

TITLE III: ADMINISTRATION

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CHAPTER 30: COMMISSION PLAN

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§ 30.01 FORM OF GOVERNMENT.

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

§ 30.02 GOVERNING OFFICERS.

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

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

CHAPTER 31: CITY OFFICIALS

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GENERAL PROVISIONS

§ 31.01 OATH; BOND.

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

(B) *Certification.* Certification of the person administering the oath of office to an elected official shall certify in writing that the oath was administered and the date of its administration. Said certification shall be filed in accordance with KRS 62.020.

(C) *Bond.*

(1) All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest

performance of his

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or her duties and as security for all money coming into that person's hands or under that person's control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond.

(2) Elected officials who post bond as required by statute, and employees of their offices covered by a blanket or umbrella bond, shall be deemed to have complied with subsection (1) of this section.

(KRS 65.067)

§ 31.02 COMPENSATION.

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

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

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

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

(C) The Commission 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 Commission exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

(B) *Nonelected officers.* Nonelected city officers may be removed by the Commission at will,

unless otherwise provided by state law or ordinance.

Statutory reference:

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

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

ELECTED OFFICERS**§ 31.20 ELECTION PROCEDURE.**

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

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

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

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

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

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

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

Statutory reference:

Election of city officers, see KRS 83A.050

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

§ 31.21 MAYOR; MAYOR PRO TEM.

(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 (1) year prior to his election. His term of office shall begin on the first day of January following his election and shall be for four years and until his successor qualifies. If a person is elected or appointed as Mayor in response to a vacancy and serves less than four (4) 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, and shall reside in the city throughout his term of office.

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

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Commission may vote for himself. (KRS 83A.040(2)(b))

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

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

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

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

(D) *Powers and duties.*

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

(2) All bonds, notes, contracts, and written obligations of the city authorized by ordinance or resolution shall be executed by the Mayor on behalf of the city.
(KRS 83A.140(4))

(3) The Mayor shall serve as the ceremonial head of city government. (Ord. 90-04, passed 2-19-90)

(E) *Mayor Pro Tem.*

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

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

§ 31.22 COMMISSIONERS.

For provisions concerning the City Commission, see Chapter 32.

NONELECTED CITY OFFICIALS

§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.

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

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

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

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

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

(D) The following are nonelected city offices:

- (1) City Clerk;
- (2) Architect;
- (3) City Attorney;
- (4) City Engineer;
- (5) Forester;
- (6) City Treasurer.

(Ord. 90-02, passed 2-19-90; Am. Ord. 92-01, passed 3-16-92)

Statutory reference:

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

§ 31.36 CITY CLERK.

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

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

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

- (1) Maintenance and safekeeping of the permanent records of the city;
- (2) Performance of the duties required of the "official custodian" or "custodian" pursuant to KRS 61.870 through 61.882;
- (3) Possession of the seal of the city if used;
- (4) No later than January 31 of each year, mail to the Department of Local Government a list containing current city information including but not limited to the following:

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

1. City Clerk;
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.; and

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

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

(E) No person shall be appointed or act as the City Clerk unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

§ 31.37 ARCHITECT.

- (A) The city establishes the office of Architect.
- (B) The powers and duties of the Architect shall be as provided by statute or ordinance.
- (C) Compensation shall be in the amount as established from time to time by the City Commission.

(D) No such person shall be appointed or act as Architect unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000 with corporate surety authorized to transact business in the Commonwealth and conditioned upon the performance of the specified duties.

§ 31.38 CITY ATTORNEY.

- (A) The city establishes the office of City Attorney.
- (B) The powers and duties of the City Attorney shall be as provided by statute or ordinance.
- (C) Compensation shall be in the amount as established from time to time by the City Commission.

(D) No such person shall be appointed or act as City Attorney unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000 with corporate surety authorized to transact business in the Commonwealth and conditioned upon the performance of the specified duties.

§ 31.39 CITY ENGINEER.

- (A) The city establishes the office of City Engineer.
- (B) The powers and duties of the City Engineer shall be as provided by statute or ordinance.
- (C) Compensation shall be in the amount as established from time to time by the City Commission.

(D) No such person shall be appointed or act as City Engineer unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000 with corporate surety authorized to transact business in the Commonwealth and conditioned upon the performance of the specified duties.

§ 31.40 FORESTER.

- (A) The city establishes the office of Forester.
- (B) The powers and duties of the Forester shall be as provided by statute or ordinance.
- (C) Compensation shall be in the amount as established from time to time by the City Commission.

(D) No such person shall be appointed or act as Forester unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000 with corporate surety authorized to transact business in the Commonwealth and conditioned upon the performance of the specified duties.

§ 31.41 CITY TREASURER.

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

(B) The powers and duties of the City Treasurer shall be as provided by statute or ordinance.

(C) Compensation shall be in the amount as established from time to time by the City Commission.

(D) No such person shall be appointed or act as City Treasurer unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$100,000 with corporate surety authorized to transact business in the Commonwealth and conditioned upon the performance of the specified duties.

CHAPTER 32: CITY COMMISSION

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- 32.35 One subject; title
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GENERAL PROVISIONS

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

(A) *Election; term of office.* Each Commissioner shall be elected at-large by the voters of the city at a regular election. A candidate for City Commission shall be a resident of the city for not less than one (1) year prior to his election. Terms of office begin on the first day of January following his 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, 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 the Commission occur in a way that one or more members remain seated, the remaining members shall within 30 days fill the vacancies one at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section. (KRS 83A.040(5))

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

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

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

Statutory reference:

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

§ 32.03 POWERS AND DUTIES.

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

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

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

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

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

(C) The Commission shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare. (KRS 83A.140(8))

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

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

§ 32.04 EACH COMMISSIONER TO SUPERINTEND SPECIFIC CITY DEPARTMENTS.

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

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

(C) The following departments are established for the separate administration of the city and its services:

- (1) Financial and Audit;
- (2) Ordinances and Compliance;
- (3) Engineering and Forestry;
- (4) Special Events and Miscellaneous Administration.

(Ord. 90-04, passed 2-19-90)

RULES OF PROCEDURE**§ 32.20 MAYOR AS PRESIDING OFFICER.**

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

(B) In the absence of the Mayor from any meeting of the Commission for any reason, the attending members thereof shall elect one of their number to preside at such meeting. When so presiding, such member shall be authorized to vote in all proceedings and shall not have an additional vote in the case of a tie. (Ord. passed 90-03, passed 2-19-90)

Cross-reference:

Vacancy in office of Mayor; Mayor Pro Tem, see § 31.21

§ 32.21 MEETINGS.

(A) *Regular meetings.* The Commission shall be held on the third Monday of each month at 7:00 p.m., prevailing time, at the Kenneseth Israel Synagogue. Exceptions to the time or place of regular meeting shall be published according to the applicable statute.

(B) *Special meetings.*

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

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

(C) *Minutes.* The minutes of every meeting shall be signed by the person responsible for maintaining city records as provided under § 31.36 and by the officer presiding at the meeting. (KRS 83A.140(7))

(D) *Open meetings.* The provisions of KRS 61.805 through 61.850 govern the conduct of all meetings of the Commission. (Ord. 90-03, passed 2-19-90)

§ 32.22 QUORUM.

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

ORDINANCES

§ 32.35 ONE SUBJECT; TITLE.

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

(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 Seneca Gardens."

(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 Commission 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 § 32.42 shall be complied with within ten days of the enactment of the emergency ordinance.

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

§ 32.39 ADOPTION OF STANDARD CODES BY REFERENCE.

The Commission may adopt the provisions of any local, statewide, or nationally recognized standard code and codification 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))

§ 32.40 OFFICIAL CITY RECORDS.

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

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

(KRS 83A.060(8))

§ 32.41 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8))

§ 32.42 PUBLICATION REQUIREMENTS.

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

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

(1) The title of the ordinance;

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

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

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

(KRS 83A.060(9))

§ 32.43 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))

§ 32.44 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))

§ 32.45 MUNICIPAL ORDERS.

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

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

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

§ 32.46 PROVED BY CITY CLERK; RECEIVED IN EVIDENCE.

All ordinances and orders of the city may be proved by the signature of the City Clerk; and when the ordinances are placed in 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))

§ 32.47 LEGISLATIVE IMMUNITY.

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

(KRS 83A.060(15))

Statutory reference:

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

CHAPTER 33: FINANCE AND REVENUE

Section

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- 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.

(KRS 91A.010(6))

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

(KRS 91A.010(7))

§ 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

(A) The city shall keep its accounting records and render financial reports in such a way 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 money shall be expended from any governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

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

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

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

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

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

(1) Proposal. The annual budget proposal shall detail the raising of revenue from all sources, including grants and transfers, and the spending of money for specified purposes and programs, functions, activities or objectives of the city, including all principal and interest due on debt, for the budget fiscal year. The total of resources available shall equal or exceed the total of proposed expenditures.

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

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

(a) A budget message, as specified in division (G) below of this section.

(b) A budget summary, which shall show resources available for each fund, for example, general fund, municipal aid fund, and the like, including a fund balance carry-forward, anticipated revenues and anticipated excess revenues stated as a transfer from other funds. It shall also show anticipated appropriations by category and an estimated fund balance at the end of the fiscal year.

(c) A comparison of resource and appropriation categories to at least two prior years.

(4) Publication. Upon the adoption of the annual budget, it shall be made public according to applicable statutes.

(Ord. 90-05, passed 7-16-90)

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

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

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

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

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

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

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

(KRS 91A.030)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) Except as provided in division (B) of this section, the city shall after the close of each odd-numbered 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 to be audited. Within ten days of the completion of the audit and its presentation to the city legislative body, pursuant to division (C)(6) of this section, the city shall forward three copies of the audit report to the Kentucky Department for Local Government for information purposes. The Department shall forward one copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, the city shall prepare a financial statement in accordance with KRS 424.220 and immediately forward one copy to the Kentucky Department for Local Government. The Department shall be responsible for forwarding one copy of the financial statement to the Legislative Research Commission.

(B) If the city for any fiscal year receives and expends, from all sources and for all purposes, less than \$75,000, and has no long-term debt, whether general obligation or revenue debt, it shall not be required to audit each fund of the city for that particular fiscal year. The city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one copy to the Kentucky Department for Local Government for information purposes. The Department shall be responsible for forwarding one copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(KRS 91A.060)

IMPROVEMENTS

§ 33.10 DEFINITIONS.

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

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

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

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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 benefitted by an improvement.

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

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

§ 33.11 FINANCING OF IMPROVEMENTS.

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

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

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

§ 33.12 APPORTIONMENT OF COST.

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

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240)

§ 33.14 PUBLIC HEARING REQUIRED.

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

(A) The nature of the improvement;

(B) Description of area of the improvement;

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

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

(E) Time and place of the hearing.

(KRS 91A.250)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

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

(KRS 91A.260)

§ 33.16 AFFECTED OWNER MAY CONTEST.

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

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

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

(B) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, constitutes a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien takes precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and is not defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Commission shall exempt any benefitted property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.
(KRS 91A.280)

§ 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

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

CHAPTER 34: PUBLIC RECORDS

Section

General

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GENERAL

§ 34.01 DEFINITIONS.

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

CITY. The city government of this city.

COMMERCIAL PURPOSE. The direct or indirect use of any 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 news 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)

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))

§ 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 § 34.12 of these rules and regulations.

(KRS 61.884)

§ 34.12 FORMAT OF COPIES.

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

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

currently maintain records in hard copy format. Agencies are not required to convert hard copy format records to electronic formats.

(2) The minimum standard format in paper form shall be defined as not less than 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:

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

(b) Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

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) 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 a 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.

(10) (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 needs assessments;

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

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

(b) As used in this paragraph, "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)(10)(a)6. of this section; or
3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

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

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

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

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

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

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

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

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

(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.

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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	Disposition of funds

§ 35.01 COUNTY ASSESSMENT ADOPTED.

(A) Pursuant to the authority granted in KRS 132.285, the city hereby adopts the Jefferson 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 Commission.

(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.
(Ord. 90-05, passed 12-21-92; Am. Ord. 93-05, passed 12-20-93; Am. Ord. 94-04, passed 11-21-94; Am. Ord. 95-05, passed 11-20-95; Am. Ord. 96-03, passed 11-18-96; Am. Ord. 97-03, passed 12-15-97; Am. Ord. 98-02, passed 11-16-98; Am. Ord. 99-03, passed 12-28-99; Am. Ord. 00-02, passed 12-18-00; Am. Ord. 2005-02, passed 12-12-05)

§ 35.02 DUE DATE; PAYMENT.

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due on May 1.

(B) Any taxpayer who pays his city taxes before March 1 after they become due shall be entitled to a 2% discount thereon, and the Clerk shall allow the discount and give a receipt in full to the taxpayer.
(Ord. 92-05, passed 12-21-92)

§ 35.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent after May 1.

(B) Any taxes not paid by the date when they become delinquent shall be subject to a penalty of 10% on the taxes due and unpaid. There shall also be interest at the rate of 1½ % per month charged on all bills owed after May 1. 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 sixth class.
(Ord. 92-05, passed 12-21-92)

§ 35.04 AD VALOREM TAXES ON MOTOR VEHICLES.

(A) All ad valorem taxes on motor vehicles shall be collected by the Jefferson 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 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 Commission.

CHAPTER 36: CODE OF ETHICS

Section

General Provisions

- 36.01 Title
- 36.02 Purpose and authority
- 36.03 Definitions

Standards of Conduct

- 36.15 Conflicts of interest in general
- 36.16 Conflicts of interest in contracts
- 36.17 Receipt of gifts
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Financial Disclosure

- 36.35 Who must file
- 36.36 Form of the statement of financial interest

Nepotism

- 36.50 Nepotism prohibited

Enforcement

- 36.60 Board of Ethics
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- 36.63 Compensation
- 36.64 Minutes
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GENERAL PROVISIONS**§ 36.01 TITLE.**

This chapter shall be known and may be cited as the "City of Seneca Gardens Code of Ethics."
(Ord. 94-05, passed 12-19-94)

§ 36.02 PURPOSE AND AUTHORITY.

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

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

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.
(Ord. 94-05, passed 12-19-94)

§ 36.04 DEFINITIONS.

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

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

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

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 Seneca Gardens, Kentucky.

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

EMPLOYEE. Any person, whether full-time or part-time, 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) The Mayor.
- (2) A legislative body member.
- (3) The City Clerk.
- (4) The City Manager.
- (5) The City Administrator.
- (6) Any person who occupies a non-elected office created under KRS 83A.080.

(7) A member of the governing body of any city agency who has been appointed to a governing body of the agency by the city.
(Ord. 94-05, passed 12-19-94)

STANDARDS OF CONDUCT

§ 36.15 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 an officer or employee, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

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

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

- (1) The officer or employee.

- (2) 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 divisions (C)(4) and (5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than a gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

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

(Ord. 94-05, passed 12-19-94)

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

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

(3) The prohibition in division (A) of this sentence 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 City Commission or city agency.

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

(c) A finding is made by the City Commission 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 before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor and, upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.
(Ord. 94-05, passed 12-19-94)

§ 36.17 RECEIPT OF GIFTS.

No officer or employee of the city or any city agency shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than \$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.
(Ord. 94-05, passed 12-19-94)

§ 36.18 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.

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

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

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

(D) No elected officer shall prohibit by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.
(Ord. 94-05, passed 12-19-94)

§ 36.19 MISUSE OF CONFIDENTIAL INFORMATION.

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

(Ord. 94-05, passed 12-19-94)

§ 36.20 HONORARIUM.

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

(Ord. 94-05, passed 12-19-94)

FINANCIAL DISCLOSURE**§ 36.35 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.

(Ord. 94-05, passed 12-19-94)

§ 36.36 FORM OF STATEMENT OF FINANCIAL INTERESTS.

The financial disclosure statement should include the following information:

(A) Name of filer.

(B) Current business address, business telephone number and home address of filer.

(C) Title of filer's public office sought.

(D) Occupation of filer and spouse.

(E) Positions held by the filer and any member of the filer's immediate family and any business organization or non-profit entity from which the filer or any member of the filer's immediate family

received compensation in excess of \$5,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or non-profit entity.

(F) Name, address and telephone number of each source of income from within the Commonwealth of Kentucky of both the filer and spouse which exceeded \$5,000 during the preceding calendar year.

(G) Name address and telephone number of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of \$50,000 at fair market value or 5% ownership interest or more during the preceding calendar year; (commercial, residential, agricultural, of all real property with the Commonwealth, other than the filer's primary residence, in which the filer remembers for the filer's immediate family had an interest of \$50,000 or more during the preceding calendar year).

(H) The financial disclosure statement shall be on a form provided by the Board of Ethics. The financial disclosure statement shall be filed annually by officers no later than February 1 of each calendar year. Candidates shall be required to file the statement no later than 21 days after the filing date or that date of nomination. Newly appointed officers should be required to file their initial statement no later than 21 days after the date of appointment.

(I) The financial disclosure statement should be filed with the Board of Ethics by all filers who are subject to the jurisdiction of the Commission. Failure to do so will result in a fine of \$500. (Ord. 94-05, passed 12-19-94)

NEPOTISM

§ 36.50 NEPOTISM PROHIBITED.

(A) The spouse, child, parent or sibling of a public officer should not be employed or appointed to a position in city government.

(B) The prohibitions in this section do not apply to any relationship or situation that would violate the prohibition, which existed prior to January 1, 1995. (Ord. 94-05, passed 12-19-94)

ENFORCEMENT

§ 36.60 BOARD OF ETHICS.

(A) A City of Seneca Gardens Ethics Commission is hereby created which shall have the powers to enforce all provisions of the Code of Ethics adopted in this chapter.

(B) The Commission shall be composed of three members to be appointed by the City Commission from a list submitted by the City Clerk. The appointment shall be for a term of two years and each may

be appointed to one additional consecutive term.
(Ord. 94-05, passed 12-19-94)

§ 36.61 APPEALS.

Decisions of the City Ethics Commission regarding violations may be appealed to the Circuit Court.
(Ord. 94-05, passed 12-19-94)

§ 36.62 POWERS OF THE COMMISSION.

The City Ethics Commission shall have the following powers:

(A) To initiate, receive, hear, and review complaints and hold hearings regarding possible violations of the city ethics code;

(B) To issue subpoenas for the production of documents and the attendance of witnesses;

(C) To forward to appropriate agencies of state and local government information concerning violations which may be used in criminal or other proceedings;

(D) To render advisory opinions to city officers and employees regarding whether a given set of facts and circumstances constitutes a violation of any provision of this chapter;

(E) To enforce the provisions of this chapter with regard to all officers and employees and to impose penalties for violations as authorized; and

(F) To adopt rules and regulations necessary to implement the local ethics code.
(Ord. 94-05, passed 12-19-94)

§ 36.63 COMPENSATION.

Members of the City Ethics Commission 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.
(Ord. 94-05, passed 12-19-94)

§ 36.64 MINUTES.

Minutes shall be kept for all proceedings of the Board of Ethics on the vote of each member on any issue decided by the Board and shall be recorded in the minutes.
(Ord. 94-05, passed 12-19-94)

§ 36.65 NOTICE OF HEARINGS.

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

(Ord. 94-05, passed 12-19-94)

§ 36.66 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 accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

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

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

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

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

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

(G) If the Board concludes in its report that no violation of this chapter has occurred, it shall immediately send written notice of this determination of 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 the violation of this chapter, the Board may:

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

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the Mayor and the City Commission of the city which the violator serves.

(3) In writing, recommend to the Mayor and the City Commission 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 chapter or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

(Ord. 94-05, passed 12-19-94)

§ 36.68 LIMITATION OF ACTION.

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

(Ord. 94-05, passed 12-19-94)