

TITLE III: ADMINISTRATION

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§ 30.01 FORM OF GOVERNMENT.

The form of government provided for this city shall be known as the Mayor-Council Plan.
(KRS 83A.130(1)) (Prior Code, § 30.01)

§ 30.02 GOVERNING OFFICERS.

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

(B) The City Council shall be composed of six members.
(KRS 83A.030(1)) (Prior Code, § 30.02)

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 or her 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 § 228 of the Kentucky Constitution.

(B) *Bond.* Official bonds shall, if required, meet the standards of KRS 62.060. (Prior Code, § 31.01)

§ 31.02 COMPENSATION.

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

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

(2) The City Council shall set the compensation of these officers in accordance with KRS 83A.070 at a rate no greater than that stipulated by the State Finance and Administration Cabinet.

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

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

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

(Prior Code, § 31.02)

Statutory reference:

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

§ 31.03 REMOVAL FROM OFFICE.*(A) Elected officers.*

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

(2) 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.

(3) No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

(B) Non-elected officers. Non-elected city officers may be removed by the Mayor at will, unless otherwise provided by state law.

(Prior Code, § 31.03)

Statutory reference:

Removal of elected officers, see KRS 83A.040(6)

Removal of non-elected officers, see KRS 83A.080(3)

ELECTED OFFICIALS**§ 31.20 ELECTION PROCEDURE.**

(A) Election of city officers is governed by general election laws as provided in KRS 116 through 121 unless City Council otherwise prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.170 and 83A.175. That 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.

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

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

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

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

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

(Prior Code, § 31.20)

Statutory reference:

Creation, abolishment of city offices, see KRS 83A.040

Election of city officers, see KRS 83A.050

§ 31.21 MAYOR.

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

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

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

(D) *Powers and duties.*

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

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

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

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

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

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

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

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

(Prior Code, § 31.21)

Statutory reference:

Election, qualifications, and vacancy of Mayor, see KRS 83A.040

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

§ 31.22 COUNCIL MEMBERS.

For provisions concerning City Council, see Chapter 32.
(Prior Code, § 31.22)

NON-ELECTED CITY OFFICIALS

§ 31.35 ESTABLISHMENT OF NON-ELECTED CITY OFFICES.

(A) All non-elected 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.

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

(C) All non-elected officers may be removed by the Mayor at will unless otherwise provided by statute.

(D) The following are non-elected city offices: City Clerk/Treasurer.

(Prior Code, § 31.35)

Statutory reference:

Non-elected city offices, see KRS 83A.080(1), (2)

§ 31.36 CITY CLERK/TREASURER.

(A) *Establishment.* Pursuant to KRS 83A.085(2), the offices of City Clerk and City Treasurer shall be consolidated to create the office of the City Clerk/Treasurer.

(B) *Appointment and qualifications.* The City Clerk/Treasurer shall be appointed by the Mayor, and that appointment shall be with the approval of the City Council. The following qualifications shall determine the eligibility of candidates for the office of City Clerk/Treasurer:

- (1) They must be citizens of the State of Kentucky and at least 21 years of age;
- (2) No person convicted of a felony shall be eligible for appointment;

(3) The appointee must have a high school diploma or its equivalent and have clerical, typing and bookkeeping experience. Must have skills and working knowledge of relevant current office technology equipment. Attend training as needed to upgrade training as approved by the City Council within the provisions of the budget;

(4) The appointee shall be able to perform clerical work of moderate difficulty, maintain records of financial transactions, perform administrative duties and have knowledge of business office procedures; and

(5) If it is possible to secure such a person, the appointee shall have been a resident of the city for at least six months in addition to the other required qualifications. Should the Mayor determine that a person meeting this added qualification cannot be secured, residency in the state shall be sufficient;

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

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

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

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

(4) Performance of any other duties and responsibilities required of the City Clerk/Treasurer by statute or ordinance;

(5) Once the information required to be reported under KRS 83A.085 is compiled by the Department for Local Government, the department shall forward one electronic copy of the compiled information to the Legislative Research Commission.
(KRS 83A.085)

(6) Attendance at all regular monthly City Council Meetings and any special sessions;

(7) Responsibility for recording minutes of each Council meeting as the City Council may request, and for mailing or hand-delivery of the minutes of the previous meeting to the Mayor and the Council members ten days prior to the next regular meeting;

(8) Preparation of a complete financial statement for each meeting. Preparation of a monthly statement in writing showing receipts and expenditures of the city for the preceding month and the amount remaining in the treasury;

(9) Publication of all legal notices in accordance with KRS 424 and any other applicable statutes;

(10) Placement of all original city ordinances in the official city ordinance book and seeing that each ordinance is indexed;

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(11) Provision of clerical assistance in the preparation of the city's annual budget; and

(12) Perform city business related clerical duties for the Mayor, City Council members, and city residents as needed.

(D) *Compensation.* Compensation including holidays, and benefits shall be in the amount as established by the City Council by enacting a municipal order from time to time as set forth in § 31.02 above.

(E) *Oath.* No person shall be appointed or act as the City Clerk/Treasurer unless that person has taken the oath required by § 228 of the Constitution of the Commonwealth of Kentucky.

(F) *Bond.* The City Clerk/Treasurer shall be bonded in an amount of no less than \$10,000 subject to the approval of the City Council.

(G) *Election activities.* The City Clerk/Treasurer shall not participate in, conduct or otherwise be involved in any election campaign or other election activities during any working hours.

(H) *Probationary period.* Any new employee shall be on a probationary basis for 90 days. Upon successful completion of that period the Mayor is to report to the City Council in writing the performance of the City Clerk/Treasurer and continue to report on an annual basis thereafter. These written performance evaluations shall be included in the employee's personnel file.

(I) *Termination or dismissal.*

(1) The actions listed below are examples of major offenses for which termination of employment can occur, but are not to be considered all-inclusive:

(a) Incompetence, inefficiency or unsatisfactory performance of duties;

(b) Habitual tardiness;

(c) Discourtesy to the public;

(d) Violation of, refusal to obey or inducing others to refuse to obey an official, legal, moral and ethical order, policy, procedure or regulation;

(e) Misappropriation, negligent or willful damage, theft or conversion of city property or property of another employee;

(f) Taking city property for one's own use, to sell or give to others;

(g) Falsifying an official document or record;

(h) Actions that reflect discredit on the city; and/or

(I) Within the first 30 days, the new administration's incoming Mayor shall reserve the right to replace the City Clerk/Treasurer at will.

(2) Offenses listed in divisions (1)(a), (c), (d), (e), (f) and (g) are grounds for immediate dismissal.

(J) *Disciplinary procedures to be followed:*

(1) First: verbal counseling;

(2) Second: written reprimand;

(3) Third: discharge; and

(4) All written disciplinary reprimands shall be included in the employee's personnel file after being presented to the City Council.

(K) *Grievance process to be as follows:*

(1) The City Clerk/Treasurer has the right to schedule a special meeting at a time convenient to the majority of all parties concerned and the Mayor is to be present at this meeting to discuss any grievance.

(2) The right to have an attorney present if the City Clerk/ Treasurer deems it necessary to have representation.

(3) The right to present the grievance or to defend themselves to the Council and Mayor at this special meeting.

(Prior Code, § 31.36) (Am. Ord. 01-2007, passed 3-27-2007; Am. Ord. 08-2007, passed 8-22-2007)

Cross-reference:

City Clerk/Treasurer to collect taxes, see § 36.02

§ 31.37 ASSISTANT CITY CLERK/TREASURER.

(A) *Assistant City Clerk/Treasurer.* This is a temporary part-time hourly position. This is a position to meet emergency needs only upon vacancy of the position of City Clerk/Treasurer. This position must be used to fill the position on a temporary or acting basis. This position is not eligible for any benefits.

(B) *Duties.* The Assistant City Clerk/Treasurer shall perform basic duties of the City Clerk/Treasurer as set forth by ordinance and in keeping with the applicable state statutes.

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(C) *Appointment and qualifications.* The Assistant City Clerk/Treasurer shall be appointed by the Mayor, and such appointment shall be with the approval of the City Council. The following qualifications shall determine the eligibility of candidates for the office of Assistant City Clerk/Treasurer:

- (1) Must be a citizen of the State of Kentucky and at least 21 years of age.
- (2) No person convicted of a felony shall be eligible for appointment.
- (3) The appointee must have a high school diploma or its equivalent, and have some basic clerical, typing, and bookkeeping skills.
- (4) The appointee shall be able to perform clerical work of moderate difficulty, maintain records of financial transactions, perform administrative duties, and have a knowledge of business and office procedures.
- (5) If it is possible to secure such a person, the appointee shall have been a resident of the city for at least six months in addition to the other required qualifications. Should the Mayor determine that a person meeting this added qualification cannot be secured, residency in the state shall be sufficient.

(D) *Compensation.* Compensation shall be in the amount of \$9 per hour.

(E) *Oath.* No person shall be appointed or act as the Assistant City Clerk/Treasurer unless he or she has taken the oath required by § 228 of the Constitution of the Commonwealth of Kentucky.

(F) *Bond.* The Assistant City Clerk/Treasurer shall be bonded in an amount of no less than \$10,000 subject to the approval of the City Council.

(G) *Election activities.* The Assistant City Clerk/Treasurer shall not participate in, conduct, or otherwise be involved in any election campaign or other election activities during any working hours. (Ord. 02-2007, passed 3-27-2007)

CITY EMPLOYEES**§ 31.45 CITY ATTORNEY.**

(A) *Establishment.* There is hereby established the office of City Attorney.

(B) *Appointment and qualifications.* The Mayor, with the approval of City Council, shall appoint a City Attorney who shall be the general law officer and legal counsel of the city. The Mayor may remove the City Attorney at will. He or she shall be an attorney licensed to practice in the

Commonwealth of Kentucky. He or she shall be chosen solely on the basis of his or her legal qualifications, with special emphasis on actual experience in or knowledge of Kentucky municipal and administrative law. The City Attorney may also engage in the private practice of law and may hold other public or private employment.

(C) *Duties and powers.* The City Attorney shall attend City Council meetings as requested by the Mayor or City Council.

(D) *Compensation.* The City Attorney shall be compensated in accordance with the terms of a contract approved by the City Council.
(Prior Code, § 31.45)

Section

CHAPTER 32. CITY COUNCIL

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Rules of Procedure

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Cross-reference:

City officials, see Ch. 31

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GENERAL PROVISIONS**§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS AND COMPENSATION.**

(A) *Election; term of office.* Each Council member shall be elected at-large by the voters of the city at a regular election. Terms of office begin on the first day of January following the election and are for two years, except as provided by § 31.20 above.

(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 or her term of office.

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

(Prior Code, § 32.01)

Statutory reference:

Similar provisions, see KRS 83A.040

§ 32.02 VACANCIES.

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

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

(KRS 83A.040(6))

(Prior Code, § 32.02)

Statutory reference:

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

§ 32.03 POWERS AND DUTIES.

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

(KRS 83A.130(11))

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

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

(KRS 83A.130(12))

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

(KRS 83A.130(13))

(Prior Code, § 32.03)

RULES OF PROCEDURE

§ 32.20 MAYOR AS PRESIDING OFFICER.

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

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

(KRS 83A.130(5)) (Prior Code, § 32.20)

§ 32.21 MEETINGS.

(A) Regular meetings of the City Council shall be held on the second Monday of each month at 7:30 p.m. prevailing time at the City Hall, 8700 Justice Way, Jefferson County, Louisville, Kentucky.

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

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

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

(KRS 83A.130(11)) (Prior Code, § 32.21) (Am. Ord. 01-2006, passed 3-8-2006)

§ 32.22 QUORUM.

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

(KRS 83A.060(6)) (Prior Code, § 32.22)

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

Each ordinance shall embrace but one subject and shall have a title which clearly states the subject.

(KRS 83A.060(1)) (Prior Code, § 32.35)

§ 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 Heritage Creek."

(KRS 83A.060(2)) (Prior Code, § 32.36)

§ 32.37 FORM OF AMENDMENT.

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

(KRS 83A.060(3)) (Prior Code, § 32.37)

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

(A) Except as provided in division (B) below, 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.

(KRS 83A.060(4))

(B) In an emergency, upon the affirmative vote of 2/3 of the membership, the Council may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of § 32.43 shall be complied with within ten days of the enactment of the emergency ordinance.

(KRS 83A.060(7))

(Prior Code, § 32.38)

§ 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

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

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

(KRS 83A.130(6)) (Prior Code, § 32.39)

§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

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

(KRS 83A.060(5)) (Prior Code, § 32.40)

§ 32.41 OFFICIAL CITY RECORDS.

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

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

(KRS 83A.060(8)) (Prior Code, § 32.41)

§ 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8)) (Prior Code, § 32.42)

§ 32.43 PUBLICATION REQUIREMENTS.

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

(B) Ordinances, except bond ordinances, imposing fines, forfeitures, imprisonment, taxes or fees shall be published in full.

(C) The publication requirements for all other ordinances, including all bond and zoning ordinances, may be satisfied by publication in full or in summary as designated by Council.

(D) The requirements for summary publication may be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky.

(E) 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)) (Prior Code, § 32.43)

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

The city may, by ordinance, specify additional requirements for adoption of ordinances in greater detail than contained herein, but the city may not lessen or reduce the substantial requirements of this chapter or any statute relating to adoption of ordinances. (KRS 83A.060(10)) (Prior Code, § 32.44)

§ 32.45 PERIODIC REVIEW REQUIRED.

Not less than once every five years all ordinances in this code of ordinances shall be examined for consistency with state law and with one another and shall be revised to eliminate redundant, obsolete, inconsistent and invalid provisions. (KRS 83A.060(11)) (Prior Code, § 32.45)

§ 32.46 MUNICIPAL ORDERS.

(A) Council may adopt municipal orders. All municipal orders shall be in writing and shall be adopted only at an official meeting. Orders may be amended only by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book. (KRS 83A.060(12))

(B) In lieu of an ordinance, municipal orders may be used for matters relating to the internal operation and functions of the city and to appoint or remove or approve appointment or removal of members of boards, commissions and other agencies over which the Council has control. (KRS 83A.060(13)) (Prior Code, § 32.46)

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

All ordinances and orders of the city may be proved by the signature of the City Clerk/Treasurer; and when the ordinances are placed in this code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of the ordinances.
(KRS 83A.060(14)) (Prior Code, § 32.47)

§ 32.48 LEGISLATIVE IMMUNITY.

For anything said in debate, Council members shall be entitled to the same immunities and protections allowed to members of the General Assembly.
(KRS 83A.060(15)) (Prior Code, § 32.48)

Statutory reference:

Privileges of members of General Assembly, see KRS 6.050 and Kentucky Constitution § 43

Section

~~Financial Administration~~
CHAPTER 33: FINANCE AND REVENUE

- 33.01 Definitions
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FINANCIAL ADMINISTRATION

§ 33.01 DEFINITIONS.

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

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 PRINCIPLES OF GOVERNMENTAL ACCOUNTING. Those standards and procedures promulgated and recognized by the National Council of Governmental Accounting, the Municipal Finance Officers of the United States and Canada, and the American Institute of Certified Public Accountants.

(KRS 91A.010) (Prior Code, § 33.01)

§ 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

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

(1) Determine compliance with statutory provisions;

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

(3) Readily provide financial data as may be required by the federal revenue sharing program.

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

(KRS 91A.020) (Prior Code, § 33.02)

§ 33.03 ANNUAL BUDGET ORDINANCE.

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

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

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

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

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

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

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

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

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

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

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

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. That responsibility includes the preparation and submission to Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. The 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 above.

(M) No city agency, or member, director, officer or employee thereof, may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements and obligations, express or implied, beyond the 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) (Prior Code, § 33.03)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city, except as provided in division (J) below, shall, as soon as practicable and in no event later than 270 days after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant.

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

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

(2) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes tests of the accounting records and 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;

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

(4) 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;

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

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

(C) Within ten days of the completion of an audit, and its presentation to the City Council pursuant to division (B)(5) of this section, the city shall forward three copies of the audit report to the Department for Local Government for information purposes.

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

(E) Upon completion of an audit, the city may elect to publish the auditor's report in accordance with division (F) below, or may publish a financial statement in accordance with division (G) below. Notwithstanding the election of divisions (F) or (G) below, 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 the 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 that report, together with the general purpose financial statements of the city, which shall include the combined balance sheets, combined statements of revenues, expenditures or expenses, and changes in fund balances, retained earnings, or financial position for each fund of the city, and notes to the general purpose financial statements, in accordance with KRS 424. 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 the 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 the statement in accordance with KRS 424.

(H) If the city determines that the cost of newspaper publication exceeds the cost of postage, supplies and reproduction, the city may substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area, in lieu of the newspaper publication required by this section.

(KRS 424.190(2))

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

(KRS 91A.040(9))

(J) In lieu of the auditing requirements set forth in KRS 91A.040, if the city for the fiscal year in question receives and expends, from all sources, and for all purposes, less than \$25,000, and has no long-term debt, whether general obligation or revenue debt, the city may comply fully with the provisions of KRS 424.220 in lieu of the requirements listed in divisions (A) through (I) above. (KRS 91A.040(3)) (Prior Code, § 33.04)

Statutory reference:

Governor's Office for Local Development to provide assistance, see KRS 91A.050

§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

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

(B) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the Mayor which states the name of the person to whom funds are payable, the purpose of the payment, and the fund out of which the funds are payable. Each authorization shall be numbered and recorded. (KRS 91A.060) (Prior Code, § 33.05)

§ 33.06 STANDARDS OF FORM AND DETAIL FOR PREPARATION OF THE ANNUAL PROPOSED BUDGET.

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

(B) The annual budget proposal shall detail the raising of revenue from all sources, including grants and transfers, and the spending of money for specified programs, functions, activities or objectives of the city, including all principle and interest due on debt, for the budget year. The total of anticipated revenues shall equal or exceed the total of proposed expenditures.

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

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

- (1) A budget message, as specified in KRS 91A.030(7); and
- (2) A budget summary, as specified in division (E) below, supported by:
 - (a) An estimate of fund balance carry-forward, as specified in division (F) below;
 - (b) An estimate of all anticipated revenues of the city compared to previous years, as specified in division (G) below;
 - (c) Proposed expenditures compared to previous years, as specified in division (H) below; and
 - (d) An estimate of anticipated transfers, as specified in division (L) below.

(E) At the head of the annual budget proposal there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, and proposed expenditures by program, function, activity or objectives of the city, in a manner so as to present a simple and clear summary of the detailed estimates of the budget components.

(F) Each fund balance available for appropriation shall be limited to the amount by which assets are estimated to exceed liabilities at the beginning of the budget year.

(G) In parallel columns opposite the several items of anticipated revenue there shall be placed:

- (1) The amount of each item actually received during the next preceding fiscal year;
- (2) The total of the amount of each item actually received to the time of preparation of the annual budget proposal, plus anticipated receipts for the remainder of the current fiscal year estimated as accurately as possible; and
- (3) The amount of each item anticipated to be received during the budget year, estimated as accurately as possible.

(H) In parallel columns, opposite the several items of proposed expenditures, there shall be placed:

- (1) The amount of each item actually expended during the next preceding fiscal year;
- (2) The total of the amount actually expended to the time of preparation of the annual budget proposal plus the expenditures for the remainder of the current fiscal year estimated as accurately as possible; and

(3) The amount of each item to be appropriated for the budget year.

(I) Pursuant to KRS 91A.030 the executive authority is to present the proposed budget together with the budget message 60 days prior to the beginning of the fiscal year.

(J) Pursuant to KRS 91A.030 the executive authority is to present a financial statement monthly.

(K) The executive authority is required by KRS 91A.030(11) to present a quarterly financial statement to the legislative body.

(L) Any anticipated excess revenues, if legally available for general purposes and to the extent that excess is to be used to support other funds, shall be stated as a transfer item in the annual budget proposal.

(M) This chapter shall take effect and be enforced immediately upon its passage and publication. (Prior Code, § 33.06)

IMPROVEMENTS

§ 33.10 DEFINITIONS.

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

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 like properties.

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

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

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

FRONT FOOT BASIS. The apportionment of cost of an improvement according to the ratio the front footage on the improvement of individual parcels of property bears to the front footage of all like 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 the 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 the property.
(KRS 91A.210) (Prior Code, § 33.10)

§ 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.
(KRS 91A.220(2))

(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(3))
(Prior Code, § 33.11)

Statutory reference:

Improvements; alternate methods, see KRS 107

§ 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious or charitable organization. Council may assess the 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) (Prior Code, § 33.12)

§ 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) Other information as may further explain material aspects of the improvement, assessments or financing.

(KRS 91A.240) (Prior Code, § 33.13)

§ 33.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by § 33.13 above, 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 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) (Prior Code, § 33.14)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

(A) 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 above and a description of all properties.

(B) Promptly upon passage the city shall publish the ordinance pursuant to KRS 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) (Prior Code, § 33.15)

§ 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 or her property in the improvement, or the amount of his or her 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 the 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) (Prior Code, § 33.16)

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

(B) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, constitutes a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien takes precedence over all other liens, whether

created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes and prior improvement taxes, and is not defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Council shall exempt any 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) (Prior Code, § 33.17)

§ 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 compliance if all property owners of the improvement consent.

(KRS 91A.290) (Prior Code, § 33.18)

Section

CHAPTER 34: ~~General~~ PUBLIC RECORDS

34.01 Definitions

Procedures for Requesting Public Records

- 34.15 Initial request with immediate inspection
- 34.16 Referral to proper custodian
- 34.17 Public records not immediately available
- 34.18 Refusal of unreasonable requests
- 34.19 Time limitation; denial of inspection
- 34.20 Concealing or destroying records prohibited
- 34.21 Access to records relating to particular individual
- 34.22 Format of copies
- 34.23 Fees for copies
- 34.24 Misstatement of purpose prohibited
- 34.25 Online access to public records in electronic form
- 34.26 Public records protected from disclosure

GENERAL

§ 34.01 DEFINITIONS.

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

CITY. The city government of this city.

Heritage Creek - Administration

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 the 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/Treasurer.

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 the records are in his or her actual personal custody and control. The **OFFICIAL CUSTODIAN** of this city shall be the Mayor.

PERSON. A human being who makes a bodily appearance before the office of the custodian and makes a request for inspection of public records.

PUBLIC AGENCY. The city governing body, and any other municipal department, board, commission, committee, subcommittee, ad hoc committee, council or agency thereof.

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 a public agency. **PUBLIC RECORDS** shall not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority nor any records that have been excluded by § 34.26 below.

REASONABLE FEE or FEE. The fair payment required by a public agency for making copies of public records which shall not exceed the actual cost thereof and shall not include the cost of staff time required.

REQUEST. An oral petition by any person or, at the option of the custodian, the completion of a written application that clearly states the specific public record or records that are desired for inspection or duplication.

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) (Prior Code, § 34.01)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 34.15 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) As defined in § 34.01 above, and subject to the limitations set forth in § 34.22 below, any person desiring to inspect or copy the public records of this city shall make a request or complete a written application for those records at the office of the City Clerk/ Treasurer during regular office hours, except during legal holidays.
(KRS 61.872(2))

(B) If the custodian determines that a person's request is in compliance with the open records law and the requested records are immediately available, the custodian shall deliver the records for inspection. Suitable facilities shall be made available in the office of the City Clerk/Treasurer for the inspection. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.
(KRS 61.872(1))

(C) The applicant shall have the right to make abstracts of the public records and to obtain copies of all written public records. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee as defined in § 34.01 above.
(KRS 61.874(1)) Penalty, see § 10.99
(Prior Code, § 34.05)

§ 34.16 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4)) (Prior Code, § 34.06)

§ 34.17 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 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)) (Prior Code, § 34.07)

§ 34.18 REFUSAL OF UNREASONABLE REQUESTS.

If the application places an unreasonable burden in producing voluminous 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.

However, refusal under this section must be sustained by clear and convincing evidence.

(KRS 61.872(6)) (Prior Code, § 34.08)

§ 34.19 TIME LIMITATION; DENIAL OF INSPECTION.

(A) (1) 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.

(2) 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 or her authority and shall constitute final agency action.

(B) A copy of the written response denying inspection of a public record shall be forwarded immediately by the city to the Attorney General of the Commonwealth of Kentucky. Upon the Attorney General's request, the agency will provide additional documentation.

(C) If upon request by the person seeking inspection, the Attorney General reviews the denial and issues a written opinion upholding, in whole or in part, the request for inspection, the agency may institute proceedings within 30 days for injunctive or declaratory relief in the circuit court. In addition, if the Attorney General disallows the request, or if the city continues to withhold the record notwithstanding the Attorney General's opinion, and the person seeking disclosure institutes proceedings in circuit court, the city shall notify the Attorney General of that action.
(KRS 61.880) (Prior Code, § 34.09)

§ 34.20 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.
(Prior Code, § 34.10)

§ 34.21 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or her or in which he or she is mentioned by name, upon presentation of appropriate identification, subject to the provisions of § 34.26 below of these rules and regulations.
(KRS 61.884) (Prior Code, § 34.11)

§ 34.22 FORMAT OF COPIES.

(A) (1) 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 § 34.26 below.

(2) When copies are requested, the custodian may require a written request and advance payment of the prescribed fee, including postage where appropriate.

(3) 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 the duplication will not damage or alter the original records.
(KRS 61.874(1))

(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.

(KRS 61.874(2)(a))

(2) The minimum standard format in paper form shall be defined as not less than 8-1/2 inches by 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(2)(b))

(Prior Code, § 34.12)

§ 34.23 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.

(KRS 61.874(3))

(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) above 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; and/or

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

(KRS 61.874(4))

(Prior Code, § 34.13)

Cross-reference:

Fees for online access to public records, see § 34.25

§ 34.24 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 § 34.23;

(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)) (Prior Code, § 34.14) Penalty, see § 10.99

§ 34.25 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: the cost of physical connection to the system and reasonable cost of computer time access charges; and

(C) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in § 34.23(B) of this chapter.

(Prior Code, § 34.15)

§ 34.26 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:

(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; the regulation of commercial enterprises, 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, and which are generally recognized as confidential; or for the grant or review of a license to do business which, if openly disclosed, would permit an unfair advantage to competitors of the subject enterprise. This exemption shall not, however, apply to records the disclosure or publication of which is directed by other statute;

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

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

1. In conjunction with an application for or the administration of a loan or a grant;
2. In conjunction with an application for or the administration of assessments, incentives, inducements and tax credits as described in KRS 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 a time that all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

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

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

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

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

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

(12) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190.

(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 § 34.18 above.

(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 or her. The 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 municipal employee, applicant or eligible shall not have the right to inspect or copy any examination.

(KRS 61.878) (Prior Code, § 34.16)

Section

35.01	Establishment	CHAPTER 35: POLICE DEPARTMENT
35.02	Police Chief; police officers	
35.03	Duties of Chief of Police; police officers	
35.04	Safekeeping of property taken by police officers	
35.05	Territorial authority of police officers	
35.06	Code of ethics	
35.07	Adoption by reference	
35.08	Lights on vehicles	

§ 35.01 ESTABLISHMENT.

There is hereby established a Police Department for the city.
(Prior Code, § 35.01)

§ 35.02 POLICE CHIEF; POLICE OFFICERS.

(A) *Establishment.* The position of Police Chief is hereby established.

(B) *Appointment of Police Chief.* The Chief of Police shall be appointed by the Mayor and shall be subject to discipline, suspension or removal for cause by the Mayor.

(C) *Appointment of police officers.* The police officers shall be appointed by the Mayor and shall be subject to the same disciplinary actions as the Chief of Police.

(D) *Oath and bond requirements.* Each police officer shall take an oath to faithfully perform the duties of his or her office, and that he or she possesses the required qualifications, including that he or she has secured sufficient bond as required by law.

(E) *Qualifications of police officers.*

(1) To be eligible for an appointment as a police officer, a person must be a citizen of the state, at least 21 years of age, able to read and write the English language intelligibly, and be sober, moral and sagacious. No person who has been convicted of a felony shall be eligible for appointment.

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

(F) *Compensation; hours.* The City Council shall prescribe the rate of compensation, the normal or regular duty hours and other working conditions of all police officers and may require any or all police officers to remain on duty or report for immediate duty for the control or alleviation of an emergency situation in the community requiring their services.

(G) *Election activities.* Members of the Police Department shall not participate in, conduct or otherwise be involved in any election campaign or other election activities during any working hours. (Prior Code, § 35.02)

§ 35.03 DUTIES OF CHIEF OF POLICE; POLICE OFFICERS.

(A) Subject to the executive authority of the Mayor, the Chief of Police shall be a peace officer and shall be responsible for the organization and operation of the Police Department of the city, and he or she shall supervise, direct and control the equipment and personnel thereof as peace officers of the city and state in the enforcement of all statutes, laws and ordinances thereof.

(B) The Chief of Police shall be in command of the Police Department with the duty of supervising police officers and other personnel assigned to the Police Department.

(C) The Chief of Police or a police officer assigned by him or her shall attend all sessions of the City Council, except closed sessions, execute its orders and preserve order at its sessions.

(D) The Chief of Police and other police officers shall cause proceedings to be instituted against any person carrying on business or doing any act without a license for which a license is required or for the violation of a city ordinance.

(E) (1) The Chief of Police shall maintain a journal wherein shall be recorded the daily events in which the police participated, including arrests made.

(2) Also, the journal shall show significant complaints received, investigated and how handled; report damages in the community caused by rains, winds or other inclement weather conditions; report accidents involving a person and damage to property; report special services rendered on request of a local resident or nonresident such as administering first aid, securing medical assistance or furnishing transportation and assistance in getting an injured or sick person to a hospital.

(F) The Chief of Police and other police officers are hereby declared to be peace officers and conservators of the public peace whose duties are to conserve the peace, enforce all laws and preserve order in the community.

(G) In addition to the powers stated in § 35.05 below, the Chief of Police and other police officers may, whether directed to them or not, execute warrants of arrest, processes, subpoenas and attachments for witnesses.

(Prior Code, § 35.03)

§ 35.04 SAFEKEEPING OF PROPERTY TAKEN BY POLICE OFFICERS.

(A) (1) Lost and stolen property recovered by police officers, including property to be held as evidence, and that which otherwise may be delivered to the Police Department for safekeeping, shall be placed in charge of the Chief of Police as custodian thereof and he or she shall maintain a thorough descriptive inventory of all property in his or her custody which shall show the date, time and particulars as to source and ownership when received or taken by a police officer.

(2) Unclaimed property may be disposed of in accordance with the law applying thereto.

(B) The City Council shall provide the Chief of Police with suitable and adequate storage facilities for the safekeeping of property.

(Prior Code, § 35.04)

§ 35.05 TERRITORIAL AUTHORITY OF POLICE OFFICERS.

The Chief of Police and other police officers may make arrests as prescribed by law for offenses against ordinances and regulations adopted by the City Council, and shall have the same power of arrest for offenses against the state as a sheriff throughout the county, but shall not be required to police any territory outside of the city.

(Prior Code, § 35.05)

Statutory reference:

Powers of chief of police and police force, see KRS 95.019

§ 35.06 CODE OF ETHICS.

All police officers shall abide by the Code of Ethics and other rules and regulations applicable to the members of the Police Department which have been or may be adopted by the city.

(Prior Code, § 35.06)

Cross-reference:

Code of Ethics, see Ch. 37

§ 35.07 ADOPTION BY REFERENCE.

This chapter is amended to adopt KRS 95.765.

(Prior Code, § 35.07)

§ 35.08 LIGHTS ON VEHICLES.

(A) Any police officer of the city, after approval by the Mayor, may install red and blue flashing, rotating or oscillating lights in his or her vehicle.

(B) The Mayor shall establish for the proper use of this emergency equipment by members of the Police Department of the city.

(C) Any police officer upon his or her termination as an officer the city Police Department shall immediately remove any emergency lights from his or her vehicle.

(D) This section shall take effect upon publication.

(E) This section shall be published according to law.
(Ord. 2-2004, passed 6-14-2004)

Section

36.01	County assessment adopted	CHAPTER 36: TAXATION
36.02	Collector of taxes	
36.03	Due date; payment	
36.04	Delinquency	

§ 36.01 COUNTY ASSESSMENT ADOPTED.

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

(B) The assessment as finally determined for county tax purposes shall serve as the basis for all city levies for the fiscal year commencing after the assessment date.
(Prior Code, § 36.01; Am. Ord. 04-2007, passed 6-20-2007)

§ 36.02 COLLECTOR OF TAXES.

The City Clerk/Treasurer shall collect all city taxes, except ad valorem taxes on motor vehicles.
(Prior Code, § 36.02)

§ 36.03 DUE DATE; PAYMENT.

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due on or before December 31, in the taxable year.

(B) (1) Any taxpayer who pays his or her city taxes before September 1 shall be entitled to a 5% discount thereon.

(2) Any taxpayer who pays his or her city taxes by November 1 shall be entitled to a 2% discount thereon.

(3) The City Clerk/Treasurer shall allow these discounts and give a receipt in full to the taxpayer.

(Prior Code, § 36.03)

§ 36.04 DELINQUENCY.

(A) Taxes not paid by the second day of January of the year following the taxable year, shall be in a delinquent status, subject to penalty of 10% of the amount of taxes and payable, including interest charges of 1% per month until paid.

(B) For what necessary cost, including legal services, the city may be obligated to assume for the collection or prosecution of a claim in a Court of Law for delinquent taxes, penalties and interest, including enforcement of a lien, under the laws of Kentucky and this chapter, shall be found chargeable as an assessment and recovered against the subject property owner or property, or both the property owner and property.

(C) The proceeds from property taxes paid shall be credited to the General Fund Accounts of the city from which expenditures may be made therefrom upon authorization by City Council for the administration and services rendered for the benefit, public works, public safety and general welfare of the community, in connection with the operation of the city government.

(Prior Code, § 36.04; Am. Ord. 04-2007, passed 6-20-2007)

Section

CHAPTER 37: CODE OF ETHICS *General Provisions*

- 37.01 Title
- 37.02 Findings
- 37.03 Purpose and authority
- 37.04 Definitions

Standards of Conduct

- 37.15 Conflicts of interest in general
- 37.16 Conflict of interest in contracts
- 37.17 Receipt of gifts
- 37.18 Use of city property and equipment
- 37.19 Representation of interests
- 37.20 Misuse of confidential information
- 37.21 Honoraria

Financial Disclosure

- 37.35 Who must file
- 37.36 When to file statements
- 37.38 Form of the statement
- 37.39 Control and maintenance of the statement
- 37.40 Contents of financial statements
- 37.41 Noncompliance with filing requirements

Nepotism

- 37.50 Nepotism prohibited

Enforcement

- 37.60 Board of Ethics created
- 37.61 Alternate member
- 37.62 Facilities and staff
- 37.63 Power and duties of the Board of Ethics

- 37.64 Filing and investigations
- 37.65 Notice of hearings
- 37.66 Hearing procedure
- 37.67 Appeals
- 37.68 Limitation of actions
- 37.69 Advisory opinions
- 37.70 Reprisals against persons disclosing violations prohibited
- 37.71 Penalties
- 37.72 Severability
- 37.73 Conflicting ordinances repealed
- 37.74 Effective date

GENERAL PROVISIONS

§ 37.01 TITLE.

This chapter shall be known and may be cited as the City Code of Ethics.
(Prior Code, § 37.01)

§ 37.02 FINDINGS.

The legislative body of the city finds and declares that:

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

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

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

(Prior Code, § 37.02)

§ 37.03 PURPOSE AND AUTHORITY.

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

(B) It is the further purpose of this chapter to meet the requirements of KRS 65, as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested the city by KRS 65.003 and pursuant to requirements of KRS 65.
(Prior Code, § 37.03)

§ 37.04 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 Heritage Creek 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, organization, 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 Heritage Creek, Kentucky.

CITY AGENCY. Any board, commission, authority, nonstock corporation or other entity created, either individually or jointly by the 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/Treasurer;
- (4) Board of Ethics members; or
- (5) Police Department.

(Prior Code, § 37.04)

STANDARDS OF CONDUCT

§ 37.15 CONFLICTS OF INTEREST IN GENERAL.

Every officer and employees of the city and every city agency shall comply with the following standards of conduct.

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

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

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, 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; or
- (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 § 37.04 above, as a member of any business, occupation, profession or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession or other group.

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

(F) No Council member, officer or employee shall receive, directly or indirectly, any interest, profits, or prerequisites arising from the use of public funds in his or her hands or to be raised through an agency of the city.

(G) No Council member, officer or employee shall take, solicit or agree to take, whether directly or indirectly, any bribe to do or omit to do any act in or her official capacity.

(H) No Council member, officer or employee shall charge to or accept from a person known to have a legislative interest on a price, fee, compensation or consideration for sale or lease of any property of the furnishing of services which substantially is in excess of that which the Council member, officer or employee would charge in the ordinary course of business.

(I) No Council member, officer or employee shall accept compensation other than that provided by law for performance of his or her elected or appointed duties. No person, other than officials or employees performing their duties in making payments to members of the City Council, as may pay or offer to pay any person any compensation for performance of elected or appointed duties.

(J) No Council member, officer or employee by himself or herself, or through others shall use or attempt to use any means to influence a city agency in derogation of the public interest at large. (Prior Code, § 37.15)

§ 37.16 CONFLICT 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 contracts made, entered into, awarded or granted by the city or a city agency, except as follows:

(1) The prohibition in division (A) above 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 or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in division (A) above shall apply to the renewal of the contract;

(2) The prohibition in division (A) above 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 (A)(3) below are satisfied; and

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

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

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

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

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

(B) (1) 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.

(2) 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 regulation of the city.

(Prior Code, § 37.16)

§ 37.17 RECEIPT OF GIFTS.

No officer or employee of the city or 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, loans, 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 office or employee in the performance of his or her public duties.

(Prior Code, § 37.17)

§ 37.18 USE OF CITY PROPERTY AND EQUIPMENT.

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

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

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

(Prior Code, § 37.18)

§ 37.19 REPRESENTATION OF INTERESTS.

(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 city agency.

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

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

(D) No elected officer shall be prohibited by this section from making 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.
(Prior Code, § 37.19)

§ 37.20 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 61.870 through 61.884, at the time of its use or disclosure.
(Prior Code, § 37.20)

§ 37.21 HONORARIA.

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

(B) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or city agency and primarily for the benefit of the city or city agency and not primarily for the benefit of the officer or employee or any other person.
(Prior Code, § 37.21)

FINANCIAL DISCLOSURE**§ 37.35 WHO MUST FILE.**

The following classes of officers and employees of the city and city agencies shall file an annual statement of interests with the Board of Ethics:

- (A) Elected city officials;
- (B) Candidates for elected city offices, including write in candidates;
- (C) Members of the Board of Ethics created by this chapter; and

(D) Non-elected officers, police and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$1.

(Prior Code, § 37.35)

§ 37.36 WHEN TO FILE STATEMENTS.

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administration official designated as the custodian of its records by the Board of Ethics, no later than 3:00 p.m. January 2, 1995. All subsequent statements of financial interest shall be filed no later than 3:00 p.m. on January 2 each year, provided that:

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

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

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

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

(Prior Code, § 37.36)

§ 37.38 FORM OF THE STATEMENT.

(A) The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, for the administrative official designated by the Board of Ethics.

(B) The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than December 1 of each year.

(C) The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Prior Code, § 37.38)

§ 37.39 CONTROL AND MAINTENANCE OF THE STATEMENT.

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

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

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

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

(Prior Code, § 37.39)

§ 37.40 CONTENTS OF FINANCIAL STATEMENTS.

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

(1) The name, current business address, business telephone number and home address of the filer;

(2) The title of the filer's office, office sought or position of employment;

(3) The occupation of the filer and the filer's spouse;

(4) Information that identifies each source of income of the filer and the filer's spouse and unemancipated minor children exceeding \$5,000 during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution and the like);

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

(6) The name and address of any business located outside of the state, if the business has engaged in any business transaction with the city during the past three years, or which is anticipated to engage in any business transaction with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an ownership interest of 10% or more;

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

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

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

(Prior Code, § 37.40)

§ 37.41 NONCOMPLIANCE WITH FILING REQUIREMENTS.

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

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under division (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in

an amount not to exceed \$25 per day, up to a maximum total civil fine of \$500. Any civil fine imposed by the Board under this section may be recovered by the city action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

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

(Prior Code, § 37.41)

NEPOTISM

§ 37.50 NEPOTISM PROHIBITED.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the following of a family member to an office or position of employment with the city or a city agency:

- (1) Employee;
- (2) Appointment;
- (3) Promotion;
- (4) Transfer; or
- (5) Advancement.

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

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

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

(E) Provisions regarding nepotism shall not to employees hired on a temporary, emergency or seasonal basis. The employment shall not exceed 30 days.

(Prior Code, § 37.50)

ENFORCEMENT

§ 37.60 BOARD OF ETHICS CREATED.

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

(B) (1) The Board of Ethics shall consist of three members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

(2) The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter.

(3) No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or city agency.

(4) The members shall serve for a term of three years; except that with respect to the members initially appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and one member shall be appointed for a term of three years.

(5) Thereafter, all appointments shall be for a term of three years. Each member of the Board of Ethics shall have been a residence of the city for at least one year prior to the date of the appointment and shall reside in the city throughout the term of office.

(6) The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs.

(7) The members may be re-appointed for any number of consecutive terms. Alternates who do not assume a position on the Board of Ethics shall serve a term of three years.

(8) If an alternate shall assume a position on the Board of Ethics, he or she or she shall serve the unexpired time of the Board of Ethics member, he or she or she replaces.

(C) A member of the Board of Ethics may be removed by the executive authority, subject to the approval of the legislative body for misconduct, inability or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body. Any member of the Board of Ethics who shall seek any elected or appointed office shall vacate his or her seat on the Board of Ethics from the time candidacy papers are filed until the election is certified. The first alternate shall serve in the interim. If the Board of Ethics member fails to be elected or appointed, he or she or she may reassume his or her seat after the election has been certified or the appointed office filled.

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

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

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

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

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

(I) Minutes shall be kept for all proceedings of the Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.
(Prior Code, § 37.60)

§ 37.61 ALTERNATE MEMBER.

(A) The executive authority of the city, with the approval of the legislative body may appoint two alternate members of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties.

(B) An alternate member shall be appointed for a term of three years. Alternate members shall meet all qualifications and be subject to all requirements of this chapter that apply to regular members.
(Prior Code, § 37.61)

§ 37.62 FACILITIES AND STAFF.

Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies and staff needed for the conduct of its business.
(Prior Code, § 37.62)

§ 37.63 POWER AND DUTIES OF THE BOARD OF ETHICS.

The Board of Ethics shall have the powers and duties:

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

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

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

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

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

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

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

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

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

(Prior Code, § 37.63)

§ 37.64 FILING AND INVESTIGATIONS.

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

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

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

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

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

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

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

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

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

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor, with up to one year in prison and/or \$500 dollar fine.
(Prior Code, § 37.64)

§ 37.65 NOTICE OF HEARINGS.

(A) 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.

(B) The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued.
(Prior Code, § 37.65)

§ 37.66 HEARING PROCEDURE.

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

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

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

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

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

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

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

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

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

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

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

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000; and/or

(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.
(Prior Code, § 37.66)

§ 37.67 APPEALS.

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the Circuit Court of the county within 30 days after the date of the final action of the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the Clerk of the Court all evidence considered by the Board at the public hearing.
(Prior Code, § 37.67)

§ 37.68 LIMITATION OF ACTIONS.

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one year after the violation is discovered.
(Prior Code, § 37.68)

§ 37.69 ADVISORY OPINIONS.

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

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

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

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

(1) In writing by the person who requested the opinion; or

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

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

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

(Prior Code, § 37.69)

§ 37.70 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city or any city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce or discriminate against any person

who in good faith reports, discloses, divulges or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this chapter.

(B) This section shall not be construed as prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(1) To be false or which he or she or she discloses with reckless disregard of its truth or falsity;

(2) To be exempt from required disclosure under the provisions of the Kentucky Open Records Acts, KRS 61.870 to 61.884; or

(3) Is confidential under any other provision of law.
(Prior Code, § 37.70)

§ 37.71 PENALTIES.

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

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

(C) In addition to all other penalties which may be imposed under this chapter, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth. All nature of debt/penalties shall be collected by the City Attorney and deposited in the general fund.
(Prior Code, § 37.71)

§ 37.72 SEVERABILITY.

If any provision of this chapter is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this chapter shall continue in full force and effect.
(Prior Code, § 37.72)

§ 37.73 CONFLICTING ORDINANCES REPEALED.

All other ordinances and parts of ordinances in conflict with this chapter are hereby repealed to the extent of the conflict.
(Prior Code, § 37.73)

§ 37.74 EFFECTIVE DATE.

This chapter shall take full force and effect immediately upon publication as required by KRS 83A.060.
(Prior Code, § 37.74)

Section

38.01 Smoking policy for government offices and/or workplaces within the city

CHAPTER 38: CITY POLICIES

§ 38.01 SMOKING POLICY FOR GOVERNMENT OFFICES AND/OR WORKPLACES WITHIN THE CITY.

(A) *Declaration of Policy.* In order to serve the public health, safety and general welfare, it is the declared purpose of this section to prohibit smoking in all governmental offices and/or workplaces within the City of Heritage Creek.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BUILDING. Any structure enclosed from the weather, whether or not windows or doors are open, which is closed in overhead by a roof or other covering of any material, whether permanent or temporary, and has 80% or more of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary. If the city leases or possesses only a portion of a building, the term ***BUILDING*** applies to the leasehold or possessory interest as well.

SMOKE or ***SMOKING.*** The act of inhaling or exhaling the smoke from any lighted cigarette, cigar, pipe, or other combustible product.

(C) *Posting of signs; removal of ashtrays.*

(1) No person in control of a governmental building or workplace shall fail to post signs with letters of not less than one inch high or symbols no less than three inches high, using the words “No Smoking” or the international “No Smoking” symbol consisting of a pictorial representation of a burning cigarette surrounded by a red circle with a red bar across it conspicuously either on all public entrances or in a position clearly visible on entry into the governmental building.

(2) All ashtrays shall be removed from the building(s) and shall not be permitted by the person having control of the building(s). Any permanent structure that functioned or was used as an ashtray shall be disabled or altered to prevent its use as an ashtray.

(D) *Duties of owners of buildings and/or establishments.*

(1) No person in control of a governmental building or workplace shall fail to:

(a) Ask smokers to refrain from smoking in any no-smoking area.

(b) Use any other legal means, which may be appropriate to further the intent of this section.

(2) No person in control of a government building or workplace shall fail to ensure compliance by subordinates, employees, and agents with this section.

(E) *Effect on existing smoking prohibitions.* Nothing in this section shall authorize smoking in any place where it is otherwise prohibited by statute, ordinance, regulation, or by order of the Fire Marshal.

(F) *Enforcement.* Enforcement of divisions (B) through (E) of this section shall be by citation issued by the City Police Department.

(G) *Reasonable distance.* Smoking is prohibited within a reasonable distance from the outside entrance to any governmental building or workplace so as to ensure that tobacco smoke does not enter the building through entrances, windows, ventilation systems, or other means.

(H) *Non-retaliation.* No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this section.

(I) *Violations and penalties.*

(1) Any individual caught smoking any product in any government building shall be deemed in violation of this section and cited as follows:

(a) First offense. The individual shall be directed to extinguish the product they are smoking and they shall be issued a written warning advising them of their violation of this section.

(b) Second offense. The individual shall be directed to extinguish the product they are smoking and they shall be issued a citation explaining their violation of this section, such citation shall carry a fine in the amount of \$10.

(c) Third offense. The individual shall be directed to extinguish the product they are smoking and they shall be issued a citation explaining their violation of this section, such citation shall carry a fine in the amount of \$25.

(d) Fourth and subsequent offenses. The individual shall be directed to extinguish the product they are smoking and they shall be issued a citation explaining their violation of this section such citation shall carry a fine in the amount of \$50 for the fourth offense and increase by \$50 for each subsequent offense up to a maximum of \$250.

(2) A record of all warnings and citations issued pursuant to this division shall be maintained and consulted by the City's Police Department when determining the number and severity of the violation.

(Ord. 03-2007, passed 3-27-2007)

Section

39.01	Creation	CHAPTER 39: CODE ENFORCEMENT BOARD
39.02	Purpose	
39.03	Definitions	

§ 39.01 CREATION.

There is hereby created a Code Enforcement Board as per KRS 65.8801 through KRS 65.8839.
(Ord. 05-2011, passed 12-12-2011)

§ 39.02 PURPOSE.

The Code Enforcement Board is established to protect, promote and improve the health, safety and welfare of the citizens residing within the city by the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of insuring compliance with the ordinances enforced by local governments.

(Ord. 05-2011, passed 12-12-2011)

§ 39.03 DEFINITIONS.

The definitions used in this chapter and by the Code Enforcement Board which is hereby created shall be the same as in KRS 65.8805.

APPEALS. Any appeals from a final Code Enforcement Board judgment shall be in accordance with KRS 65.8831. Any lien recordings, responsibility for fines, charges and fees shall be in accordance with KRS 65.8835.

CREATION. The Code Enforcement Board for the City of Heritage Creek is hereby created with the powers as outlined in KRS 65.8808 *et seq.* to enforce the City Ordinances as a civil offense. The ordinances that shall be enforced are those ordinances which specifically state that a violation of the ordinance is a civil offense. Nothing in this chapter shall authorize the Code Enforcement Board to create a civil offense if the violation would also constitute an offense under any provision of the Kentucky Revised Statute, including specifically, and without limitation, any provision of the Kentucky Penal Code and/or any moving motor vehicle offense.

Heritage Creek - Code Enforcement Board

ENFORCEMENT. The enforcement procedures shall be in accordance with KRS 65.8825 and all of the hearings, notices, failures to appear, and final order procedures shall comply with KRS 65.8828.

FINE. The minimum fine which may be imposed for a violation of an ordinance shall be the least amount as stated in that ordinance.

MEETINGS. The Code Enforcement Board shall have at least one meeting each month, but no more than twice each month. The time of the meetings shall be established by the Code Enforcement Board and published so the general public is advised when these meetings occur. The **MEETINGS** shall be held at the Heritage Creek City Hall. Meetings other than those regularly scheduled shall be special meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

MEMBERSHIP.

(a) Membership of the Board, terms of the members, reappointment, vacancy, removal and compensation shall be in accordance with KRS 65.8811. Said members of the board shall be appointed by the Mayor subject to approval of the legislative body.

(b) Members of the Code Enforcement Board shall be compensated for attendance at each meeting. Compensation shall be in the amount of Zero Dollars (\$-0-) per meeting attended and this compensation shall be reflected by the legislative body in the annual budget.

ORGANIZATION. The Organization of the Board, their meeting, quorum, minutes and administrative personnel shall be in accordance with KRS 65.8815. In addition, alternate board members may be appointed by the Mayor, subject to the approval of the legislative body, to serve on the Code Enforcement Board in the absence of regular board members in accordance with KRS 65.8818.

PENALTY. The maximum civil fine that may be imposed for each violation shall be as stated in each respective ordinance that has been violated. The specific civil fine that is less than the maximum fine that can be imposed for each offense shall also be as stated in each specific ordinance that is being violated, if the person that committed the offense does not contest the citation.

POWERS. The powers of the board shall be in accordance with KRS 65.8821.
(Ord. 05-2011, passed 12-12-2011)

