shall forward three copies of the audit report to the Department for Local Government for information purposes. The Department for Local Government shall forward one copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

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

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

2013 S-8

Eddyville - Administration

(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 governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary under the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

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

(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 Council at a regular or special meeting.

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

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

(D) The city shall, within 30 days after the presentation of an audit to the City Council, publish an advertisement, in accordance with KRS Ch. 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, are on file at city hall and are 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 \$.25 per page; and

2008 S-7

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

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

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

(KRS 91A.040)

Statutory reference:

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

§ 33.05 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 states the name of the person to whom funds are payable, the purpose of the payment, and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

(KRS 91A.060)

§ 33.06 PROCUREMENT STANDARDS.

(A) All procurements made by the city involving the expenditure of Kentucky Community Development Block Grant Funds will be made in accordance with the following procurement standards. Purchases will be reviewed by the Director of Community Development to prevent duplication and to insure that costs are reasonable.

(B) Methods for Procurement. Procurements shall be made by one of the following methods: small purchase procedures, competitive sealed bids, competitive negotiation, or non-competitive negotiation.

2008 S-7

(1) Small purchases.

(a) Purchases of supplies, equipment and services which cost between \$200 and \$10,000 will require written estimates but no legal advertisement is required. The city will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement will be prepared and filed.

(b) Purchases which cost between \$50 and \$200 require three over-the-telephone quotations of rate, price, etc. A memorandum will be prepared setting forth the date the call were made, parties contacted and prices obtained. For purchases of less than \$50, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

(2) Competitive sealed bids.

(a) Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment, or contractual services other than those personal or professional exceeds \$10,000, an Invitation for Bids (IFB) notice will generally be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice will appear not less than seven days and not more than twenty-one days before the due date for bid proposals. The Mayor may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

(b) The IFB will include a general description of the goods or services to be procured, the bid deposit and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB. The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as Section 3 of the 1968 Housing Act, Section 109 of the 1974 Housing and Community Development Act, the Civil Rights Act of 1964, Executive Order 11246 and the Davis-Bacon Act.

(c) Sealed bids will be opened in public at the time and place stated in the IFBs. The bids will be tabulated by the City Clerk at the time of bid opening. The results of the tabulation and the bid documents will be examined for accuracy and completeness by the review committee which will make recommendations to City Council. In addition, the committee determines whether all firms are responsive and responsible. City Council will make the decision as to whom the contract shall be awarded. After the bid award is made by City Council, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

(d) The city may cancel an Invitation for Bid or reject all bids if it is determined in writing that such is in the best interests of the city. The city may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

(C) Competitive Negotiation.

2008 S-7

(1) The city will utilize competitive negotiations, regardless of contract amount, upon a written determination that:

(a) Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid price or the lowest evaluated bid price (in other words, bidding is not feasible).

(b) The services to be procured are professional or personal in nature.

(2) With the exception of procurement of certain professional services (principally engineering services), competitive negotiations will proceed as follows:

(a) Proposals will be solicited through newspaper advertisement; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven days and not more than twenty-one days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor.

(b) The award must be made to the offerer whose proposal is determined in writing by a review committee to be the most advantageous to the city. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

(3) For the procurement of certain professional services, an alternative to an RFP may be used. The city may publish a Request for Qualifications. An RFQ is handled in a similar method to an RFP with the exception that cost is not a factor in the initial evaluation. A review committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the selection committee will negotiate cost. If the committee is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The committee will maintain a written record of all such negotiations.

(D) Non-Competitive Negotiations.

(1) Non-competitive negotiations may be used for procurements in excess of \$10,000 when bidding or competitive negotiations are not feasible. The city may purchase goods or services through non-competitive negotiations when it is determined in writing by the Mayor that competitive negotiation or bidding is not feasible and that at least one of the following applies:

(a) An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures;

(b) The product or service can be obtained only from one source;

Eddyville - Administration

(c) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis;

(d) Only one satisfactory proposal is received through RFP or RFQ; or

(e) The state has authorized the particular type of non-competitive negotiation (example: the procurement of services by an Area Development District).

(2) Procurement by non-competitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The Office of Community Development must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP or RFQ is received.

(E) Contracts. Generally, all procurement in excess of \$200 will be memorialized and supported by a written contract. Where it is infeasible or impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared. The contractual provisions required by the "Common Rule," 24 CFR Part 85 will be included in all contracts.

(F) Documentation. All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data, and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is infeasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc). Whatever form of documentation and filing is employed, the purpose of this section is to insure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost (including the issue of reasonableness of cost) and basis for payment.

(G) Locally Owned, Minority Owned, Female Owned, and Small Businesses. Efforts will be made and documented to solicit participation of locally owned, minority owned, female owned and small businesses. Where feasible, evaluation criteria will include a factor with an appropriate weight for these firms. A list of locally owned, minority owned, female owned and small businesses and also minority businesses located within the trade region shall be maintained and utilized when issuing an IFB, RFP, or RFQ. This list shall also be consulted when making small purchases.

(H) Code of Conduct.

(1) Conflict of interest. No elected official, employee or designated agent of the city will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the city, partners of such individuals, immediate family member, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

(2) Acceptance of gratuities. No elected official, employee or designated agent of the city shall solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, subcontractors, or potential subcontractors.

1996 S-2

(3) Penalties.

(a) Any elected official, employee or designated agent of the city who knowingly and deliberately violates the provisions of this code will be open to civil suit by the citizens of the city without the legal protection of the city. Furthermore, such a violation of these procurement standards is grounds for dismissal by the city.

(b) Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the city. (Ord. 12-13-93-A, passed 1-3-94)

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)

1996 S-2

§ 33.11 FINANCING OF IMPROVEMENTS.

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

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

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

(KRS 91A.220)

Statutory Reference:

Improvements; alternative methods, see KRS Ch. 107

§ 33.12 APPORTIONMENT OF COST.

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

(KRS 91A.230)

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240)

§ 33.14 PUBLIC HEARING REQUIRED.

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

(A) The nature of the improvement;

(B) Description of area of the improvement;

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

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

(E) Time and place of the hearing.

(KRS 91A.250)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

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

(KRS 91A.260)

§ 33.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in § 33.15, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his property in the improvement, or the amount of his assessment. If the action contests the undertaking of the improvement by the special assessment method of the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

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

(KRS 91A.270)

1996 S-2

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

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

(KRS 91A.280)

§ 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

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

(KRS 91A.290)

1996 S-2

CHAPTER 34: PUBLIC RECORDS

Section

General

34.01 Definitions

Procedures for Requesting Public Records

34.05 Initial request with immediate inspection
34.06 Referral to proper custodian
34.07 Public records not immediately available
34.08 Refusal of unreasonable requests
34.09 Time limitation; denial of inspection
34.10 Concealing or destroying records prohibited
34.11 Access to records relating to particular individual
34.12 Format of copies
34.13 Fees for copies
34.14 Misstatement of purpose prohibited
34.15 Online access to public records in electronic form
34.16 Public records protected from disclosure
34.17 Notification of the Attorney General

GENERAL

§ 34.01 DEFINITIONS.

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

CITY. The city government of this city.

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

- (1) Publication or related use of a public record by a newspaper or periodical;
- (2) Use of a public record by a radio or television station in its new or other informational programs; or

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

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

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

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

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

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

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

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

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

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

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

(KRS 61.870)

1994 S-1

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

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

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

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

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

§ 34.06 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4))

§ 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

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

(KRS 61.872(5))

1994 S-1

§ 34.08 REFUSAL OF UNREASONABLE REQUESTS.

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

(KRS 61.872(6))

§ 34.09 TIME LIMITATION; DENIAL OF INSPECTION.

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

(KRS 61.880)

§ 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

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

§ 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

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

(KRS 61.884)

§ 34.12 FORMAT OF COPIES.

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

(B) (1) Nonexempt public records used for noncommercial purposes shall be available for copying in either standard electronic or standard hard copy format, as designated by the party requesting the records, where the agency currently maintains the records in electronic

format. Nonexempt public

1994 S-1

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

(2) The minimum standard format in paper form shall be defined as not less than 8½ inches x 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request. (KRS 61.874(1) - (3))

§ 34.13 FEES FOR COPIES.

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

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

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

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

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

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

(KRS 61.874(3),(4))

Cross-reference:

Fees for online access to public records, see § 34.15

§ 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

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

1994 S-1

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

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

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

(KRS 61.874(5)) Penalty, see § 10.99

§ 34.15 ONLINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

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

(B) Fees shall not exceed:

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

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

(KRS 61.874(6))

§ 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

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

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

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

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

records.

1996 S-2

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

1. In conjunction with an application for or the administration of a loan or a grant;
2. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Ch. 154;
3. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
4. For the grant or review of a license to do business.

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

(4) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within, or expanding within the Commonwealth. This exemption shall not include those records pertaining to applications to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in division (A) (2) above.

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

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

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

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

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

1996 S-2

Eddyville - Administration

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

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

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

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

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

6. Infrastructure records that expose a vulnerability referred to in this division (A)(13)(a) through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

7. The following records when their disclosure will expose a vulnerability referred to in this division (A)(13)(a): detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

8. Records when their disclosure will expose a vulnerability referred to in the division (A)(13)(a) and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

(b) As used in this division (A)(13), ***TERRORIST ACT*** means a criminal act intended to:

1. Intimidate or coerce a public agency or all or part of the civilian population;
2. Disrupt a system identified in division (A)(13)(a)6.; or
3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

(c) On the same day that a public agency denies a request to inspect a public records for a reason identified in this division (A)(13), that public agency shall forward a copy of

the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Office for Security Coordination and the Attorney General.

2008 S-7

(d) Nothing in this division (A)(13) shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.

(e) The exemption established in this division (A)(13) shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this division (A)(13) under the Open Records Law;

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

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

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

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

§ 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

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

2008 S-7

32D

Eddyville - Administration

CHAPTER 35: TAXATION

Section

- 35.01 County assessment adopted
- 35.02 Due date; payment
- 35.03 Delinquency
- 35.04 Ad valorem taxes on motor vehicles
- 35.05 Bank franchise and local deposit tax
- 35.06 Disposition of funds
- 35.07 [Reserved]
- 35.08 Restaurant tax

Cross-references:

Business license tax, see § 110.02

Payroll tax, see § 110.03

§ 35.01 COUNTY ASSESSMENT ADOPTED.

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

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

§ 35.02 DUE DATE; PAYMENT.

(A) All taxes, except ad valorem taxes on motor vehicles, shall be due and payable on September 15 following the assessment.

(B) Any taxpayer who pays his city taxes by November 1 after they become due in any year shall be entitled to 2% discount thereon.

(C) All city property taxes shall become delinquent on January 1 following their due date.

(D) All delinquent city property taxes paid before the last day of January shall be subject to a penalty of 5% on taxes due and unpaid.

(E) All delinquent city property taxes paid after the end of January shall be subject to a penalty of 10% on taxes due and unpaid.

(F) All delinquent city property taxes not paid after the end of February shall be subject to a penalty of 1.5% per month, or any part thereof, on the unpaid balance including penalties as set out above.

2008 S-7
34

Eddyville - Administration

(G) In the event the tax collection schedule is delayed, through no fault of the taxpayers, the scheduled due dates, discounts, and penalties shall be adjusted as set out in KRS 134.020(5). (Am. Ord. 10-4-99-B, passed 10-5-99)

§ 35.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent after October 15 of each year.

(B) Any taxes not paid by the date when they become delinquent shall be subject to a penalty of 12% on the taxes due and unpaid. The delinquent taxpayer shall also pay all costs and expenses incidental to any action taken by the city for collection of the delinquent tax bill.

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

§ 35.04 AD VALOREM TAXES ON MOTOR VEHICLES.

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

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

§ 35.05 BANK FRANCHISE AND LOCAL DEPOSIT TAX.

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

(B) Timetable.

(1) For the 1996 tax year, the city will issue tax bills to financial institutions no later than May 1, 1997. Payment of the tax is due with a 2% discount by May 31, 1997, or without the discount by June 30, 1997.

(2) For all tax years subsequent to the 1996 tax year, the city will issue tax bills no later than December 1 of each year. Payment of the tax is due with a 2% discount by December 31 of each year, or without the discount by January 31 of each year.

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

(D) 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 tax years shall be deemed delinquent and shall be subject to a penalty of 10% and shall bear interest at the rate of 1% per annum per month.
(Ord. 8-5-96A; passed -95)

2008 S-7

Taxation

34A

§ 35.06 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Council.
(Ord. passed 10-21-91)

Cross reference:

Restaurant tax disposition of funds, see § 35.08(F)

§ 35.07 [RESERVED].

§ 35.08 RESTAURANT TAX.

(A) A tax shall be levied upon the retail sales of food by restaurants. The purpose of this tax is to provide assistance in funding the Joint Lyon County Tourist and Convention Commission in a manner consistent with Chapter 91A.400 of the Kentucky Revised Statutes.

(B) **RESTAURANT.** For the purposes of this section, the word **RESTAURANT** shall mean any business:

- (1) At which food is prepared and sold to be consumed either on the premises or as a carry away; and
- (2) Which is required to buy a Business License pursuant to Chapter 110 of this code.

The term **RESTAURANT** does not include vending machines.

(C) A tax is hereby levied on the sale of all food and beverages at restaurants. The amount of such tax shall be 2% of the gross sales of food and drink.

(D) The tax imposed shall be collected by the owner/operator of each restaurant within the city. The owner/operator shall file a tax collection return, together with payment of tax due by the twentieth day of each month for the proceeding month's sales, upon forms approved by the City Clerk.

(E) Failure to pay the monthly remittance within ten days after the due date shall constitute a violation of this section, resulting in an automatic penalty of 10% of the tax then due. All unpaid

balances shall accrue interest at the rate of 10% per annum.

(F) All funds collected under the tax for which provision is made herein shall be immediately remitted to the Joint Lyon County Tourist and Convention Commission.

(G) Costs of collection.

(1) In the event restaurant tax is not remitted as required by this section, all costs, including but not limited to court costs and reasonable attorney's fees, incurred by the collecting agency or municipality as a result of the ordinance violation shall be borne by the violator.

(2) Expenses, including reasonable attorneys fees, incurred by the city in enforcing this section against any owner/operator who fails to perform under the terms of this section shall be reimbursed to the city by the owner/operator.

(H) Investigative powers of City Clerk/Treasurer.

(1) The City Clerk/Treasurer or any agent or employee designated by him or her is hereby authorized to examine the books, papers, and records of any person or business from whom this tax is due in order to determine the accuracy of any return made, or if no return was made to ascertain the amount of tax due under the terms of this section by such examination. Each such person or business shall give to the City Clerk/Treasurer or to his or her duly authorized agent or employee the means, facilities, and opportunity for the making of such examination and investigation. The City Clerk/Treasurer, or authorized agent thereof, is hereby authorized to examine any person under oath concerning any gross receipts which were or should have been shown in a return, and to this end he or she may compel the production of books, papers, records, vendors' contact information, and the attendance of all persons before him or her, whether as parties or as witnesses, whom he or she believes to have knowledge of such gross receipts. Any person or business from whom this tax is due shall, upon receipt of a written request from the City Clerk/Treasurer or his or her designee, authorize its vendors to disclose to the City Clerk/Treasurer or his or her designee the goods and services, including the quantity and price thereof, furnished to the person or business from which this tax is due.

(2) In the event an investigation is conducted, and it is determined this section has not been complied with, the violator shall be responsible for all costs of the investigation and collection in addition to any tax, interest, or penalties otherwise due.

(I) Information to be confidential. Any information gained by the City Clerk/Treasurer or any employee or official of the city as a result of any return, investigation, hearing or verification required or authorized by this section, shall be confidential, except for official purposes and except in accordance with proper judicial order, and any official, agent, or employee who divulges such information except as authorized herein shall, upon conviction, be guilty of a Class A misdemeanor and subject to a fine not to exceed \$500 or imprisonment not to exceed one year, or both, and shall be dismissed from city employment immediately upon conviction.

(J) Interest and penalties.

(1) All taxes imposed by this section which remain unpaid after they become due shall bear interest at the prejudgment and post judgment rates provided for and allowed by the laws of the Commonwealth of Kentucky, and any person or business which has failed to pay such restaurant tax when the same became due shall also be charged a penalty of 15% of the amount of such unpaid tax.

(2) Any person or business which fails, neglects, or refuses to make any return required by this section or which fails, neglects, or refuses to pay a tax, as directed by this section, or any person or business which refuses to permit the City Clerk/Treasurer or any agent or employee authorized by him or her to examine the books, records, and papers, or who knowingly makes any incomplete, false, or fraudulent return, or who attempts to do anything whatsoever to avoid the full disclosure of the amount of gross receipts in order to avoid the payment of the whole or any part of the restaurant tax shall, upon conviction, be guilty of a Class A misdemeanor and subject to a fine not to exceed \$500 or imprisonment not to exceed one year, or both. Such criminal penalties shall be in addition to other penalties imposed under this section.

(Ord. 8-6-01-A, passed 8-13-01; Am. Ord. 02-03-03-B, passed 3-3-03; Am. Ord. 05-05-2008B, passed 6-2-08)

2008 S-7

CHAPTER 36: DISCRIMINATION BASED ON HANDICAPPED STATUS

Section

- 36.01 Establishment of procedure
- 36.02 Submission of grievance; form
- 36.03 Response; position of city
- 36.04 Hearing; final resolution
- 36.05 Complaints and responses to be kept on file

§ 36.01 ESTABLISHMENT OF PROCEDURE.

(A) The following grievance procedure is established to meet the requirements of the Revenue Sharing Act. It should be used by any individual who wishes to file a complaint alleging discrimination on the basis of handicap in employment practices and policies or the provisions of programs, services and benefits by the city. (Ord. 1-8-85, passed - -85)

(B) Any person (citizen or employee) who believes that he or she has been subjected to discrimination as prohibited by § 504 of the Rehabilitation Act of 1973 and pursuant to regulations at 24 CFR Part 8, may personally or by a representative, file a complaint with the Mayor. A person who has not personally been subjected to discrimination may also file a complaint. (Ord. - ; passed 1-3-94)

§ 36.02 SUBMISSION OF GRIEVANCE; FORM.

The grievance should be in written form and contain as much information as possible about the alleged discrimination (name, address, phone number, location and description of problem and the like). Other arrangements for submission of a grievance such as a personal interview or tape recording will be made available for the visually-impaired or those with motor impairments. It should be submitted by the grievant and/or his or her designee within 30 calendar days of the alleged violation to the Mayor.
(Ord. 1-8-85, passed - -85)

§ 36.03 RESPONSE; POSITION OF CITY.

Within 15 working days of receipt of the complaint, the Mayor will respond in writing (or a method understood by the complainant) to the complainant and/or his or her designee with the purpose of establishing an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than five days nor more than 45 days after receiving the written statement. There shall be prepared a written documentary of the discussions at the informal meeting, which shall be preserved in the records of the office of the Mayor.
(Ord. 1-8-85, passed - -85; Am. Ord. - ; passed 1-3-94)

1996 S-2

§ 36.04 HEARING; FINAL RESOLUTION.

(A) If within 15 days of the informal meeting, no decision has been made by the Mayor or the response by the Mayor does not satisfactorily resolve the issue, the complainant and/or his or her designee may request a hearing to be held by the Human Rights Commission by submitting a written request to the Mayor.

(B) In discussing the grievance, the complainant may designate any person to appear with him or her and to participate in the discussion. The Human Rights Commission shall require the Mayor to participate in the discussion of the grievance, when it is brought before the Human Rights Commission. A written documentary of the discussion shall be created. The Commission shall issue a written decision on the matter within 15 days, and the decision shall be the final procedure for the complainant at the local level.

(Ord. 1-8-85, passed - -85; Am. Ord. - ; passed 1-3-94)

§ 36.05 COMPLAINTS AND RESPONSES TO BE KEPT ON FILE.

All complaints received by the Mayor, records of discussions and responses from the Human Rights Commission will be kept by the office of the Mayor for a period of three years. These documents may be requested by the Office of Revenue Sharing should an investigation into alleged discrimination on the basis of handicapped status be initiated.

(Ord. 1-8-85, passed - -85; Am. Ord. - ; passed 1-3-94)

CHAPTER 37: PERSONNEL POLICIES

Section

- 37.01 Personnel pay plan
- 37.02 Participation in County Employees Retirement System
- 37.03 Affirmative Action Plan
- 37.04 Drug free workplace policy
- 37.05 Code of Ethics

§ 37.01 PERSONNEL PAY PLAN.

The personnel pay plan adopted by Ord. 1-4-93-A and future ordinances, and hereby adopted by reference as a part of this code, shall be one element of the system of personnel administration for the city. The personnel pay plan may be waived, altered, or suspended only by a change of ordinance.

(Ord. 1-4-93-A, passed 1-18-93; Am. Ord. 08-06-2007-A, passed 9-13-07; Am. Ord. 2012-11-05, passed 12-10-12)

§ 37.02 PARTICIPATION IN COUNTY EMPLOYEES RETIREMENT SYSTEM.

(A) The city is authorized to participate in the County Employees Retirement System effective January 1, 1993, and all eligible regular full-time officers and employees of the city are hereby authorized and directed to comply with the statutory requirements of the retirement system.

(B) All employees of the city whose duties require an average of 100 hours during each working month shall be considered as "regular full-time" employees for County Retirement purposes except those employees of the city excluded as shown below which may participate in the system as a separate agency and those other persons who are employed as "temporary", "part-time", and "seasonal" workers, as defined in KRS 78.510(21) of the County Employees Retirement Laws.

(C) Agencies excluded as authorized by KRS 78.530 are seasonal Park Board employees.
(Ord. 1-18-93-A, passed 2-1-93; Am. Ord. 2012-11-05, passed 12-10-12)

2013 S-8

37

§ 37.03 AFFIRMATIVE ACTION PLAN.

The Affirmative Action Plan adopted by Resolution dated 1-3-94 is incorporated by reference as a part of this code.

(Res. - ; passed 1-3-94; Am. Ord. 2012-11-05, passed 12-10-12)

§ 37.04 DRUG FREE WORKPLACE.

(A) The Drug Free Workplace Statement adopted by City Council on 1-3-94 is incorporated by reference as a part of this code.

(B) It is the policy of the city that no employee shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace of the city. Controlled substances are those described in KRS 218A.020 through 218A.40 and as included in the regulations of the Cabinet for Human Resources.

(C) Each employee is instructed that they shall notify the Mayor within five days of any criminal drug statute conviction for a violation in the workplace. Within 30 days, the Mayor must take action as appropriate.

(D) Any employee violating the terms of this policy statement is subject to immediate dismissal. Employees found to be abusing drugs, but not convicted of any state drug violation, will be subject to progressive discipline and required to satisfactorily participate in a rehabilitation program approved for such purpose at the employee's expense.
(Statement passed 1-3-94; Am. Ord. 2012-11-05, passed 12-10-12)

§ 37.05 CODE OF ETHICS.

(A) Statement of Findings.

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

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

(3) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

(B) Purpose and Authority.

(1) It is the purpose of this section to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly

2013 S-8

established, uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

(2) It is the further purpose of this section to meet the requirements of KRS 65.003.

(3) This section is enacted under the power vested in the city by KRS 82.062 and pursuant to requirements of KRS 65.003.

(C) Definitions. As used in this section, the following terms are defined as follows unless the context clearly requires a different meaning:

BUSINESS. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

BOARD OF ETHICS. The City of Eddyville Board of Ethics which is created and vested by this section with the responsibility of enforcing the requirements of the city's Code of Ethics.

CANDIDATE. Any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the County Clerk or Secretary of State, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the County Clerk or Secretary of State.

CITY. The City of Eddyville, Kentucky.

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

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

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 residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

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

(1) Mayor.

(2) Legislative body member.

2013 S-8

Eddyville - Administration

(3) City clerk.

(4) City manager.

(5) City administrator.

(6) Person who occupies a nonelected office created under KRS 63A.060.

(7) Member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.

(D) Standards of conduct.

(1) Conflicts of interest in general. Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

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

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

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

1. The officer or employee.

2. A family member.

3. An outside employer.

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

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

(d) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in division (D)(1)(c)(4) and (5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

2013 S-8

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

(2) Conflicts of interest in contracts.

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

1. The prohibition in subsection (a) of this division shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (a) of this division shall apply to the renewal of the contract.

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

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

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

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

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

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

Eddyville - Administration

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

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

(F) Use of City Property, Equipment or Personnel. No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

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

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

(G) Representation of Interest Before City Government.

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

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

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

(4) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

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

(I) Post-Employment Restriction. No officer or employee of the city or any city agency shall appear or practice before the city or any city agency with respect to any matter on which the officer or employee personally worked while in the service of the city or city agency for a period

of one year after the termination of the officer's or employee's service with the city or city agency.

1996 S-2

(J) Honoraria.

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

(2) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or city agency and primarily for the benefit of the city or city agency and not primarily for the benefit of the officer or employee or any other person.

(K) Financial Disclosure.

(1) 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:

- (a) Elected city officials.
- (b) Candidates for elected city office.
- (c) Members of the city Planning and Zoning Commission and Board of Adjustment.
- (d) Members of the Board of Ethics created by this section.

(e) 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 a sum to be determined by ordinance.

(2) When to file statements; amended statements.

(a) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than ____ p.m. _____, 1995. All subsequent statements of financial interest shall be filed no later than ____ p.m. on _____ each year, provided that:

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

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

(b) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interest for good cause shown.

1996 S-2

Eddyville - Administration

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

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

(4) Control and maintenance of statements of financial interests.

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

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

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

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

(5) Contents of financial interests statement.

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

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

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

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

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

5. The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of \$10,000 at fair market value or 5% ownership interest or more.

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

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

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

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

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

(6) Noncompliance with filing requirement.

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

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

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

1996 S-2

(L) Nepotism Prohibited.

(1) No officer or employee of the city or a city agency shall advocate, recommend or cause the employment, appointment, promotion, transfer or advancement of any family member to an office or position of employment with the city or a city agency.

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

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

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

(M) Enforcement.

(1) Board of Ethics created.

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

(b) The Board of Ethics shall consist of three members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this section. 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 three years; except that with respect to the members initially appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and one member shall be appointed for a term of three years. Thereafter, all appointments shall be for a term of three years. No more than three of the members shall be of the same political party. Each member of the Board of Ethics shall have been a resident of the city for at least one year prior to the date of the appointment and shall reside in the city throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(c) A member of the Board of Ethics may be removed by the executive authority subject to the approval of the legislative body for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body.

(d) Vacancies on the Board of Ethics shall be filled within 60 days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within 60 days, the remaining members of the Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

1996 S-2

(e) Members of the Board of Ethics shall serve without compensation, unless otherwise approved by the legislative body, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

(f) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.

(g) Meetings of the Board of Ethics shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

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

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

(2) Alternate members. The executive authority of the city, with the approval of the legislative body may appoint two alternate members of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties. An alternate member shall be appointed for a term of one year. Alternate members shall meet all qualification and be subject to all of the requirements of this section that apply to regular members.

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

(4) Power and duties of the Board of Ethics. The Board of Ethics shall have the following powers and duties:

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

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

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

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

1996 S-2

Eddyville - Administration

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

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

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

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

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

(5) Filing and investigation of complaints.

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

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

(c) All Proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except:

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

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

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

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

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

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

(f) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this section by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor.

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

(7) Hearing procedure.

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

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

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

Eddyville - Administration

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

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

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

(g) If the Board concludes in its report that no violation of this section has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(h) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this section, the Board may:

1. Issue an order requiring the violator to cease and desist the violation.
2. In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body of the city or city agency with which the violator serves.
3. In writing, recommend to the executive authority and the governing body that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.
4. Issue an order requiring the violator to pay a civil penalty of not more than \$1,000.
5. Refer evidence of criminal violations of this section or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

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

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

(10) Advisory opinions.

(a) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer or employee of the city or a city agency who is covered by this section.

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

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

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

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

2. By majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.

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

(f) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this section for actions taken in reliance on that opinion.

(11) Reprisals against persons disclosing violations prohibited.

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

(b) This section shall not be construed as:

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

1996 S-2

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

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

c. Is confidential under any other provision of law.

(N) Penalties.

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

(2) In addition to all other penalties which may be imposed under this section, any officer or employee of the city or any city agency who is found by the Board to have violated any provision of this section shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

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

(Ord. 11-21-94A, passed 12-5-94; Am. Ord. 6-5-95A, passed 6-19-95; Am. Ord. 2012-11-05, passed 12-10-12)

[Text continues on Page 55]

2013 S-8

CHAPTER 38: POLICE DEPARTMENT

Section

- 38.01 Police Department established
- 38.02 Adopting domestic violence enforcement policy
- 38.03 Adopting department policies and procedures.

§ 38.01 POLICE DEPARTMENT ESTABLISHED.

(A) There is hereby created the Eddyville Police Department and the office of City Police Chief with all powers and duties including, but, not necessarily limited to, the execution of warrants of arrest, execution of process, serving of subpoenas and attachments for witnesses, as well as the power to arrest as prescribed by law for offenses against ordinances or municipal regulations of the city, and shall have the same power of arrest for offenses against the state as a sheriff.

(B) Furthermore, the Chief of Police may appoint deputies by and with the advice and consent of the city legislative body who shall then have the same powers and duties as the Chief of Police, except that they shall not command the police force.

(C) The Police Chief shall take an oath to faithfully perform the duties of his office and attest that he possesses the required qualifications to hold the office.

(D) No bond shall be required of the Police Chief for the city.

(E) Compensation to be paid the Police Chief, subject to review on an annual basis, shall be in the amount of \$17,000, along with benefits comparable to those benefits enjoyed by other employees of the city.

(Ord. 2-18-97-A, passed 2-18-97)

§ 38.02 ADOPTING DOMESTIC VIOLENCE ENFORCEMENT POLICY.

The policies and procedures concerning domestic violence enforcement adopted by Ordinance No. 4-7-97-A and all amendments thereto are hereby adopted by reference and incorporated into this code of ordinances as if fully set forth herein.

(Ord. 4-7-97-A, passed 5-5-97)

§ 38.03 ADOPTING DEPARTMENT POLICIES AND PROCEDURES.

The polices and procedures concerning the city police department adopted by Ordinance No. 9-8-98-B and all amendments thereto are hereby adopted by reference and incorporated into this code of ordinances as if fully set forth herein.

(Ord. 9-8-98-B, passed 10-5-98)

CHAPTER 39: IDENTITY THEFT PREVENTION PROGRAM

Section

- 39.01 Purpose
- 39.02 Definitions
- 39.03 Personal identifying information may be required
- 39.04 Access to covered account information
- 39.05 Sources and types of red flags
- 39.06 Prevention and mitigation of identity theft
- 39.07 Updating the program
- 39.08 Program administration
- 39.09 Outside service providers

§ 39.01 PURPOSE.

The purpose of this program is to detect, prevent, and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.02 DEFINITIONS.

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

CITY. The City of Eddyville, Kentucky.

COVERED ACCOUNT. A utility account.

CREDIT. The right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

CREDITOR. Any person who regularly extends, renews, or continues credit, any person who regularly arranges for the extension, renewal, or continuation of credit, and any assignee of an original creditor who participates in the decision to extend, renew, or continue credit. This term shall include lenders such as banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies.

CUSTOMER. A person who has a covered account with a creditor.

PERSON. A natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

REDFLAG. A pattern, practice, or specific activity that indicates the possible existence of identity theft.

SERVICE PROVIDER. A person who provides a service directly to the city.
(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.03 PERSONAL IDENTIFYING INFORMATION MAY BE REQUIRED.

As a precondition to opening a covered account in the city, each applicant may be required to provide the city with personal identifying information such as a valid government issued identification card containing a photograph of the applicant. The authorized city personnel processing the application for a covered account shall determine in his/her discretion whether personal identifying information shall be provided by the applicant.
(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.04 ACCESS TO COVERED ACCOUNT INFORMATION.

Access to customer accounts shall be limited to authorized city personnel. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Clerk.
(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.05 SOURCES AND TYPES OF RED FLAGS.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account, or accepting payment for a covered account shall check for red flags as indicators of possible identity theft. Such red flags may include, but are not limited to, the following:

- (A) Alerts from consumer reporting agencies, fraud detection agencies, or service providers.
- (B) Suspicious documents. Examples of suspicious documents may include, but are not limited to the following:
 - (1) Documents provided for identification that appear to be altered or forged;
 - (2) Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - (3) Identification on which the information is inconsistent with information provided by the applicant or customer;
 - (4) Identification on which the information is inconsistent with readily accessible information that is on file with the city; or
 - (5) An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- (C) Suspicious personal identification such as suspicious address change. Examples of suspicious personal identification may include, but are not limited to the following:

(1) Personal identifying information, phone number, or address is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the city.

2013 S-8

(2) Other information provided such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers, or answering services is associated with fraudulent activity.

(3) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.

(4) The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(5) Personal identifying information is not consistent with personal identifying information that is on file with the city.

(6) The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(D) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity may include, but are not limited to the following:

(1) Shortly following the notice of a change of address for an account, city receives a request for the addition of authorized users on the account.

(2) An account is used in a manner that is not consistent with established patterns of activity on the account. For example, there is nonpayment when there is no history of late or missed payments.

(3) An account that has been inactive for a long period of time is used.

(4) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.

(5) The city is notified of unauthorized charges or transactions in connection with a customer's account.

(E) Notice from customers, law enforcement, victims, or other reliable sources regarding possible identity theft.

(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.06 PREVENTION AND MITIGATION OF IDENTITY THEFT.

(A) New account. In the event that any city employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his/her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk. The City Clerk shall determine whether to do one or more of the following:

(1) Request additional identifying information from the applicant.

(2) Deny the application for the new account.

(3) Notify law enforcement.

2013 S-8

Eddyville - Administration

(4) Take other appropriate action to prevent or mitigate identity theft.

(B) Existing account. In the event that any city employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his/her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk. The City Clerk shall determine whether to do one or more of the following:

(1) Contact the customer.

(2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:

(a) Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or

(b) Close the account.

(3) Notify law enforcement.

(4) Take other appropriate action to prevent or mitigate identity theft.

(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.07 UPDATING THE PROGRAM.

The City Clerk shall annually review and, as deemed necessary by the City Clerk, recommend to the city council updates to the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the city and its covered accounts from identity theft. In doing so, the City Clerk shall consider the following factors:

(A) The city's experiences with identity theft.

(B) Updates in methods of identity theft.

(C) Updates in customary methods used to detect, prevent, and mitigate identity theft.

(D) Updates in the types of accounts that the city offers or maintains.

(E) Updates in service provider arrangements.

(Ord. 4-6-2009 A, passed 5-4-09)

§ 39.08 PROGRAM ADMINISTRATION.

The City Clerk is responsible for oversight of the program and for program implementation. The City Clerk is responsible for distributing a copy of the Identity Theft Prevention Program to all

employees responsible for or involved in opening a new covered account, restoring an existing covered account, or accepting payment for a covered account.
(Ord. 4-6-2009 A, passed 5-4-09)

2013 S-8

§ 39.09 OUTSIDE SERVICE PROVIDERS.

In the event that the city engages a service provider to perform an activity in connection with one or more covered accounts, the City Clerk shall exercise his/her discretion in reviewing such arrangements in order to reasonably ensure that the service provider's activities are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

(Ord. 4-6-2009 A, passed 5-4-09)

2013 S-8

