

CITY OF MELBOURNE, KENTUCKY

CODE OF ORDINANCES

2024 S-3 Supplement contains:
Local legislation current through Ord. O2-2023, passed 5-9-23; and
State legislation current through KRS, 2023 Acts Issue

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**CITY OF MELBOURNE,
KENTUCKY**

CITY OFFICIALS

Ronnie J. Walton

Mayor

Paul Landwehr

Commissioner

Darlene Walton

Commissioner

Karen Daley

Commissioner

Robert Heck

Commissioner

Jeff Otis

City Attorney

Angela Ross

City Clerk/Treasurer

ORDINANCE NO. 05-00

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF MELBOURNE, REVISION AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN THE CODE.

WHEREAS, the present general ordinances of the City Of Melbourne are incomplete and inadequate and the manner or arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the City; and;

WHEREAS, the Acts of the Legislature of the Commonwealth of Kentucky empower and authorize the Legislative Body of this City to revise, amend, restate, codify and to compile and existing ordinance or ordinances and all new ordinances not heretofore adopted or published and to incorporate the ordinances into one ordinance in book form; and

WHEREAS, the Legislative Body of the City Of Melbourne has authorized a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form;

NOW, THEREFORE, THE COMMISSION OF THE CITY OF MELBOURNE, CAMPBELL COUNTY, KENTUCKY does hereby ordain as follows:

Section I

The general ordinances of the City Of Melbourne as herein revised, amended, restated, codified, and compiled in book form are adopted as and shall constitute the "Code of Ordinances of the City Of Melbourne, Kentucky."

Section II

The Code as adopted in Section I shall consist of the following titles:

See Table of Contents as attached

Section III

All prior ordinances pertaining to the subjects treated in the Code shall be deemed repealed from and after the effective date of the Code, except as the are included and reordained in whole or in part in the Code provided that such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of the Code, nor shall such repeal affect the provisions of ordinances Levying taxes, appropriating money, annexing or detaching territory, establishing franchises or granting special rights to persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements or plats, accepting dedications of land to public use, vacating or setting the boundaries of street or other public places; not shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Melbourne - Adopting Ordinance

Section IV

The Code shall be deemed published as of the day of its adoption and approval by the City Legislative Body and the Clerk of the City Of Melbourne is hereby authorized and order to file a copy of the Code in the Office of the City Clerk.

Section IV

The Code shall be in full force and effect from and after its date of passage approval and publication as required by law. The Code shall be presumptive evidence in all court and place of the ordinance and all provisions, sections, penalties and regulations therein contained, and of the date of passage, and that the same is properly signed, attested, recorded and approved, and that any public hearings and notices there of as required by law have been given.

George Koopman /s/
MAYOR GEORGE KOOPMAN

Attest: Jody Anderson /s/
City Clerk

First reading: 04/11/00
Second reading: 05/09/00
Published: 05/18/00

**MELBOURNE, KENTUCKY
CODE OF ORDINANCES
TABLE OF CONTENTS**

Chapter

TITLE I: GENERAL PROVISIONS

- 10. Rules of Construction; General Penalty

TITLE III: ADMINISTRATION

- 30. Commission Plan
- 31. City Officials
- 32. City Commission
- 33. Finance and Revenue
- 34. Public Records
- 35. Taxation
- 36. Departments and Councils
- 37. Code of Ethics
- 38. City Policies

TITLE V: PUBLIC WORKS

- 50. Sewers
- 51. Solid Waste

TITLE VII: TRAFFIC CODE

- 70. General Provisions
- 71. Traffic Rules
- 72. Parking Regulations
- 73. Bicycles and Motorcycles
- 74. Traffic Schedules
- 75. Parking Schedules

TITLE IX: GENERAL REGULATIONS

- 90. Animals
- 91. Streets and Sidewalks
- 92. Nuisances
- 93. Fireworks; Fire Prevention

TITLE IX: GENERAL REGULATIONS (Cont'd)

Chapter

- 94. Littering
- 95. Housing

TITLE XI: BUSINESS REGULATIONS

- 110. General Business Licensing
- 111. Peddlers, Itinerant Merchants and Solicitors
- 112. Pawnbrokers
- 113. Insurance Companies
- 114. Garage Sales
- 115. Occupational License Fees

TITLE XIII: GENERAL OFFENSES

- 130. General Offenses

TITLE XV: LAND USAGE

- 150. Building Regulations
- 151. Flood Damage Prevention
- 152. Mobile Homes
- 153. Planning and Zoning

Table

TABLE OF SPECIAL ORDINANCES

- I. Annexations
- II. Dedications
- III. Franchises
- IV. Interlocal Agreements
- V. Real Estate Transactions
- VI. Resolutions
- VII. Street Closings

PARALLEL REFERENCES

INDEX

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Short titles
- 10.02 Definitions
- 10.03 Rules of construction
- 10.04 Computation of time
- 10.05 Majority may act for all; authorized agent
- 10.06 Writings and signatures
- 10.07 Severability
- 10.08 Revivor
- 10.09 Rights and liabilities accruing before repeal of ordinance
- 10.10 Construction of section references
- 10.11 Ordinances repealed
- 10.12 Ordinances unaffected
- 10.13 Ordinances saved
- 10.14 Amendments to code; amendatory language
- 10.15 Conflicting provisions
- 10.16 Reference to offices
- 10.17 Errors and omissions
- 10.18 Historical and statutory references

- 10.99 Penalty

§ 10.01 SHORT TITLES.

(A) All ordinances of a permanent and general nature of the city as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections shall be known and designated as the Melbourne Code, for which designation “codified ordinances” or “code” may be substituted.

(B) -Title heads, chapter heads, section and subsection heads or titles, and explanatory notes and cross references, in the Kentucky Revised Statutes, do not constitute any part of the law, except as provided in KRS 355.1-107. (KRS 446.140)

(C) All references to codes, titles, chapters, and sections are to such components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code.” Sections may be referred to and cited by the designation “§” followed by the number, such as

“§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 DEFINITIONS.

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

ACTION. Includes all proceedings in any court of this state. (KRS 446.010(1))

AND. May be read ***OR***, and ***OR*** may be read ***AND***, if the sense requires it.

ANIMAL. Includes every warm-blooded living creature except a human being. (KRS 446.010(2))

BIENNIUM. The two-year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year.

BUSINESS TRUST. Includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A. (KRS 446.010(6))

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. When used in this code shall denote the City of Melbourne irrespective of its population or legal classification.

COMMISSION. The City Commission. (KRS 83A.010(3))

COMPANY. May extend and be applied to any corporation, company, person, partnership, joint stock company, or association. (KRS 446.010(9))

CORPORATION. May extend and be applied to any corporation, company, partnership, joint stock company, or association. (KRS 446.010(10))

COUNTY. Campbell County, Kentucky.

CRUELTY. As applied to animals, includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted. (KRS 446.010(12))

DIRECTORS. When applied to corporations, includes managers or trustees. (KRS 446.010(13))

DOMESTIC. When applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state. (KRS 446.010(14))

DOMESTIC ANIMAL. Any animal converted to domestic habitat. (KRS 446.010(15))

EXECUTIVE AUTHORITY. The Commission. (KRS 83A.010(6))

FEDERAL. Refers to the United States. (KRS 446.010(17))

FOREIGN. When applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state. (KRS 446.010(18))

KEEPER or **PROPRIETOR.** Includes all persons, whether acting by themselves or as a servant, agent, or employee.

KRS. Kentucky Revised Statutes.

LAND or **REAL ESTATE.** Includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest. (KRS 446.010(23))

LEGISLATIVE BODY. The City Commission. (KRS 91A.010(8))

LEGISLATIVE BODY MEMBER. A City Commissioner. (KRS 83A.010(8))

LIVESTOCK. Cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species. (KRS 446.010(25))

MAY. The act referred to is permissive. (KRS 446.010(26))

MONTH. Calendar month. (KRS 446.010(27))

MUNICIPALITY. The City of Melbourne, Kentucky.

OATH. Includes **AFFIRMATION** in all cases in which an affirmation may be substituted for an oath. (KRS 446.010(28))

PARTNERSHIP. Includes both general and limited partnerships. (KRS 446.010(30))

PEACE OFFICER. Includes sheriffs, constables granted police powers, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests. (KRS 446.010(31))

PERSON. May extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies. (KRS 446.010(33))

PERSONAL PROPERTY. Includes all property except real.

PREMISES. As applied to property, includes land and buildings.

PROPERTY. Includes real, personal, mixed estates and interests.

PUBLIC AUTHORITY. Includes boards of education; the municipal, county, state, or federal government, its officers or an agency thereof; or any duly authorized public official.

PUBLIC PLACE. Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

REGULAR ELECTION. The election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected.
(KRS 446.010(37))

SHALL. The act referred to is mandatory. (KRS 446.010(39))

SWORN. Includes **AFFIRMED** in all cases in which an affirmation may be substituted for an oath.
(KRS 446.010(43))

SIDEWALK. That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

STATE. The State of Kentucky.

STREET. Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the city.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or **OCCUPANT.** As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

VACANCY IN OFFICE. Such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, city, or district, or otherwise. (KRS 446.010(46))

VIOLATE. Includes failure to comply with. (KRS 446.010(47))

YEAR. Calendar year. (KRS 446.010(49))

§ 10.03 RULES OF CONSTRUCTION.

(A) *Singular includes plural.* A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things. (KRS 446.020(1))

(B) *Masculine includes feminine.* A word importing the masculine gender only may extend and be applied to females as well as males. (KRS 446.020(2))

(C) *Liberal construction.* All sections of this code shall be liberally construed with a view to promote their objects and carry out the intent of City Commission. (KRS 446.080(1))

(D) *Retroactivity.* No ordinance shall be construed to be retroactive, unless expressly so declared. (KRS 446.080(3))

(E) *Technical terms.* All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to such meaning. (KRS 446.080(4))

§ 10.04 COMPUTATION OF TIME.

(A) In computing any period of time prescribed or allowed by order of court, or by any applicable ordinance or regulation, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the public office in which a document is required to be filed is actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(B) When an ordinance, regulation, or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(C) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday. (KRS 446.030)

(D) In all cases where the law requires any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean the time only as may be necessary for the prompt performance of such duty or compliance with such notice.

§ 10.05 MAJORITY MAY ACT FOR ALL; AUTHORIZED AGENT.

(A) Words giving authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons. (KRS 446.050)

(B) When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include such acts when done by an authorized agent.

§ 10.06 WRITINGS AND SIGNATURES.

(A) When this code requires any writing to be signed by a party thereto, it shall not be deemed to be signed unless the signature is subscribed at the end or close of the writing.

(B) Every writing contemplated by this code shall be in the English language.
(KRS 446.060)

§ 10.07 SEVERABILITY.

It shall be considered that it is the intent of City Commission in enacting any ordinance, that if any part of the ordinance be held unconstitutional the remaining parts shall remain in force, unless the ordinance provides otherwise, or unless the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that City Commission would not have enacted the remaining parts without the unconstitutional part, or unless the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the intent of City Commission.

(KRS 446.090)

§ 10.08 REVIVOR.

(A) A repealed ordinance without a delayed effective date is revived when the ordinance that repealed it is repealed by another ordinance enacted at the same meeting of City Commission.

(B) A repealed ordinance with a delayed effective date is revived by the enactment of a repealer of the ordinance that repealed it at the same or any subsequent meeting of City Commission as long as it takes effect prior to the effective date of the original repealer.

(C) An amended ordinance without a delayed effective date remains unchanged with respect to an amendment which is repealed at the same meeting of City Commission which enacted the amendment.

(D) An amended ordinance with a delayed effective date remains unchanged with respect to that amendment if the ordinance making the amendment is repealed at the same or at a subsequent meeting of City Commission as long as the repealing ordinance takes effect prior to the effective date of the original amendment.

(E) No other action of City Commission repealing a repealer or an amendment shall have the effect of reviving the original language of the repealer or amendment as the case may be.
(KRS 446.100)

§ 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against a former ordinance, nor as to any act done, or penalty, forfeiture, or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising before the new ordinance takes effect, except that the proceedings thereafter had shall conform, so far as practicable, to the laws in force at the time of such proceedings. If any penalty, forfeiture, or punishment is mitigated by any provision of the new ordinance, such provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(KRS 446.110)

§ 10.10 CONSTRUCTION OF SECTION REFERENCES.

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

§ 10.11 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

§ 10.12 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.13 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the City Commission, or a certain city officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinance, all ordinances and regulations of a similar nature serving such purpose effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved.

§ 10.14 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.

(A) Any chapter, section, or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section, or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of such subsequent ordinances until City Commission shall adopt a new code of ordinances.

(B) The method of amendment set forth in § 32.37 should be used by the city to amend, add, or repeal a chapter, section, or division of this code of ordinances.

§ 10.15 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

§ 10.16 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.17 ERRORS AND OMISSIONS.

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.18 HISTORICAL AND STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) If a KRS cite is included in the history, this indicates that the text of the section reads word-for-word the same as the statute. Example: (KRS 83A.090) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85). If a KRS cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 31.10 MAYOR.

The executive authority of the city shall be vested in and exercised by the Mayor.
(Ord. 10, passed 1-1-80)

Statutory reference:

For powers and duties of the Mayor, see KRS 83A.130

§ 10.99 GENERAL PENALTY.

Where an act or omission is prohibited or declared unlawful in this code of ordinances, and no penalty is otherwise provided, the offense shall be deemed a violation and the offender shall be fined not more than \$250 for each offense.

TITLE III: ADMINISTRATION

Chapter

- 30. COMMISSION PLAN**
- 31. CITY OFFICIALS**
- 32. CITY COMMISSION**
- 33. FINANCE AND REVENUE**
- 34. PUBLIC RECORDS**
- 35. TAXATION**
- 36. DEPARTMENTS AND COUNCILS**
- 37. CODE OF ETHICS**
- 38. CITY POLICIES**

CHAPTER 30: COMMISSION PLAN

Section

- 30.01 Form of government
- 30.02 Governing officers

§ 30.01 FORM OF GOVERNMENT.

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

§ 30.02 GOVERNING OFFICERS.

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

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

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

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

Elected Officials

- 31.20 Election procedure
- 31.21 Mayor; Mayor Pro Tem
- 31.22 Commissioners

Nonelected City Officials

- 31.35 Establishment of nonelected city offices
- 31.36 City Clerk-Treasurer
- 31.37 City Attorney

GENERAL PROVISIONS

§ 31.01 OATH; BOND.

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

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

(C) *Bond.*

(1) All officers, officials, and employees of cities, counties, urban-county government, charter county governments, a regional wastewater commission, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that persons hands or under that person's control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond.

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

(KRS 65.067)

§ 31.02 COMPENSATION.

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

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

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

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

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

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

(E) Commencing January 1, 2023, the salary for the Office of the Mayor shall be \$1,000 per year and the salary for a City Commissioner shall be \$650 per year.

(Am. Ord. 4-04, passed 4-20-04; Am. Ord. 2-06, passed 4-10-06; Am. Ord. 01-2022, passed 2-14-22)

Statutory reference:

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

§ 31.03 REMOVAL FROM OFFICE.

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

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

Statutory reference:

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

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

ELECTED OFFICERS

§ 31.20 ELECTION PROCEDURE.

(A) (1) All elections for all city elected offices shall be nonpartisan. The nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of KRS 83A.045 (2)(b). As authorized by KRS 83A.045(2)(b)(1), the city hereby eliminates the nonpartisan primary election.

(2) The city adopts as if fully printed the provisions of KRS 83A.045 (2)(b) 1, 2, 3, 4, 5, and 6.
(Ord. O-96-09, passed 10-8-96)

(B) The city may change the manner of election of city officers within the provisions of division (A)(1) of this section by ordinance, except that no change shall be made earlier than five years from the last change.

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

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

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

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

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

Statutory reference:

Election of city officers, see KRS 83A.050

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

§ 31.21 MAYOR; MAYOR PRO TEM.

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

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

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

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

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

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

(3) No vacancy by reason of a voluntary resignation in the office of Mayor shall occur unless a written resignation which specifies the resignation date is tendered to the City Commission. The resignation may be submitted through electronic mail if it originates from the Mayor's electronic mail address and includes also the Mayor's handwritten signature. The resignation shall be effective at the next regular or special meeting of the City Commission occurring on or after the date specified in the written letter of resignation. If a resignation date is not specified, the written resignation shall be deemed to become effective at the first regular or special meeting of the City Commission occurring on or after its receipt. (KRS 83A.040(7))

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

(5) The City Commission shall elect from among its members an individual to preside over meetings of the City Commission during any vacancy in the office of the Mayor in accordance with the provisions of KRS 83A.130 to 83A.150. (KRS 83A.040(2)(d))

(D) *Powers and duties.*

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

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

(E) *Mayor Pro Tem.*

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

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

§ 31.22 COMMISSIONERS.

For provisions concerning the City Commission, see Chapter 32.

NONELECTED CITY OFFICIALS

§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.

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

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

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

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

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

(D) The following are nonelected city offices:

- (1) City Clerk;
- (2) City Treasurer;
- (3) City Attorney;
- (4) City Manager;
- (5) Police Chief; and
- (6) Fire Chief.

Statutory reference:

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

§ 31.36 CITY CLERK-TREASURER.

(A) The city hereby establishes the office of City Clerk-Treasurer. The Mayor, with the approval of the Commission, shall appoint the City Clerk-Treasurer and compensation shall be in an amount as established by the Commission from time to time.

(B) 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” of records under the Kentucky Open Records Act.

(3) Possession of the seal of the city, if used.

(4) No later than January 31 of each year, mail to the Department for Local Government a list of current city information as provided by statute.

(5) Receipt of all funds and posting thereof to the appropriate accounts and payment of all debts, after proper approval and authorization by the Commission and with the co-signature of the Mayor.

(6) Performance of any and all other duties required of the City Clerk-Treasurer by statute or ordinance.

(C) The City Clerk-Treasurer shall execute a performance bond in an amount to be set by the Commission.

(Ord. O-99-07, passed 7-13-99)

§ 31.37 CITY ATTORNEY.

(A) The office of City Attorney, is established and reaffirmed.

(B) The City Attorney shall attend or have another attorney attend all official meetings of the City Commission. The City Attorney shall perform other duties as may be set out by the City Commission.

(C) The position of City Attorney shall be appointed by the City Commission.

(D) The compensation of the City Attorney shall be set on a yearly basis in the annual budget ordinance.

(E) The oath of office shall be the same as that for the City Commission.

(F) There shall be no bond to cover the position of City Attorney.
(Ord. O-96-04, passed 4-9-96)

CHAPTER 32: CITY COMMISSION

Section

General Provisions

- 32.01 Members; election, qualifications, compensation
- 32.02 Vacancies
- 32.03 Powers and duties
- 32.04 Each Commissioner to superintend specific city departments

Rules of Procedure

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

Ordinances

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

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

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

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

(C) *Compensation.* Commencing January 1, 2005, the salary for the office of each Commission Member except for the Mayor shall be \$250 per year. For other provisions concerning compensation, see § 31.02.

(Am. Ord. 4-04, passed 4-20-04)

§ 32.02 VACANCIES.

(A) *Vacancies.* If one or more vacancies on the Commission occur in a way that one or more members remain seated, the remaining members shall within 30 days fill the vacancies one at a time, giving each new appointee reasonable notice of his 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 shall be filled as provided in this section.

(KRS 83A.040(5))

(1) No vacancy by reason of a voluntary resignation of a member of the City Commission shall occur unless a written resignation which specifies a resignation date is tendered to the City Commission. If a resignation date is not specified, the written resignation shall be deemed to become effective at the first regular or special meeting of the City Commission occurring on or after its receipt. The resignation shall be effective at the next regular or special meeting of the City Commission occurring on or after the date specified in the written letter of resignation. If a resignation date is not specified, the written resignation shall be deemed to become effective at the first regular or special meeting of the City Commission occurring on or after its receipt.

(KRS 83A.040(7))

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

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

Statutory reference:

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

§ 32.03 POWERS AND DUTIES.

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

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

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

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

(KRS 83A.140(3))

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

(KRS 83A.140(5))

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

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

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

(KRS 83A.140(8))

§ 32.04 EACH COMMISSIONER TO SUPERINTEND SPECIFIC CITY DEPARTMENTS.

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

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

(KRS 83A.140(6))

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

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

Cross-reference:

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

§ 32.21 MEETINGS.

(A) The regular meeting for the city shall be the second Monday of each month at 7:00 p.m. The meetings shall be held at the City Building on Garfield Avenue. The time and place enumerated herein may be changed from time to time as circumstances may be required and according to notice requirements under the law.

(B) The agenda for the meeting shall be as follows:

- (1) Call to order;
- (2) Pledge of allegiance;
- (3) Roll call;
- (4) Reading of minutes;
- (5) Communications;
- (6) Expenditures;
- (7) Recognition of visitors;
- (8) Committee reports;
- (9) Resolutions, orders and ordinances;
- (10) Old business;
- (11) New business;
- (12) Recognition of visitors; and

(13) Adjournment.

(Ord. O-89-09, passed 1-9-90)

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

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

(E) The minutes of every meeting shall be signed by the person responsible for maintaining city records as provided under § 31.36 and by the officer presiding at the meeting.

(KRS 83A.140(7)) (Am. Ord. 01-05, passed 2-15-05)

§ 32.22 QUORUM.

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

(KRS 83A.060(6))

ORDINANCES

§ 32.35 ONE SUBJECT; TITLE.

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

(KRS 83A.060(1))

§ 32.36 INTRODUCTION; ENACTING CLAUSE.

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

(KRS 83A.060(2))

§ 32.37 FORM OF AMENDMENT.

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

(KRS 83A.060(3))

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

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

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Commission may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of § 32.42 shall be complied with within ten days of the enactment of the emergency ordinance.

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

§ 32.39 ADOPTION OF STANDARD CODES BY REFERENCE.

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

(KRS 83A.060(5))

§ 32.40 OFFICIAL CITY RECORDS.

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

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

(KRS 83A.060(8))

§ 32.41 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8))

§ 32.42 PUBLICATION REQUIREMENTS.

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

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

(1) The title of the ordinance;

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

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

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

(KRS 83A.060(9))

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

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

(KRS 83A.060(10))

§ 32.44 PERIODIC REVIEW REQUIRED.

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

(KRS 83A.060(11))

§ 32.45 MUNICIPAL ORDERS.

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

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

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

§ 32.46 PROVED BY CITY CLERK; RECEIVED IN EVIDENCE.

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

(KRS 83A.060(14))

§ 32.47 LEGISLATIVE IMMUNITY.

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

(KRS 83A.060(15))

Statutory reference:

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

CHAPTER 33: FINANCE AND REVENUE

Section

Financial Administration

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

Improvements

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

FINANCIAL ADMINISTRATION

§ 33.01 DEFINITIONS.

For the purpose of this chapter, 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 GOVERNMENTAL AUDITING STANDARDS. Those standards for audit of governmental organizations, programs, activities and functions issued by the Comptroller General of the United States.

(KRS 91A.010(6))

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

(KRS 91A.010(7))

§ 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

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

(1) Determine compliance with statutory provisions; and

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

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

(KRS 91A.020)

§ 33.03 ANNUAL BUDGET ORDINANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(KRS 91A.030)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) Except as provided in divisions (B) to (D), each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall be completed by March 1 immediately following the fiscal year being audited. The city shall forward an electronic copy of the audit report to the Kentucky Department for Local Government for information purposes by no later than April 1 immediately following the fiscal year being audited.

(B) In lieu of the requirements of division (A) of this section, a city with a population of less than 1,000 based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year in the following manner:

(1) After the close of each odd-numbered fiscal year, the city shall for that odd numbered year cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by March 1 immediately following the fiscal year to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than April 1 immediately following the fiscal year being audited; and

(2) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(C) In lieu of the annual audit requirements in division (A) of this section, a city with a population of more 1,000 but less than 2,000 based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year to cover the two fiscal years occurring since the prior audit in the following manner:

(1) After the close of each odd-numbered fiscal year, the city shall cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall include both fiscal years since the prior audit and shall be completed by March 1 immediately following the fiscal years to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than April 1 immediately following the fiscal years being audited; and

(2) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(D) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than \$150,000, and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. In addition, each city exempted in accordance with this division shall:

(1) Annually prepare a financial statement in accordance with KRS 424.220 and shall, not later than October 1 following the conclusion of the fiscal year, forward one electronic copy to the Department for Local Government for information purposes; and

(2) If exempted under this division for more than four consecutive fiscal years after July 1, 2022, have prepared an attestation engagement covering the fourth fiscal year in which the city qualified for an exemption under this division. An attestation engagement completed pursuant to this division shall be:

(a) Prepared by an independent certified public accountant or by the Auditor of Public Accounts pursuant to a contract with the city using generally accepted attestation standards as promulgated by the American Institute of Certified Public Accountants and any additional procedures established by the Department for Local Government through administrative regulation;

(b) Completed by no later than March 1 immediately following the conclusion of the fiscal year in which in the attestation engagement is required;

(c) Submitted to the Department for Local Government as one electronic copy no later than April 1 after its completion;

(d) Advertised to the public within 30 days of its completion by causing the publication of a legal display advertisement of not less than six column inches in a newspaper qualified under KRS 424.120 stating that the attestation has been prepared and copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to receive copies of financial statements under KRS 424.220. Any city advertising under this division shall be exempt from publishing its financial statement under KRS 424.220(6)(b) for any year in which it is required to have an attestation engagement completed; and

(e) Provided to the Auditor of Public Accounts upon request for review of the final report and all related work papers and documents regarding the attestation engagement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The auditor's opinion letter;

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

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

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

(5) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed \$.25 per page; and

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

(J) 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.

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

(L) If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in divisions (A) to (D) this section, the Department for Local Government

shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of divisions (A) to (D) and (K) of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.

(M) Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

(KRS 91A.040)

Statutory reference:

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

§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

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

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

(KRS 91A.060)

§ 33.06 INVESTMENT OF PUBLIC FUNDS.

It is the policy of the city that the City Treasurer shall invest city funds only in the following manner:

(A) The Treasurer may invest the city funds in bonds only with a AAA rating; no junk bonds may be purchased.

(B) Should the Treasurer invest in certificates of deposit, they must be insured by an agency of the United States government and they must be insured to 100% of the investment value.

(C) The Treasurer is directed to use a bank that has a branch in Campbell County.

(D) The Treasurer is authorized to maintain a checking account in the name of the city. If possible, this should be an interest bearing account.

(Ord. 0-94-24, passed 1-10-95)

IMPROVEMENTS**§ 33.10 DEFINITIONS.**

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

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

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

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

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

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

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

PROPERTY. Any real property benefitted by an improvement.

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

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

§ 33.11 FINANCING OF IMPROVEMENTS.

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

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

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

(KRS 91A.220)

Statutory reference:

Improvements; alternate methods, see KRS Chapter 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. The Commission may assess such property in the same manner as for privately owned property or it may pay the costs so apportioned out of general revenues.

(KRS 91A.230)

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240)

§ 33.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by § 33.13, the city shall hold at least one public hearing on the proposed improvement at which all interested persons shall be heard. Notice of the hearing shall

be published pursuant to KRS Chapter 424, and mailed to each affected property owner by certified mail, return receipt requested, and shall include:

(A) The nature of the improvement;

(B) Description of area of the improvement;

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

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

(E) Time and place of the hearing.

(KRS 91A.250)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

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

(KRS 91A.260)

§ 33.16 AFFECTED OWNER MAY CONTEST.

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

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

(KRS 91A.270)

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

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

(KRS 91A.280)

§ 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

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

(KRS 91A.290)

CHAPTER 34: PUBLIC RECORDS

Section

General Provisions

34.01 Definitions

Procedures for Requesting Public Records

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

GENERAL PROVISIONS

§ 34.01 DEFINITIONS.

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

BOOKING PHOTOGRAPH AND PHOTOGRAPHIC RECORD OF INMATE. A photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image of an inmate taken pursuant to KRS 196.099.

CITY. The city government of this city.

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

- (1) Publication or related use of a public record by a newspaper or periodical;
- (2) Use of a public record by a radio or television station in its new or other informational programs; or
- (3) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

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

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

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

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

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

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

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

PUBLIC RECORD. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by the public agency. ***PUBLIC RECORD*** shall not include any records owned or maintained by or for the public agency that are not related to functions, activities, programs, or operations funded by state or local authority.

RESIDENT OF THE COMMONWEALTH.

- (1) An individual residing in the Commonwealth;
- (2) A domestic business entity with a location in the Commonwealth;
- (3) A foreign business entity registered with the Secretary of State;
- (4) An individual that is employed and works at a location or locations within the Commonwealth;
- (5) An individual or business entity that owns real property within the Commonwealth;
- (6) Any individual or business entity that has been authorized to act on behalf of an individual or business entity described in divisions (1) to (5) of this definition; or
- (7) A news-gathering organization as defined in KRS 189.635(8)(b)1.a. to e.

SOFTWARE. The program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system. ***SOFTWARE*** consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency.
(KRS 61.870)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) Any person desiring to inspect or copy the public records of this city shall make a request for inspection at the office of the City Clerk during regular office hours, except during legal holidays. If

the city has no regular office hours, inspection and copying shall be allowed at a place and time as designated by City Commission. The official custodian, or the custodian acting under the authority of the official custodian, may require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records may be presented by hand delivery, mail or via facsimile, if one is available.

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

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

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

§ 34.06 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4))

§ 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

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

(KRS 61.872(5))

§ 34.08 REFUSAL OF UNREASONABLE REQUESTS.

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

§ 34.09 TIME LIMITATION; DENIAL OF INSPECTION.

The official custodian, upon any request for records made under this chapter, shall determine within five 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 five-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his or her authority and shall constitute final agency action.
(KRS 61.880(1))

§ 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

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

§ 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

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

(KRS 61.884)

§ 34.12 FORMAT OF COPIES.

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

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

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

(KRS 61.874(1) - (3))

§ 34.13 FEES FOR COPIES.

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

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

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

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

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

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

(KRS 61.874(3), (4))

Cross-reference:

Fees for on-line access to public records, see § 34.15

§ 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

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

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

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

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

(KRS 61.874(5)) Penalty, see § 10.99

§ 34.15 ON-LINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

(A) On-line 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 on-line access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements.

(B) Fees shall not exceed:

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

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

(KRS 61.874(6))

§ 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) 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.

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

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

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

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

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

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

1. Intimidate or coerce a public agency or all or part of the civilian population;
2. Disrupt a system identified in division (a)5.; or

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

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

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

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

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

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

(a) A contract is awarded; or

(b) The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited;

(17) Client and case files maintained by the Department of Public Advocacy or any person or entity contracting with the Department of Public Advocacy for the provision of legal representation under KRS Chapter 31;

(18) Except as provided in KRS 61.168, photographs or videos that depict the death, killing, rape, or sexual assault of a person. However, such photographs or videos shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, or a mutually agreed upon location, at the request of:

(a) 1. Any victim depicted in the photographs or videos, his or her immediate family, or legal representative;

2. Any involved insurance company or its representative; or
3. The legal representative of any involved party;

(b) Any state agency or political subdivision investigating official misconduct; or

(c) A legal representative for a person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident. The person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident or their immediate family shall not be permitted to have access to the photographs or videos;

(19) Records confidentially maintained by a law enforcement agency in accordance with a wellness program, including an early intervention system, as described in KRS 15.409; and

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

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

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

(D) 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.

(E) When material is made available pursuant to a request under division (A)(18) of this section, the public agency shall not be required to make a copy of the recording except as provided in KRS 61.169, and the requesting parties shall not be limited in the number of times they may view the material.

(KRS 61.878)

§ 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

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

CHAPTER 35: TAXATION

Section

- 35.01 County assessment adopted
- 35.02 Due date; payment
- 35.03 Delinquency
- 35.04 Ad valorem taxes on motor vehicles
- 35.05 Disposition of funds

§ 35.01 COUNTY ASSESSMENT ADOPTED.

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

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

(Ord. O-98-10, passed 8-11-98; Am. Ord. O-9-99, passed 9-17-99; Am. Ord. 10-00, passed 10-10-00)

§ 35.02 DUE DATE; PAYMENT.

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

(B) Any taxpayer who pays his city taxes before December 1 after they become due shall be entitled to a 2% discount thereon, and the Clerk shall allow the discount and give a receipt in full to the taxpayer.

§ 35.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent on January 1 following their due dates.

(B) The tax levied by the City Commission for the year 2000 shall be due and payable to the collector of city taxes from and after the passage of this section. Anyone failing to pay the tax by December 31, 2000, shall be deemed delinquent and the bill shall have added thereto a penalty of 20% of the amount thereof and shall bear interest at the rate of 12% per annum from January 1, 2001, until paid.

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

(Ord. O-9-99, passed 9-17-99; Am. Ord. 10-00, passed 10-10-00)

§ 35.04 AD VALOREM TAXES ON MOTOR VEHICLES.

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

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

(C) (1) There shall be levied against all motor vehicles registered in the city on each \$100 of assessed valuation, duly assessed in accordance with KRS 132.487 an ad valorem tax at a rate of \$.000.

(2) Any resident of the city on request and with proof of payment of their tax bill, may request the City Clerk to issue to that person a city sticker for each vehicle the tax has been paid. (Ord. O-98-11, passed 11-10-98)

§ 35.05 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Commission.

CHAPTER 36: DEPARTMENTS AND COUNCILS

Section

General Provisions

36.01 City departments established

Emergency Medical Services Advisory Council

36.10 Creation; members

36.11 Duties; findings

36.12 Integration with other county councils

36.13 911 emergency service fee

Police Department

36.15 Authority to carry concealed weapons

Cross-reference:

Board of Ethics, see § 37.70

GENERAL PROVISIONS

§ 36.01 CITY DEPARTMENTS ESTABLISHED.

(A) The following city departments are established:

- (1) Infrastructure;
- (2) Buildings/Equipment;
- (3) Finance; and
- (4) Parks/Activities/Safety.

(B) Each of the departments shall be placed under the supervision and control of one or more of the City Commission members at the City Commission's first meeting each year.
(Ord. O-99-06, passed 4-13-99)

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

§ 36.10 CREATION; MEMBERS.

(A) There is hereby established an Emergency Medical Services Advisory Council which shall review the delivery of emergency medical services by way of paramedics, emergency medical technicians, emergency and non-emergency/transport ambulance services, fire departments, police departments and emergency dispatch.

(B) Each of the following organizations shall designate one individual to serve on the Council:

Boone County Fire Chief's Association
 Kenton County Fire Chief's Association
 Campbell County Firefighter's Educational Association
 Northern Kentucky Firefighter's Association
 St. Elizabeth Hospitals
 St. Luke Hospitals
 Northern Kentucky Emergency Medical Service, Inc.
 Northern Kentucky Disaster Emergency Services
 Northern Kentucky Police Chief's Association
 Northern Kentucky City/County Administrator's Association
 Senior Services of Northern Kentucky, Inc.
 St. Elizabeth's A.L.S. System

(C) These individuals, after nomination by their respective sponsoring organization, shall be appointed by the Fiscal Court for a four-year term and may succeed themselves.
(Ord. O-97-01, passed 5-13-97)

§ 36.11 DUTIES; FINDINGS.

(A) Upon review of the status of the delivery of emergency medical services to the counties, the Council shall make recommendations to each Fiscal Court as to how they can best achieve consistent and efficient delivery of emergency medical services. The Council's findings may take the form of a proposed ordinance to be adopted by the respective Fiscal Courts.

(B) The Council shall remain in existence after compliance with the above sections for the purpose of continual monitoring of the state of delivery of emergency medical services. The Council shall promulgate rules and regulations for adoption by the Fiscal Court to achieve the goals of this subchapter.
(Ord. O-97-01, passed 5-13-97)

§ 36.12 INTEGRATION WITH OTHER COUNTY COUNCILS.

This Council shall be integrated with similar councils established by the counties of Boone and Kenton. The findings and recommendations shall be made with a view towards creating a unified system for the delivery of emergency medical services to the three counties.
(Ord. O-97-01, passed 5-13-97)

§ 36.13 911 EMERGENCY SERVICE FEE.

In order to provide 911 emergency service to the residents of the city and to provide funding for a central dispatch center in Campbell County, providing dispatching services to the city, the maximum fee imposed for 911 emergency service is hereby increased to not more than \$3.30 per access line per month.
(Ord. 12-00, passed 1-9-00; Am. Ord. 7-05, passed 12-12-05)

POLICE DEPARTMENT

§ 36.15 AUTHORITY TO CARRY CONCEALED WEAPONS.

(A) All members of the regular Police Department of the city who carry deadly weapons on or about their persons when performing their duties as members of the Police Department be and they are hereby authorized to carry concealed deadly weapons on or about their persons at all times within the Commonwealth of Kentucky.

(B) The deadly weapons which may be carried by the members of the regular Police Department are those weapons that are usually carried by the officers in performing their duties when on regular duty within the city.

(Ord. 12-71, passed 1-12-71)

Cross-reference:

Police duty as to property maintenance violations, see § 150.17

Powers and duties of Police Department relating to traffic control, see § 70.03

Statutory reference:

Police to carry concealed weapons throughout Commonwealth, see KRS 527.020

CHAPTER 37: CODE OF ETHICS

General Provisions

- 37.01 Short title
- 37.02 Findings
- 37.03 Purpose
- 37.04 Definitions

Standards of Conduct

- 37.15 Conflicts of interest
- 37.16 Receipt of gifts; compensation and honoraria
- 37.17 Use of city property, equipment and personnel
- 37.18 Representation of interests
- 37.19 Misuse of information
- 37.20 Post-employment restriction
- 37.21 Nepotism prohibited

Financial Disclosure

- 37.35 Annual statement of financial interests
- 37.36 Filing procedure and due date; amendments
- 37.37 Contents of the statement
- 37.38 Noncompliance
- 37.39 Maintenance of statements

Complaint Investigation

- 37.50 Filing and investigation of complaints
- 37.51 [Reserved]
- 37.52 [Reserved]
- 37.53 [Reserved]
- 37.54 [Reserved]
- 37.55 [Reserved]
- 37.56 Reprisals against persons disclosing violations prohibited

Board of Ethics

37.70 Northern Kentucky Regional Ethics Authority

37.99 Penalty

GENERAL PROVISIONS**§ 37.01 SHORT TITLE.**

This chapter shall be known and may be cited as the *City of Melbourne Code of Ethics*.
(Ord. O-94-10, passed 11-8-94)

§ 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 upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer or employee, that confidence is imperiled.

(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.

(Ord. O-94-10, passed 11-8-94)

§ 37.03 PURPOSE.

(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 this 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 Chapter 65 as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS Chapter 65.
(Ord. O-94-10, passed 11-8-94)

§ 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 **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, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which **BUSINESS** is conducted for profit.

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

CITY. The City of Melbourne, Kentucky.

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

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

FAMILY MEMBER. A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

IMMEDIATE FAMILY MEMBER. A spouse, an unemancipated child residing in the officer's or employee's household, or a person claimed by the office 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:

2001 S-1 Repl.

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

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

(Ord. O-94-10, passed 11-8-94)

STANDARDS OF CONDUCT

§ 37.15 CONFLICTS OF INTEREST.

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

(1) 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.

(2) 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.

(3) 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:

- (a) The officer or employee.
- (b) A family member.
- (c) An outside employer.

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

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

(4) No officer or employee shall be deemed in violation of any provision in this chapter if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in division (A)(3)(d) and (e), 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.

(5) 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.

(B) Conflicts of interest in contract.

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

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

(b) The prohibition in division (B)(1) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the requirements set forth in division (B)(1)(c) below are satisfied.

(c) The prohibition in division (B)(1) above shall not apply in any case where the following requirements are satisfied:

1. 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.

2. 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.

3. 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.

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

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

(Ord. O-94-10, passed 11-8-94) Penalty, see § 37.99

§ 37.16 RECEIPT OF GIFTS; COMPENSATION AND HONORARIA.

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

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

(C) 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.

(Ord. O-94-10, passed 11-8-94)

§ 37.17 USE OF CITY PROPERTY, EQUIPMENT, AND PERSONNEL.

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

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

(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.

(Ord. O-94-10, passed 11-8-94)

§ 37.18 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 any city agency.

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

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

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

(Ord. O-94-10, passed 11-8-94)

§ 37.19 MISUSE OF INFORMATION.

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

(Ord. O-94-10, passed 11-8-94) Penalty, see § 37.99

§ 37.20 POST-EMPLOYMENT RESTRICTION.

No officer or employee of the city or any city agency shall appear or practice before the city or any city agency with respect to any matter on which the officer or employee personally worked while in the

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

(Ord. O-94-10, passed 11-8-94) Penalty, see § 37.99

§ 37.21 NEPOTISM PROHIBITED.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) Employment;
- (2) Appointment;
- (3) Promotion;
- (4) Transfer; or

(5) Advancement of a family member to an office or position of employment with the city or a city agency.

(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 October 31, 1994.

(Ord. O-94-10, passed 11-8-94; Am. Ord. 03-00, passed 5-9-00) Penalty, see § 37.99

FINANCIAL DISCLOSURE

§ 37.35 ANNUAL STATEMENT OF FINANCIAL INTERESTS.

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

- (A) Elected city officials;

(B) Candidates for elected city office;

(C) Members of the city planning and zoning commission and board of adjustment;

(D) Members of the Board of Ethics created by this chapter; and

(E) Non-elected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or ward contracts, leases or agreements involving the expenditure of more than \$5,000 dollars.

(Ord. O-94-10, passed 11-8-94)

§ 37.36 FILING PROCEDURE AND DUE DATE; AMENDMENTS.

(A) A statement of financial interests required by this section shall be filed with the Board of Ethics, or the designated administrative office, no later than 5:00 p.m. April 30th each year, provided that:

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

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

(B) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests of 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.

(D) The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than March 1st of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Ord. O-94-10, passed 11-8-94; Am. Ord. 03-00, passed 5-9-00)

§ 37.37 CONTENTS OF THE STATEMENT.

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

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

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

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

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

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

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

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

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

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

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

(Ord. O-94-10, passed 11-8-94)

§ 37.38 NONCOMPLIANCE.

The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement or files a statement in a form other than that prescribed by the Board. The

notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.
(Ord. O-94-10, passed 11-8-94) Penalty, see § 37.99

§ 37.39 MAINTENANCE OF THE STATEMENTS.

(A) The Board of Ethics shall be the “official custodian” of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics, or the administrative official designated by the Board of Ethics as the “custodian,” of 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.

(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.

(Ord. O-94-10, passed 11-8-94)

COMPLAINT INVESTIGATION

§ 37.50 FILING AND INVESTIGATION OF COMPLAINTS.

All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board of Ethics. All complaints shall be in writing, signed by the complainant, under oath, and shall meet any other requirements established by the Board of Ethics.

(Ord. 0-94-10, passed 11-8-94; Am. Ord. 03-00, passed 5-9-00)

§ 37.51 [RESERVED.]

§ 37.52 [RESERVED.]

§ 37.53 [RESERVED.]

§ 37.54 [RESERVED.]**§ 37.55 [RESERVED.]****§ 37.56 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.**

(A) No officer or employee or the city or any city agency shall be 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:

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

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

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

(c) Is confidential under any other provision of law.
(Ord. O-94-10, passed 11-8-94; Am. Ord. 03-00, passed 5-9-00)

BOARD OF ETHICS**§ 37.70 NORTHERN KENTUCKY REGIONAL ETHICS AUTHORITY (BOARD OF ETHICS).**

(A) The Board of Ethics shall have the authorities, duties, and responsibilities as set forth in this chapter to enforce the provisions of the Code of Ethics. The city has entered into an Interlocal Agreement and joined the Northern Kentucky Regional Ethics Authority.

(B) Attached hereto and incorporated herein by reference is an Interlocal Cooperation Agreement authorized by KRS 65.210 et seq., which the Mayor of the City of Melbourne is hereby authorized and directed to sign on behalf of the city and the provisions of this chapter shall be enforced by the Northern Kentucky Regional Ethics Authority and the Northern Kentucky Ethics Enforcement Committee according to the provisions thereof.

(C) To enforce the provisions of this subchapter 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.

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

(E) 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.

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

(Ord. O-94-10, passed 11-8-94; Am. Ord. 03-00, passed 5-9-00)

Cross-reference:

Interlocal Agreements, see T.S.O. IV.

Public Records, see Chapter 34

§ 37.99 PENALTY.

(A) 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 § 37.38 within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed \$25 per day, up to a maximum total civil fine of \$500. Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

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

(C) 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.

(D) 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.

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

(F) 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.

(Ord. O-94-10, passed 11-8-94)

CHAPTER 38: CITY POLICIES

Section

- 38.01 City building designated no-smoking area
- 38.02 Personnel policies

§ 38.01 CITY BUILDING DESIGNATED NO-SMOKING AREA.

Smoking in the Melbourne City Building shall be designated areas.
(Order R-94-28, passed 12-13-94) Penalty, see § 10.99

§ 38.02 PERSONNEL POLICIES.

The City Commission hereby adopts a written personnel policies and procedures and classification plan which is incorporated by reference as if fully set out herein.
(Ord. 6-02, passed 12-10-02)

TITLE V: PUBLIC WORKS

Chapter

50. SEWERS

51. SOLID WASTE

CHAPTER 50: SEWERS

Section

- 50.01 Adoption of regulations for public and private sewers
- 50.02 Mandatory connection to city sanitary sewer service
- 50.03 Establishing user charges
- 50.04 Surface water in drainage system prohibited

- 50.99 Penalty

§ 50.01 ADOPTION OF REGULATIONS FOR PUBLIC AND PRIVATE SEWERS.

(A) The city hereby adopts by reference the Rules and Regulations of the Sanitation District No. 1 of Campbell/Kenton Counties, with the exception of Article IV, Sewer Service Charge - All Users, which is not adopted.

(B) Any changes, modifications, deletions, additions or amendments that may be made from time to time by the Sanitation District No. 1 of Campbell/Kenton Counties, shall be incorporated immediately into this section.

(Ord. O-92-05, passed 7-14-92)

§ 50.02 MANDATORY CONNECTION TO CITY SANITARY SEWER SERVICE.

(A) (1) Within 90 days of the sanitation sewer system being installed and operational, all existing dwellings and commercial establishments within the city limits shall be required to connect to the sewer system.

(2) The cost of connection to the sewer system shall be paid by the property owner.

(B) All new structures shall be required to connect to the sewer system at the time of construction and before the structure may be occupied.

(C) (1) In the event a property owner fails to connect to the sewer system, the property owner shall be subject to having the water to the property disconnected until such time as the building is connected to the sewer system.

(2) All costs of disconnecting and reconnecting the water line shall be paid by the property owner.

(Ord. O-91-14, passed 12-10-91; Am. Ord. O-94-15, passed 11-8-94) Penalty, see § 50.99

§ 50.03 ESTABLISHING USER CHARGES.

(A) It is determined and declared to be necessary and conducive to the protection of public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's wastewater system. The proceeds of the charges so derived will be used for the purpose of operating and maintaining the public wastewater system, and for the retirement of the debt incurred to build the system.

(B) (1) The revenues collected, as a result of the user charges levied, shall be deposited in a separate non-lapsing fund known as the "Operation, Maintenance, Replacement and Debt Service Fund."

(2) Fiscal year-end balances in the Operation, Maintenance, Replacement and Debt Service Fund, shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance, Replacement and Debt Service Fund, shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance, replacement and debt service. The user charge rate(s) shall be adjusted so that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

(C) (1) The following schedule of rates shall apply to each user of the wastewater system. This schedule includes rates for user charges and rates for debt service charges, each based on the volume of metered or estimated water consumption.

<i>Total Gallons of Water Consumption/ Quarterly</i>	<i>O, M & R 9,000 Gal. Rate</i>	<i>Debt Service 9,000 Gal. Rate</i>	<i>Total 9,000 Rate</i>
0 - 9,000 gallons (minimum bill)	\$18.99	\$34.38	\$53.37
All over 9,000 gallons	\$18.99	\$34.38	\$53.37

(2) The minimum amount of the quarterly bill shall be \$53.37 per quarter.

(3) For residential, industrial, institutional and commercial users, quarterly user charges will be based on actual water usage. If a residential, commercial, institutional, or industrial user has a consumptive use of water, or in some other manner, uses water which is not discharged into the wastewater system, the user charge for the contributor may be based on readings of a wastewater meter(s) or separate water meter(s) installed and maintained at the user's expense.

(D) All users shall be billed in accordance with a schedule established between the city and the Kenton/Campbell Counties Sanitation District #1, who shall perform the billing service for the city.

(E) There is established a charge to each property owner for the right to connect to the city's wastewater collection system. That charge shall be \$400 dollars per connection for property within the city. That charge shall be \$1,000 per connection for property outside the city. This charge shall be known as a "tap-in fee". This fee shall be paid prior to connecting any property discharge line into the city's wastewater collection system. The fee shall be paid to the City Treasurer who shall issue a permit stating the date of issue and the property for which the permit is issued.

(F) (1) In the event a person fails to pay the quarterly bill, that property shall be subject to having the water to the property disconnected until the bill is paid in full.

(2) In the event a person fails to pay the quarterly bill and that property is not connected to a domestic public water supply or for some other reason the domestic public water supply can not be turned off the property owner shall be subject to a civil action in the appropriate court of the Commonwealth of Kentucky to recover the unpaid bills. In addition, to recover the cost of the unpaid bills, the cost for all litigation including court costs and legal fees shall be included for recovery from the property owner. The judgment lien for all uncollected bills shall be filed against the property.

(3) There shall be a quarterly charge on all unpaid bills. That quarterly charge shall be 10% on the outstanding balance.

(G) In the event that a household should choose to disconnect the property from the Campbell County Water District water line and revert to some other means for obtaining water. That property shall be charge for treatment, operations, maintenance and repairs and debt service based on the last water used from the Campbell County Water District, as if that property was still connected to the Water District system.

(Ord. O-92-14, passed 1-12-93; Am. Ord. O-94-04, passed 6-14-94; Am. Ord. O-94-02, passed 7-1-94; Am. Ord. O-94-16, passed 11-8-94) Penalty, see § 50.99

§ 50.04 SURFACE WATER IN DRAINAGE SYSTEM PROHIBITED.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SURFACE WATER. Rain water or other water introduced into the waste water disposal system from downspouts, outside drains, garage floor drains and the like.

(B) No surface water may be channeled, conducted, transmitted or placed into the city's wastewater disposal system.

(C) In the event a person fails to comply with division (B) of this section, the city may exercise at its option the right to disconnect the property's sewer line to the wastewater system until such time that the surface water is no longer conducted into the system.
(Ord. O-93-15, passed 1-11-94) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Any property owner found to have failed to connect a wastewater discharge line into the city's wastewater collection system as provided in § 50.02 shall be subject to a fine of not more than \$500 for each day the dwelling or commercial structure is not connected to the wastewater collection system.
(Ord. O-94-15, passed 11-8-94)

(B) Any person found to have connected a wastewater discharge line into the city's wastewater collection system without securing the necessary tap-in fee permit pursuant to § 50.03 shall be subject to a fine of not more than \$500. This fine shall be in addition to paying the required fee. (Ord. O-94-16, passed 11-8-94)

(C) Any person found to be in violation of § 50.04 shall be subject to a fine of not less than \$500 and not more than \$500 for each day of violation. Each day in violation shall constitute a separate violation. (Ord. O-93-15, passed 1-11-94)

CHAPTER 51: SOLID WASTE

Section

51.01 Definition

51.02 Waste collection assessment levied

51.99 Penalty

§ 51.01 DEFINITION.

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

DWELLING UNIT. A one family residence, the premises in which a family of one or more resides and in the case of apartment buildings, each apartment shall be considered a separate dwelling unit. (Ord. 10-99, passed 9-17-99)

§ 51.02 WASTE COLLECTION ASSESSMENT LEVIED.

(A) A waste collection assessment is hereby levied on each dwelling unit in the city, beginning July 1 and ending June 30, of the following assessment year.

(B) The waste collection assessment levied by the City Commission shall be due and payable to the City Tax Collector from and after the passage of this chapter. Said amount shall be stated on the annual tax bill.

(Ord. 10-99, passed 9-17-99) Penalty, see § 51.99

Cross-reference:

Taxation, see Ch. 35

§ 51.99 PENALTY.

Anyone failing to pay the said assessment by December 31 of the assessment year, shall be deemed delinquent, and said bill shall have added thereto a penalty of 20% of the amount thereof, and shall bear interest at the rate of 12% per annum from January 1, until paid. Said assessment shall constitute a lien upon the property and be collectable in the same manner as taxes levied against real estate.

(Ord. 10-99, passed 9-17-99)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. PARKING REGULATIONS**
- 73. BICYCLES AND MOTORCYCLES**
- 74. TRAFFIC SCHEDULES**
- 75. PARKING SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
- 70.02 Required obedience to traffic directions
- 70.03 Powers and duties of Police Department
- 70.04 Authority for enforcement
- 70.05 Temporary regulations

Traffic-Control Devices

- 70.15 Signal legends
- 70.16 Establishment and maintenance of traffic-control devices
- 70.17 Obedience to signals
- 70.18 Interference with signals
- 70.19 Unauthorized signals or markings
- 70.20 Device to be legible and in proper position
- 70.21 Temporary disregard of devices by police officer

- 70.99 General penalty

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLES. Vehicles of the Police Department, vehicles of the Commonwealth Attorney's office when on official business, and ambulances on an authorized emergency run.

BOULEVARD. Any legally designated street at which cross traffic is required to stop before entering or crossing such boulevard.

BUSINESS DISTRICT. Any portion of any street between two consecutive intersections in which 50% or more of the frontage on either side of the street is used for business purposes.

CROSSWALK. That portion of the roadway included within the extension of the sidewalk across any intersection, and such other portions of the roadway between two intersections, as may be legally designated as crossing places and marked by stanchions, paint lines, or otherwise.

CURB. The boundary of that portion of the street used for vehicles whether marked by curbstones or not.

INTERSECTION. That part of the public way embraced within the extensions of the street lines of two or more streets which join at an angle whether or not one such street crosses the other.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, warnings, directions, markings, and devices placed or erected or maintained by authority of the City Commission.

ONE-WAY STREET. A street on which vehicles are permitted to move in one direction only.

OPERATOR. Every person who is in actual physical control of the guidance, starting, and stopping of a vehicle.

PARK. When applied to vehicles, to leave a vehicle standing, whether occupied or not, for a period of time longer than is necessary to receive or discharge passengers or property.

PEDESTRIAN. Any person afoot.

PLAY STREET. Any street or portion thereof so designated by the City Commission and reserved as a play area for children, from which all traffic is barred, except vehicles to and from abutting properties.

POLICE DEPARTMENT. The Police Department or other persons or agency authorized to perform the duties of § 70.03 or any other acts necessary to implement and enforce this traffic code.

PUBLIC WAY. The entire width between property lines of every way, dedicated passway, or street set aside for public travel, except bridle paths and foot paths.

REVERSE TURN. To turn a vehicle on any street in such a manner as to proceed in the opposite direction.

RIGHT-OF-WAY. The privilege of the immediate and preferential use of the street.

ROADWAY. That portion of any street, improved, designated, or ordinarily used for vehicular travel.

SIDEWALK. That portion of the street between the curb and the property line intended for the use of pedestrians.

STOPPING. As applied to vehicles, to stop a vehicle longer than is actually necessary to receive or discharge passengers.

STREET. Every public way, including alleys.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, buses, and other conveyances, individually or collectively, while using any street for the purpose of travel.

VEHICLE. Every device in, on, or by which any person or property is or may be transported or drawn on any street except devices moved by human power or used exclusively on stationary rails or tracks.

§ 70.02 REQUIRED OBEDIENCE TO TRAFFIC DIRECTIONS.

(A) It shall be unlawful for any person to fail or refuse to comply with any lawful order, signal, or direction given by a uniformed police officer, or to fail or refuse to comply with any of the traffic regulations of this traffic code.

(B) The provisions of this traffic code shall apply to the driver of any vehicle owned or used in the service of the United States government, this state, county, or city, and it shall be unlawful for any such driver to violate any of the provisions of this traffic code, except as otherwise permitted in this traffic code or by state statute.

(C) Every person propelling any pushcart or riding a bicycle or an animal on any roadway, and every person driving any animal on any roadway, and every person driving any animal-drawn vehicle shall be subject to the provisions of this traffic code applicable to the driver of any vehicle, except those provisions of this traffic code which by their very nature can have no application.

Penalty, see § 70.99

§ 70.03 POWERS AND DUTIES OF POLICE DEPARTMENT.

It shall be the duty of the Police Department to direct all traffic in conformance with this traffic code and to enforce the traffic regulations as set forth in this traffic code, to make arrest for traffic violations, to investigate accidents, and to cooperate with other officers of the city in the administration of the traffic laws, and in developing ways and means to improve traffic conditions.

Cross-reference:

Departments, Boards, and Councils, see Chapter 36

§ 70.04 AUTHORITY FOR ENFORCEMENT.

Authority to direct and enforce all traffic regulations of this city in accordance with the provisions of this traffic code and to make arrests for traffic violations is given to the Police Department, and, except in case of emergency, it shall be unlawful for any other person to direct or attempt to direct traffic by voice, hand, whistle, or any other signal.

Penalty, see § 70.99

§ 70.05 TEMPORARY REGULATIONS.

When required for the convenience and safety of the public and to alleviate unusual traffic problems, the City Commission or any authorized city official shall, at his discretion, have authority to impose such traffic regulations as he may deem necessary for temporary periods not to exceed two weeks. If these temporary regulations are necessary for a period longer than two weeks, the City Clerk shall be notified in writing of the extended order.

TRAFFIC-CONTROL DEVICES**§ 70.15 SIGNAL LEGENDS.**

Whenever traffic is regulated or controlled exclusively by a traffic-control sign or signs exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights for purposes of traffic control, the following colors only shall be used, and these terms and lights shall indicate and be obeyed as follows:

(A) Green alone or "Go:" Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(B) Steady yellow alone or "Caution" when shown following the green or "Go" signal: Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicular traffic facing a steady yellow signal may enter and clear the intersection.

(C) Red alone or double red or "Stop:" Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone.

(D) Flashing red alone: Vehicular traffic facing the signal shall stop before entering the nearest

crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall not again proceed until it can do so without danger.

(E) Flashing amber alone: Vehicular traffic facing the signal shall reduce its speed and proceed cautiously across the intersection controlled by such signal.

(F) “Yield Right-of-Way:” Vehicular traffic facing the “Yield Right-of-Way” sign shall bear the primary responsibility of safely entering the primary intersecting or merging right-of-way. All traffic facing the sign shall yield the right-of-way to all vehicles and pedestrians within such primary intersecting or merging right-of-way. No vehicle facing a “Yield Right-of-Way” sign shall enter the merging or intersecting right-of-way at a speed in excess of 15 miles per hour, except that this speed limit shall not apply to vehicles entering an expressway.

(G) Lane lights: When lane lights are installed over any street for the purpose of controlling the direction of flow of traffic, vehicular traffic shall move only in traffic lanes over which green arrows appear. However, when flashing amber lights appear above a lane all left turns shall be made from that lane. Where red arrows appear above such lanes, vehicles shall not move against them. If flashing amber lights show above a lane, that lane shall be used only for passing and for left turns unless a sign at such place prohibits such turn.

Penalty, see § 70.99

Statutory reference:

Traffic-control signals, see KRS 189.338

§ 70.16 ESTABLISHMENT AND MAINTENANCE OF TRAFFIC-CONTROL DEVICES.

The city shall establish and maintain all official traffic-control devices necessary within the city. All traffic-control devices, including signs, shall be employed to indicate one particular warning or regulation, shall be uniform, and as far as possible shall be placed uniformly. All traffic-control devices and signs shall conform to required state specifications.

§ 70.17 OBEDIENCE TO SIGNALS.

(A) It shall be unlawful for the driver of any vehicle to disobey the signal of any official traffic-control device placed in accordance with the provisions of this traffic code or of a traffic barrier or sign erected by any of the public departments or public utilities of the city, or any electric signal, gate, or watchman at railroad crossings, unless otherwise directed by a police officer. However, the type and the right to or necessity for such barrier or sign must be approved by the city.

(B) Such sign, signal, marking, or barrier shall have the same authority as the personal direction of a police officer.

Penalty, see § 70.99

§ 70.18 INTERFERENCE WITH SIGNALS.

No person shall without authority attempt to or in fact alter, deface, injure, knock down, or remove any official control device or any railroad sign or signal, or any inscription, shield, or insignia thereon, or any part thereof.

Penalty, see § 70.99

§ 70.19 UNAUTHORIZED SIGNALS OR MARKINGS.

(A) It shall be unlawful for any person to place, maintain, or display on or in view of any street any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic device or railroad sign or signal which attempts or purports to direct the movement of traffic, or which conceals or hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal. No person shall place or maintain, nor shall any public authority permit on any street, any traffic sign or signal bearing any commercial advertising. Nothing in this section shall be construed as restricting any public department or public utility of the city in any emergency or temporarily from marking or erecting any traffic barrier or sign whose placing has been approved by the city.

(B) Every such prohibited sign, signal, or marking is declared to be a public nuisance and the city is empowered forthwith to remove it or cause it to be removed.

Penalty, see § 70.99

§ 70.20 DEVICE TO BE LEGIBLE AND IN PROPER POSITION.

No provision of this traffic code for which signs or any other traffic-control device is required shall be enforceable against an alleged violator if at the time and place of the alleged violation the required device was not in proper position and sufficiently legible to be seen by an ordinarily observant person.

§ 70.21 TEMPORARY DISREGARD OF DEVICES BY POLICE OFFICERS.

In an emergency any police officer may at his discretion disregard traffic-control lights or signals or established regulations in order to facilitate the movement of traffic.

§ 70.99 GENERAL PENALTY.

Any person who violates any provision of this traffic code where no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

CHAPTER 71: TRAFFIC RULES

Section

Operation Generally

- 71.01 Obstructing traffic
- 71.02 Reverse or U turns
- 71.03 Backing vehicles
- 71.04 Vehicles crossing sidewalks
- 71.05 Speed limits

Accidents

- 71.15 Duty of operator
- 71.16 Accident report

Prohibitions

- 71.25 Operator of vehicle to drive carefully
- 71.26 Right-of-way of emergency vehicles; following emergency vehicles; driving over fire hose
- 71.27 Smoke emission or other nuisance

Parades

- 71.40 Definitions
 - 71.41 Permit required
 - 71.42 Application for permit
 - 71.43 Standards for issuance of permit
 - 71.44 Notice of rejection of permit
 - 71.45 Appeal procedure when permit denied
 - 71.46 Alternative permit
 - 71.47 Notice to city and other officials when permit issued
 - 71.48 Contents of permit
 - 71.49 Duties of permittee
 - 71.50 Public conduct during parades
 - 71.51 Revocation of permit
-
- 71.99 Penalty

OPERATION GENERALLY**§ 71.01 OBSTRUCTING TRAFFIC.**

(A) It shall be unlawful to operate any vehicle or permit it to remain standing in any street in such manner as to create an obstruction thereof.

(B) It shall be unlawful for the operator of any vehicle to enter any intersection or crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding the indication of any traffic-control signal which may be located at the intersection or crosswalk.

(C) Any intersection deemed by the city to be of special or critical importance to the movement of traffic shall be marked in a distinctive manner in order to indicate its importance. Should the operator of any vehicle enter any intersection so marked when there is insufficient room on the other side of the intersection to accommodate the vehicle, the indication of any traffic-control signal notwithstanding, he shall be deemed to have violated this division rather than division (B) above.

Penalty, see § 71.99

§ 71.02 REVERSE OR U TURNS.

The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.

(KRS 189.330(8)) Penalty, see § 71.99

§ 71.03 BACKING VEHICLES.

It shall be unlawful for the operator of any vehicle to back the vehicle at any intersection for the purpose of executing a turning movement. A vehicle from any parking position shall be backed by the operator in such manner as to proceed on the same side of the roadway in the lawful direction of travel.

Penalty, see § 71.99

§ 71.04 VEHICLES CROSSING SIDEWALKS.

(A) It shall be unlawful for the operator of any vehicle to drive within any sidewalk space except at a permanent or temporary driveway or by special permit from the City Commission or any authorized city official.

(B) It shall be unlawful for the operator of any vehicle to drive the vehicle out of any alley, driveway, building, or lot and across a sidewalk, or its extension across the alley, unless the vehicle has

been brought to a complete stop immediately prior to crossing the sidewalk or its extension. On entering the roadway from the alley, driveway, or building the operator shall yield the right-of-way to all vehicles approaching on the roadway. The operator of any vehicle intending to cross a sidewalk and turn into an alley from the roadway may do so at low speed and with caution.

Penalty, see § 71.99

§ 71.05 SPEED LIMITS.

Except as otherwise posted, no operator of a vehicle shall drive at a greater speed than is reasonable or proper, having due regard for the traffic and the use of the highway and streets, provided that the maximum speed of any vehicle shall be 15 miles per hour.

(Ord. O-93-13, passed 9-14-93) Penalty, see § 71.99

ACCIDENTS

§ 71.15 DUTY OF OPERATOR.

It shall be the duty of the owner of, operator of, or passenger in any motor vehicle which is involved in an accident in which any person is injured or property damaged to stop immediately and ascertain the extent of the injury or damage and render such assistance as may be needed.

Penalty, see § 71.99

Statutory reference:

Duty in case of accident, see KRS 189.580

§ 71.16 ACCIDENT REPORT.

The operator, owner, or passenger involved in an accident resulting in the injury or death of any person, or an accident in which property is damaged, shall immediately report the accident or property damage to the Police Department.

Penalty, see § 71.99

PROHIBITIONS

§ 71.25 OPERATOR OF VEHICLE TO DRIVE CAREFULLY.

(A) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.

(B) No person shall willfully operate any vehicle on any highway in such a manner as to injure the highway.

(KRS 189.290) Penalty, see § 71.99

§ 71.26 RIGHT-OF-WAY OF EMERGENCY VEHICLES; FOLLOWING EMERGENCY VEHICLES; DRIVING OVER FIRE HOSE.

(A) Upon the approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating, or oscillating red or blue lights visible under normal conditions from a distance of 500 feet to the front of such vehicle; or when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(B) Upon the approach of any emergency vehicle operated in conformity with the provisions of division (A) above, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(C) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of division (A) above closer than 500 feet, nor shall he drive into, park the vehicle into, or park the vehicle within the block where the vehicle has stopped in answer to an emergency call or alarm, unless he is directed otherwise by a police officer or firefighter.

(D) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.

(E) Upon approaching a stationary emergency vehicle or public safety vehicle, when the emergency vehicle or public safety vehicle is giving a signal by displaying alternately flashing yellow, red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:

(1) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:

(a) The person is driving on a highway having at least four lanes with not fewer than two lanes proceeding in the same direction as the approaching vehicle; and

(b) If it is possible to make the lane change with due regard to safety and traffic conditions;

or

(2) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.

(F) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.
(KRS 189.930) Penalty, see § 71.99

§ 71.27 SMOKE EMISSION OR OTHER NUISANCE.

Every vehicle when on a highway shall be so equipped as to make a minimum of noise, smoke, or other nuisance, to protect the rights of other traffic, and to promote the public safety.
(KRS 189.020) Penalty, see § 71.99

PARADES

§ 71.40 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.

PARADE PERMIT. A permit required by this subchapter.

§ 71.41 PERMIT REQUIRED.

(A) No person or persons shall engage in, participate in, aid, form, or start any parade unless a parade permit has been obtained from the City Commission or any authorized city official.

(B) This subchapter shall not apply to:

(1) Funeral processions; or

(2) A governmental agency acting within the scope of its functions.

Penalty, see § 71.99

§ 71.42 APPLICATION FOR PERMIT.

A person seeking issuance of a parade permit shall file an application with the City Commission or any authorized city official on forms provided by the Commissioner or such officer.

(A) The application for a parade permit shall be filed not less than five days or not more than 60 days before the date on which it is proposed to conduct the parade.

(B) The application for a parade permit shall set forth the following information:

(1) The name, address, and telephone number of the person seeking to conduct the parade;

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;

(3) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point, and the termination point;
- (6) The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
- (7) The hours when the parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park, or other public place proposed to be traversed;
- (9) The location by street of any assembly area for the parade;
- (10) The time at which units of the parade will begin to assemble at any such assembly area or areas;
- (11) The interval of space to be maintained between units of the parade;
- (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his behalf;
- (13) Any additional information reasonably necessary to a fair determination as to whether a permit should issue.

(C) There shall be paid at the time of filing an application for a parade permit a fee in an amount as established by the City Commission.
Penalty, see § 71.99

§ 71.43 STANDARDS FOR ISSUANCE OF PERMIT.

The City Commission or any authorized city official shall issue a permit when, from a consideration of the application and from other information obtained, he finds that:

- (A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(C) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;

(D) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;

(E) The conduct of the parade will not interfere with the movement of firefighting equipment enroute to a fire;

(F) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

Penalty, see § 71.99

§ 71.44 NOTICE OF REJECTION OF PERMIT.

The City Commission or any authorized city official shall act on the application for a parade permit within three days, Saturdays, Sundays, and holidays excepted, after filing thereof. If the City Commission or authorized city official disapproves the application, it shall mail to the applicant within the three days, Saturdays, Sundays, and holidays excepted, after the date on which the application was filed, a notice of its action stating the reasons for denial of the permit.

§ 71.45 APPEAL PROCEDURE WHEN PERMIT DENIED.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Commission. The appeal shall be taken within 30 days after notice of denial. The City Commission shall act on the appeal within 30 days after its receipt.

§ 71.46 ALTERNATIVE PERMIT.

The City Commission or any authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

§ 71.47 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the following persons:

- (A) The City Commission;
- (B) The City Attorney;
- (C) The Police Chief and the Fire Chief;

(D) The general manager or responsible head of each public utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

§ 71.48 CONTENTS OF PERMIT.

Each parade permit shall state the following information:

- (A) Starting time;
- (B) Minimum speed;
- (C) Maximum speed;
- (D) Maximum interval of space to be maintained between the units of the parade;

(E) The portions of the street, sidewalk, park, or other public place to be traversed that may be occupied by the parade;

(F) The maximum length of the parade in miles or fractions thereof;

(G) Such other information as is reasonably necessary to the enforcement of this subchapter.

Penalty, see § 71.99

§ 71.49 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairman or other person heading or leading the activity shall carry the parade permit on his person during the conduct of the parade.

Penalty, see § 71.99

§ 71.50 PUBLIC CONDUCT DURING PARADES.

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle except a police car or other emergency vehicle

shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

Penalty, see § 71.99

Cross-reference:

Parking on parade routes, see § 72.07

§ 71.51 REVOCATION OF PERMIT.

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

§ 71.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

(B) Any person who violates § 71.05 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50 nor more than \$500 for each offense. (Ord. O-93-13, passed 9-14-93)

(C) Any person who violates § 71.26 shall be guilty of a misdemeanor and shall be fined not less than \$60 nor more than \$500, or be imprisoned in the county jail for not more than 30 days, or both. (KRS 189.993(8))

CHAPTER 72: PARKING REGULATIONS

Section

Parking Generally

- 72.01 Obstructional parking; double parking
- 72.02 Manner of parking
- 72.03 Limitations of stopping and parking
- 72.04 Restrictions and prohibitions on designated streets
- 72.05 Parking restricted to allow street cleaning
- 72.06 Parking in excess of certain number of hours prohibited; towing authorized
- 72.07 Parking on parade route
- 72.08 Parking on off-street facility
- 72.09 Owner responsibility
- 72.10 Parking in parks
- 72.11 Display of parked vehicle for sale
- 72.12 Parking with handicapped permits

Impounding

- 72.20 Impoundment of vehicles authorized; redemption
- 72.21 Required notice to owner; sale of vehicle
- 72.22 Sale or disposal of contents of vehicle

Snow Emergency

- 72.35 Announcement of snow emergency
- 72.36 Termination of emergency
- 72.37 Snow emergency routes

- 72.99 Penalty

Statutory reference:

Revenues from fees, fines, and forfeitures related to parking, see KRS 65.120

PARKING GENERALLY**§ 72.01 OBSTRUCTIONAL PARKING; DOUBLE PARKING.**

(A) It shall be unlawful for any person to leave any vehicle or any other thing that may be a nuisance, obstruction, or hindrance in or on any street, alley, or sidewalk within the city either during the day or night.

(B) It shall be unlawful for any person to stop or park any vehicle on the roadway side of any other vehicle stopped or parked at the edge or curb of a street.

Penalty, see § 72.99

§ 72.02 MANNER OF PARKING.

(A) It shall be unlawful for the operator of any vehicle to stop or park the vehicle in a manner other than with its right-hand side toward and parallel with the curb, except that where parking is permitted on the left side of a one-way street, the left-hand side shall be so parked, and except for commercial loading and unloading on one-way streets.

(B) No vehicle shall be parked or left standing on any street unless its two right wheels are within six inches of and parallel with the curb, except that on one-way streets where parking is permitted on the left side the two left wheels are to be within six inches of and parallel with the curb.

(C) No vehicle shall be backed to the curb on any street, except that wagons and trucks may do so when loading and unloading provided that such loading and unloading and delivery of property and material shall not consume more than 30 minutes. Such backing of trucks or wagons is prohibited at all times and on all streets in the city where any truck or wagon so backed interferes with the use of the roadway by moving vehicles or occupies road space within ten feet of the center line of the street.

(D) The city may establish diagonal parking at certain places, requiring the parking of vehicles at a certain angle to the curb and within a certain portion of the roadway adjacent thereto. However, diagonal parking shall not be established where the roadway space required therefor would be within ten feet of the center line of any street. Such diagonal parking places shall be designated by suitable signs, and shall indicate by markings on the pavement the required angle and the width of the roadway space within which such vehicle shall park.

(E) It shall be unlawful for the operator of any vehicle to so park such vehicle that any part thereof shall extend beyond the lines marking the side or the rear of the space assigned for one vehicle.

Penalty, see § 72.99

§ 72.03 LIMITATIONS OF STOPPING AND PARKING.

(A) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

- (1) On a sidewalk;
- (2) In front of sidewalk ramps provided for persons with disabilities;
- (3) In front of a public or private driveway;
- (4) Within an intersection or on a crosswalk;
- (5) At any place where official signs prohibit stopping or parking;
- (6) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
- (7) On any controlled access highway;
- (8) Within a highway tunnel;
- (9) Within 15 feet of a fire hydrant; or
- (10) In an area between the roadways of a divided highway.

(B) No person shall move a vehicle not lawfully under his or her control into any such prohibited area.

(KRS 189.450(5), (6)) Penalty, see § 72.99

§ 72.04 RESTRICTIONS AND PROHIBITIONS ON DESIGNATED STREETS.

(A) The provisions of this section prohibiting the stopping and parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control devices.

(B) The provisions of this section imposing a time limit on parking shall not relieve any person from his duty to observe other and more restrictive provisions prohibiting or limiting the stopping or parking of vehicles in specific places or at specified times.

(C) When signs are erected in compliance with the provisions of division (F) below giving notice thereof, no person shall park a vehicle at any time on any street so marked by official signs.

(D) When a curb has been painted in compliance with the provisions of division (F) below, no person shall park a vehicle at any time at or adjacent to any curb so marked.

(E) When signs are erected in compliance with the provisions of division (F) below, in each block giving notice thereof, no person shall park a vehicle between the hours specified by official signs on any day except Sundays on any street so marked.

(F) (1) The city shall determine on what streets or portions thereof stopping or parking shall be restricted or prohibited. Whenever under authority of or by this traffic code or any other ordinance any parking limit is imposed or parking is prohibited on designated streets, or parking areas are restricted to handicapped parking, appropriate signs shall be erected giving notice thereof. However, in lieu of erecting such signs or in conjunction therewith, the face and top of a curb or curbs at or adjacent to which parking is prohibited at all times may be painted a solid yellow color.

(2) No such regulations or restrictions shall be effective unless the signs have been erected and are in place or the curbs are painted yellow at the time of any alleged offense, except in the case of those parking restrictions which by their very nature would not require such signs and markings.

(G) When signs are erected in compliance with division (F) above in each block giving notice thereof, no person shall park a vehicle for a time longer than specified on official signs any day except Sunday and on any street so marked.

Penalty, see § 72.99

Cross-reference:

Parking Schedules, see Chapter 75

§ 72.05 PARKING RESTRICTED TO ALLOW STREET CLEANING.

The city is authorized to designate street cleaning areas and shall provide suitable signs and markings on the street to be cleaned, restricting parking on that particular day. It shall be unlawful for the operator of any vehicle to stop on any street so designated.

Penalty, see § 72.99

§ 72.06 PARKING IN EXCESS OF CERTAIN NUMBER OF HOURS PROHIBITED; TOWING AUTHORIZED.

It shall be unlawful for anyone to park in any one place any vehicle on any of the public ways or streets of the city for a period of 24 hours or longer. Any vehicle left parked in any one place on any

of the public ways or streets of the city for a period of 24 hours or longer shall be deemed abandoned, and shall be subject to all existing regulations of the city pertaining to abandoned motor vehicles.

Penalty, see § 72.99

Cross-reference:

Parking Schedules, see Chapter 75

Removal of abandoned vehicles, see §§ 72.20 et seq.

Repairing vehicles on public ways, see § 92.03(C)

§ 72.07 PARKING ON PARADE ROUTE.

(A) The City Commission or any authorized city official shall have the authority, whenever in his judgment it is necessary, to prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the route of a parade or procession, to erect temporary traffic signs to that effect, and to prohibit and prevent such parking.

(B) It shall be unlawful to park or leave unattended any vehicle in violation of such signs or directions.

Penalty, see § 72.99

Cross-reference:

Parades, see §§ 71.40 - 71.51

§ 72.08 PARKING ON OFF-STREET FACILITY.

(A) It shall be unlawful for the driver of a motor vehicle to park or abandon the vehicle or drive on or otherwise trespass on another's property, or on an area developed as an off-street parking facility, without the consent of the owner, lessee, or person in charge of such property or facility.

(B) If at any time a vehicle is parked, abandoned, or otherwise trespasses in violation of division (A) of this section, the owner, lessee, or person in charge of the property or facility may have the unauthorized motor vehicle removed in accordance with the provisions of §§ 72.20 through 72.22.

(C) Every property owner or operator of an off-street parking facility shall post signs stating thereon that the property or parking lot or facility is privately owned and that unauthorized vehicle will be removed at the owner's expense before exercising the authority granted in division (B).

Penalty, see § 72.99

Statutory reference:

Removal of vehicles by owners of private parking lots; signs, see KRS 189.725

§ 72.09 OWNER RESPONSIBILITY.

If any vehicle is found illegally parked in violation of any provisions of this subchapter regulating stopping, standing, or parking of vehicles, and the identity of the driver cannot be determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for the violation.

Penalty, see § 72.99

§ 72.10 PARKING IN PARKS.

It shall be unlawful for any person to park any motor vehicle in or on any section of any public park, playground, play lot, or tot lot within the city not designed as a parking area or designed and regularly maintained as a roadway. However, nothing contained in this section shall be construed as prohibiting

the parking of a motor vehicle parallel to a designated and regularly maintained roadway in any such park or playground where at least two wheels of the motor vehicle are resting on such roadway.

Penalty, see § 72.99

§ 72.11 DISPLAY OF PARKED VEHICLE FOR SALE.

It shall be unlawful to park a motor vehicle displayed for sale or a motor vehicle on which demonstrations are being made on any street.

Penalty, see § 72.99

§ 72.12 PARKING WITH HANDICAPPED PERMITS.

(A) Any other provision to the contrary notwithstanding, a motor vehicle bearing a decal in its front windshield issued by the County Clerk pursuant to appropriate county ordinances for handicapped persons, when operated by a handicapped person or when transporting a handicapped person, may be parked in a designated handicapped parking place, or when parked in a metered parking space may be parked for two hours for no fee, or when parked where any parking limit is imposed may be parked for two hours in excess of the parking limit. The motor vehicle may be parked in a loading zone for that period of time necessary to permit entrance or exit of the handicapped person to or from the parked vehicle, but in no circumstances longer than 30 minutes.

(B) This section shall not permit parking in a “no stopping” or “no parking” zone nor where parking is prohibited for the purpose of creating a fire lane or to accommodate heavy traffic during morning, afternoon, or evening hours, nor permit a motor vehicle to be parked in such a manner as to constitute a traffic hazard.

Penalty, see § 72.99

IMPOUNDING

§ 72.20 IMPOUNDMENT OF VEHICLES AUTHORIZED; REDEMPTION.

(A) All police officers are empowered to authorize the impoundment of a vehicle violating vehicle-related ordinances after a citation has been issued.

(B) A vehicle slated for impoundment will be tagged and placed under control of the Police Department. Should a vehicle be moved without the consent and approval of the Police Department a warrant shall be issued immediately for the violator's arrest.

(C) All fines, fees, and charges must be paid in full before a release of impoundment can be issued for the vehicle's release.

§ 72.21 REQUIRED NOTICE TO OWNER; SALE OF VEHICLE.

(A) (1) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the notification requirements of KRS 281.928, shall have a lien on the motor vehicle and its contents, except as set forth in division (B) of this section, for the applicable and reasonable charges assessed in accordance with KRS 281.926 and 281.932, as long as it remains in his or her possession.

(2) If, after a period of 45 days, the applicable and reasonable charges assessed in accordance with KRS 281.926 and 281.932 have not been paid, the motor vehicle and its contents, except as set forth in division (B) of this section, may be sold to pay the charges after the owner and any lienholder been notified by certified mail at the addresses specified in KRS 281.928(1), ten days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid charges by the owner or responsible casualty insurer of the vehicle. A lien on a vehicle under this section shall be subject to prior recorded liens, unless released by any existing lienholder pursuant to division (A)(3) this section.

(3) A lienholder having a prior recorded lien listed on the title issued by the Commonwealth of Kentucky shall be notified by certified mail within the first tens days of impoundment in accordance with KRS 281.928. Such notification, in addition to the requirements KRS 281.928, shall include the make, model, license number, vehicle identification number, owner’s name and last-known address, and tentative date of sale for the vehicle, and state that the towing company or storage facility seeks to obtain a new title free and clear of any liens, excluding tax liens. If the above-referenced certified letter is not sent within the ten days by the towing and storage company, then only ten days of storage may be charged. The lienholder has the right to take possession of the motor vehicle after showing proof of lien still enforced, and paying the reasonable or agreed towing and storage charges on the motor vehicle. If a lienholder does not exercise the right to take possession of the motor vehicle under this division within 45 days of notification, and all lienholders agree in writing, the towing company or storage facility may obtain a new title under KRS 186A.145 free and clear of any liens, excluding tax liens. Nothing in this section shall allow the transfer of a vehicle subject to a lien, except as provided in KRS 186A.190.

(4) If there are no lienholders required to be notified under KRS 281.920 to 281.936, KRS 359.230 and KRS 376.275, and the owner does not exercise the right to take possession of the motor vehicle under this section within 45 days of notification required under KRS 281.928, the tow company or storage facility may obtain a new title under KRS 186A.145 free and clear of any liens, excluding tax liens.

(KRS 376.275(1))

(B) Division (A) of this section shall not apply to the following contents of a motor vehicle, which shall be released to the vehicle owner or the owner's designated agent upon request, if the request is made within 45 days of the date the vehicle was towed:

- (1) Prescription medication in its proper container;
- (2) Personal medical supplies and equipment or records;
- (3) Educational materials, including but not limited to calculators, books, papers, and school supplies;
- (4) Documents, files, electronic devices, or equipment that may be able to store personal information or information relating to a person's employment or business;
- (5) Firearms and ammunition. Notwithstanding the provisions of § 72.22(A), firearms and ammunition that are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed shall be transferred to the Department of State Police for disposition as provided by KRS 16.220;
- (6) Cargo in the possession of persons engaged in transportation in interstate commerce as registered under KRS 186.020;
- (7) Cargo in the possession of an integrated intermodal small package carrier as defined by KRS 281.605(12);
- (8) Child restraint systems or child booster seats; and
- (9) Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.
(KRS 376.275(2))

§ 72.22 SALE OR DISPOSAL OF CONTENTS OF VEHICLE.

Except as provided for in division (B)(5) of § 72.21, any contents exempted under division (B)(3), (4), (6), and (7) of § 72.21 that are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed may be sold or otherwise legally disposed of by the storage or towing company. Any contents exempted under division (B)(1), (2), (8), and (9) of § 72.21 that are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed shall not be sold, but shall be otherwise legally disposed of by the storage or towing company.
(KRS 376.275(3))

SNOW EMERGENCY

§ 72.35 ANNOUNCEMENT OF SNOW EMERGENCY.

Whenever the City Commission or any authorized city official finds that falling snow, sleet, or freezing rain will create a condition which makes it necessary that the parking of motor vehicles on snow emergency routes be prohibited, or whenever it is found on the basis of a firm forecast of snow, sleet, or freezing rain that the weather conditions so forecasted may create a condition making it necessary that such parking be prohibited, the Commission or city official is authorized to announce such prohibition, to become effective at a time specified by it. After the effective time of such prohibition no person shall park any vehicle or permit any vehicle to remain parked on a snow emergency route. However, if a fall of snow, sleet, or freezing rain occurs after 11:00 p.m. and prior to 6:00 a.m., and the City Commission or any authorized city official has not announced prior to 11:00 p.m. that parking on snow emergency routes is to be prohibited after a specified time, a vehicle parked on a snow emergency route may remain so parked until 7:00 a.m. following such fall. The prohibition of parking announced by the City Commission or any authorized city official under the authority of this section shall remain in effect until the Commission or city official announces the termination of the snow emergency, in part or in whole, after which the prohibition of parking authorized by this section shall no longer be in effect.

Penalty, see § 72.99

§ 72.36 TERMINATION OF EMERGENCY.

Whenever the City Commission or any authorized city official shall find that some or all of the conditions which gave rise to the snow emergency prohibition no longer exist, the Commission or city official is authorized to declare the termination of the emergency, in part or in whole, effective immediately on announcement. If such announcement is made other than between 6:00 a.m. and 11:00 p.m., it shall be repeated between those hours.

§ 72.37 SNOW EMERGENCY ROUTES.

The term ***SNOW EMERGENCY ROUTE*** shall mean any route designated by the City Commission or any authorized city official. On such street or highway designated as a snow emergency route, special signs shall be posted to this effect.

§ 72.99 PENALTY.

Any person receiving a citation for any parking violation in the city shall be deemed to have committed a violation and shall be fined in an amount not less than \$20 nor more than \$100.

(KRS 189.990(1))

CHAPTER 73: BICYCLES AND MOTORCYCLES

Section

- 73.01 Operation of bicycles
- 73.02 Operation of motorcycles and motorscooters
- 73.03 Coasting prohibited
- 73.04 Clinging to vehicles

73.99 Penalty

Cross-reference:

Required obedience to traffic directions, see § 70.02(C)

§ 73.01 OPERATION OF BICYCLES.

(A) No person shall operate a bicycle on the sidewalks of the city.

(B) No person shall operate a bicycle on any section of a public park, playground, play lot, or tot lot, except on a roadway or in a parking area.

(C) No operator of any bicycle shall carry another person on such bicycle.

Penalty, see § 73.99

Statutory reference:

Bicycles; safety regulations and standards, see KRS 189.287

§ 73.02 OPERATION OF MOTORCYCLES AND MOTORSCOOTERS.

(A) No operator of any motorcycle, motorscooter, or power-driven bicycle shall carry another person except on a seat attached thereto or in a side car attached to the vehicle.

(B) No operator of a motorcycle, motorscooter, or power-driven bicycle shall operate such vehicle in any public park, except on a roadway or in a parking area.

(C) No operator of a motorcycle, motorscooter, or power-driven bicycle shall operate such vehicle in any play lot or tot lot.

Penalty, see § 73.99

Statutory reference:

Regulations for operating and riding on motorcycles, see KRS 189.285

§ 73.03 COASTING PROHIBITED.

Except on streets which may be declared from time to time as “play streets” by the city and protected by barriers or official signs, it shall be unlawful for any person on skates or riding on a coaster sled or toy vehicle of any kind, to go on any roadway except at a crosswalk.

Penalty, see § 73.99

Cross-reference:

Regulation of roller skates, skateboards and the like, see § 91.34

§ 73.04 CLINGING TO VEHICLES.

(A) No person while riding on a bicycle, coaster sled, roller skates, or any toy vehicle shall cling to any moving vehicle on any street, or fasten or attach the vehicle on which he is riding thereto.

(B) No person shall ride on the projection, running board, or fenders of any vehicle.

Penalty, see § 73.99

Cross-reference:

Regulation of roller skates, skateboards and the like, see § 91.34

§ 73.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed to have committed a violation and shall be fined not more than \$50 for each offense.

CHAPTER 74: TRAFFIC SCHEDULES

Schedule

I. Stop intersections

SCHEDULE I. STOP INTERSECTIONS.

(A) There shall be installed at the intersections listed below, stop signs for the purpose of regulating motor vehicle traffic. The stop sign shall be placed in such a manner as to stop the traffic on the street so designated.

<i>Street</i>	<i>Side(s)</i>	<i>Intersection with</i>
Anderson Avenue	North and south	Latonia Avenue
Anderson Avenue	North and south	Railroad tracks
Blackburn Avenue	North and south	Latonia Avenue
Campbell Avenue	North and south	Latonia Avenue
Carlisle Avenue	North and south	Latonia Avenue
Garfield Avenue	North and south	Latonia Avenue
Huntington Avenue	North and south	Latonia Avenue
Kenton Avenue	North and south	Latonia Avenue
Kentucky Avenue	North and south	Latonia Avenue
Latonia Avenue	East and West	Carlisle/Campbell
Latonia Avenue	East and west	Huntington Avenue
Latonia Avenue	East and west	Anderson Avenue
Latonia Avenue	East and west	Kentucky Avenue
Latonia Avenue	East and west	Kenton/Blackburn
Latonia Avenue	East and west	Melbourne Avenue
Latonia Avenue	East and west	Lincoln Avenue

Melbourne - Traffic Code

<i>Street</i>	<i>Side(s)</i>	<i>Intersection with</i>
Latonia Avenue	East and west	Garfield Avenue
Lincoln Avenue	North and south	Railroad tracks
Lincoln Avenue	North and south	Latonia Avenue
Melbourne Avenue	North and south	Latonia Avenue
Melbourne Avenue	North and south	Railroad tracks

(B) Any person violating any provision of Schedule I shall be deemed guilty of a violation and upon conviction, shall be punished by a fine of not less than \$25 nor more than \$100 for each offense. (Ord. O-93-13, passed 9-14-93)

CHAPTER 75: PARKING SCHEDULES

Schedule

I. Parking prohibited on certain streets

SCHEDULE I. PARKING PROHIBITED ON CERTAIN STREETS.

(A) There shall be no parking of automobiles, any other motor vehicles or other objects at any time on the traveled portions of the following roads.

Anderson Avenue
Blackburn Avenue
Campbell Avenue
Carlisle Avenue
Chesapeake Avenue
Garfield Avenue
Gerard Avenue
Grand Avenue
Huntington Avenue
Jefferson Avenue
Kenton Avenue
Kentucky Avenue
Latoria Avenue
Lincoln Avenue
Melbourne Avenue
Ohio Avenue
Washington Avenue

(B) The violation of this schedule shall be considered a violation.

(C) Each eight hour period the party is in violation, a fine of \$25 and payment of court costs shall be imposed for the offense.

(Ord. O-91-09, passed 10-8-91)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. STREETS AND SIDEWALKS**
- 92. NUISANCES**
- 93. FIREWORKS; FIRE PREVENTION**
- 94. LITTERING**
- 95. HOUSING**

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Definitions
- 90.02 Animals running at large
- 90.03 Cruelty to animals in the second degree
- 90.04 Dyeing or selling dyed chicks or rabbits
- 90.05 Abandoning domestic animals prohibited
- 90.06 Destruction of abandoned and suffering animal
- 90.07 Certain animals prohibited
- 90.08 Regulations for horseback riding
- 90.09 Participation in Campbell County Animal Control Board
- 90.10 Spay and neuter incentive
- 90.11 Torture of dogs or cats

Dogs

- 90.15 Definitions
- 90.16 License required
- 90.17 Registration and issuance of license
- 90.18 License tag to be attached to dog
- 90.19 Dogs running at large; dogs to be under owner's control
- 90.20 Noise disturbance
- 90.21 Impoundment
- 90.22 Reclaiming impounded dog
- 90.23 Restrictions on dangerous animals
- 90.24 Animal excrement; prohibitions

- 90.99 Penalty

GENERAL PROVISIONS**§ 90.01 DEFINITIONS.**

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

ABANDON. Abandonment shall constitute the relinquishment of all rights and claims by the owner to the animal. (KRS 257.100(4))

AT LARGE. Off the premises of the owner, and not under the control of the owner or his agent either by leash, cord, chain, or otherwise.

OWNER. Every person having a right of property to an animal and every person who keeps or harbors an animal, has it in his care, or permits it to remain on or about the premises owned or occupied by him.

§ 90.02 ANIMALS RUNNING AT LARGE.

(A) No person who is the owner of any animal shall permit it to run at large in any public road, highway, street, lane, or alley, or upon unenclosed land, or permit it to go on any private yard, lot, or enclosure without the consent of the owner of the yard, lot, or enclosure.

(B) The owner of an animal who permits it to run at large in violation of this section is liable for all damages caused by such animal upon the premises of another.
Penalty, see § 90.99

§ 90.03 CRUELTY TO ANIMALS IN THE SECOND DEGREE.

(A) A person is guilty of cruelty to animals in the second degree when except as authorized by law he or she intentionally or wantonly:

(1) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit, (including, but not limited to being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit) mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(2) Subjects any animal in his custody to cruel neglect; or

(3) Kills any animal other than a domestic animal killed by poisoning. This division shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(B) Nothing in this section shall apply to the killing of animals:

(1) Pursuant to a license to hunt, fish, or trap;

(2) Incident to the processing as food or for other commercial purposes;

(3) For humane purposes;

(4) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(5) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(6) For bona fide animal research activities of institutions of higher education; or a business entity registered with the U.S. Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(7) In defense of self or another persona against an aggressive or diseased animal;

(8) In defense of a domestic animal against an aggressive or diseased animal;

(9) For animal or pest control; or

(10) For any other purpose authorized by law.

(C) Activities of animals engaged in hunting, field trials, dog training, other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(D) Cruelty to animals in the second degree is a Class A misdemeanor.

(E) (1) If a person is convicted of or pleads guilty to an offense under division (A) of this section arising from the person's treatment of an equine, the court may impose one or both of the following penalties against the person, in addition to fines and imprisonment:

(a) An order that the person pay restitution for damage to the property of others and for costs incurred by others, including reasonable costs, as determined by agreement or by the court after a hearing, incurred in feeding, sheltering, veterinary treatment, and incidental care of any equine that was the subject of the offense resulting in conviction; or

(b) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of any equine that was the subject of the offense resulting in conviction.

(2) If a person's ownership interest in an equine is terminated by a judicial order under division (E)(1)(b) of this section, the court may order the sale, conveyance, or other disposition of the equine that was the subject of the offense resulting in conviction.

(KRS 525.130) Penalty, see § 90.99

Statutory reference:

Cruelty to animals in the first degree, a Class D felony, see KRS 525.125

§ 90.04 DYEING OR SELLING DYED CHICKS OR RABBITS.

No person shall sell, exchange, offer to sell or exchange, display or possess living baby chicks, ducklings, or other fowl or rabbits which have been dyed or colored; nor dye or color any baby chicks, ducklings or other fowl or rabbits; nor sell, exchange, offer to sell or exchange or to give away baby chicks, ducklings or other fowl or rabbits, under two months of age in any quantity less than six, except that any rabbit weighing three pounds or more may be sold at an age of six weeks.

(KRS 436.600) Penalty, see § 90.99

§ 90.05 ABANDONING DOMESTIC ANIMALS PROHIBITED.

No owner of a domestic animal shall abandon the animal.

Penalty, see § 90.99

§ 90.06 DESTRUCTION OF ABANDONED AND SUFFERING ANIMAL.

(A) Any peace officer, animal control officer, or any person authorized by the Board of Agriculture may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased, or suffering past recovery for any useful purpose. (KRS 257.100(1))

(B) Before destroying the animal, the officer shall obtain the judgment to that effect of a veterinarian, or of two reputable citizens called by him or her to view the animal in his or her presence, or shall obtain consent to the destruction from the owner of the animal. (KRS 257.100(2))

(C) (1) Any animal placed in the custody of a licensed veterinarian for treatment, boarding, or other care, which shall be unclaimed by its owner or his or her agent for a period of more than ten days after written notice by registered or certified mail, return receipt requested, is given the owner or his or her agent at his or her last-known address, shall be deemed to be abandoned and may be turned over to the nearest humane society or animal shelter or disposed of as the custodian may deem proper.

(2) The giving of notice to the owner, or the agent of the owner of the animal by the licensed veterinarian shall relieve the licensed veterinarian and any custodian to whom the animal may be given of any further liability for disposal. (KRS 257.100(3))

§ 90.07 CERTAIN ANIMALS PROHIBITED.

(A) All animals, excluding dogs and household cats, shall be prohibited from being kept within the city.

(B) Any person owning or occupying more than five acres in a single tract within the city shall be exempt from all provisions of this section as to that property.

(C) This section shall not apply to any animal kept within a confined space in the owner's residence. This section shall not apply to anyone who has complied with the Kentucky Department of Fish and Wildlife Resources as defined in KRS Chapter 150 and their administrative regulations KAR 2:081. (Ord. 8-71, passed - -71; Am. Ord. O-97-12, passed 10-14-97) Penalty, see § 90.99

§ 90.08 REGULATIONS FOR HORSEBACK RIDING.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

HORSES AND PONIES. Both male and female of the genus equus and species caballus. It shall also include geldings, colts, fillies, mares, mules and asses.

(B) Horses and ponies may be used for riding purposes within the city between sunrise and sunset.

(C) No one shall be allowed to ride a horse or pony within 75 feet of Kentucky Highway Eight at any time.
(Ord. 9-71, passed - -71) Penalty, see § 90.99

§ 90.09 PARTICIPATION IN CAMPBELL COUNTY ANIMAL CONTROL BOARD.

(A) The city shall participate in the Campbell County Animal Control Board. The Mayor is hereby authorized to execute all documents on behalf of the city to participate in this Board.

(B) The cost of participating in this Board shall be reflected in the city budget and shall be paid from that budget.
(Ord. O-98-7, passed 6-9-98)

§ 90.10 SPAY AND NEUTER INCENTIVE.

If it is determined that an owner of a dog or cat has violated § 90.02 and a dog or cat running at large has not been spayed or neutered, an additional fine of \$50 shall be imposed. The additional fine shall be reimbursed to the owner of the dog or cat running at large if the owner submits written documentation to the city or its Animal Control Officer within 30 days of the date of the citation confirming that the dog or cat has been spayed if female or neutered if male. Such written documentation shall be in the form of a letter from the veterinarian performing the spay or neuter procedure. The written confirmation shall give descriptive detail of the dog or cat that has been spayed or neutered in a manner that will allow it to be identified.

(Ord. 3-04, passed 4-20-04)

§ 90.11 TORTURE OF DOGS OR CATS.

(A) As used in this section, unless the context otherwise requires, *TORTURE* means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(B) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(C) Nothing in this section shall apply to the killing or injuring of a dog or cat:

- (1) In accordance with a license to hunt, fish, or trap;
- (2) For humane purposes;
- (3) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
- (4) For purposes relating to sporting activities, including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;
- (5) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
- (6) In defense of self or another person against an aggressive or diseased dog or cat;
- (7) In defense of a domestic animal against an aggressive or diseased dog or cat;
- (8) For animal or pest control; or

(9) For any other purpose authorized by law.

(D) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(E) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

(KRS 525.135) Penalty, see § 90.99

Statutory reference:

Torture of dogs and cats, second and subsequent offenses, a Class D felony, see KRS 525.135

DOGS

§ 90.15 DEFINITIONS.

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

DANGEROUS ANIMAL.

(1) Any animal that has attacked or bitten without provocation a person engaged in lawful activity within the city;

(2) Any animal that has killed or injured another animal after the owner thereof has been given written or verbal notice by a Dangerous Animal Officer to keep the same confined or muzzled;

(3) Any animal that been declared to be dangerous by a physician attending a person who has been bitten or attacked by that animal;

(4) Any animal trained, owned or harbored for the purpose, primarily or in part, of animal fighting;

(5) Any animal that is considered by a Dangerous Animal Officer to have either a dangerous or vicious propensity, dangerous or vicious predisposition, or dangerous or vicious tendency, after the Dangerous Animal Officer has personally observed the animal's behavior; or

(6) Any animal that exhibits behavior that requires a Dangerous Animal Officer to take defensive action or causes the Dangerous Animal Officer the immediate apprehension of bodily harm;

(7) Any animal shall not be deemed dangerous if:

(a) It bites, attacks or menaces anyone assaulting its owner, or any person or another animal who has tormented or abused it; or

(b) It is otherwise acting in defense of an attack, from a person or another animal upon the owner or another person; or

(c) It is protecting or defending its young or another domestic animal; or

(d) It has been trained to function for public law enforcement agencies.

DANGEROUS ANIMAL OFFICER. The Animal Control Officer or any law enforcement officer who shall take complaints of an aggrieved party.

DOG. Any member of the canine family, male or female.
(Am. Ord. 02-2015, passed 8-10-15)

§ 90.16 LICENSE REQUIRED.

It shall be unlawful for any person to own or keep a dog or dogs in the city without first obtaining a county and rabies tag license for each dog. This section and § 90.17 shall not apply to dogs whose owners are nonresidents temporarily within the city for a period less than 30 days.
(Am. Ord. 02-2015, passed 8-10-15) Penalty, see § 90.99

§ 90.17 REGISTRATION AND ISSUANCE OF LICENSE.

All dogs kept in the city shall be registered with the appropriate agency.
(Am. Ord. 02-2015, passed 8-10-15) Penalty, see § 90.99

§ 90.18 LICENSE TAG TO BE ATTACHED TO DOG.

The license tag shall be fastened to the collar of the dog and shall be worn continuously, and the failure to have the tag so attached shall subject its owner or keeper to the penalties provided herein.
(Am. Ord. 02-2015, passed 8-10-15) Penalty, see § 90.99

§ 90.19 DOGS RUNNING AT LARGE; DOGS TO BE UNDER OWNER’S CONTROL.

(A) It shall be unlawful for the owner or keeper of any dog, either licensed or unlicensed, regardless of the age of the dog, to allow the dog to be at large and unattended, or to run in any street, park, lawn, garden, schoolyard, playground, or on any other public or private property.

(B) All dogs in the city must at all times be under the control of their owner. This can be accomplished by one of the following means:

(1) A physical restraint by which the dog is confined to a specific area;

(2) An electronic restraint by which the dog is confined to a specific area; this provision does not apply a dangerous animal;

(3) A leash or guide by which the dog is confined to a specific area; this provision does not apply a dangerous animal; or

(4) A physical barrier (fence) by which the dog is confined to a specific area.

(Ord. O-95-10, passed - -95; Am. Ord. 02-2015, passed 8-10-15) Penalty, see § 90.99

§ 90.20 NOISE DISTURBANCE.

No person shall keep or harbor any dog within the city which, by frequent and habitual barking, howling, or yelping, creates unreasonably loud and disturbing noises of such a character, intensity, and duration as to disturb the peace, quiet, and good order of one or more of the inhabitants of two or more separate residences. Any person who shall allow any dog habitually to remain, be lodged, or fed within any dwelling, yard, or enclosure which he or she occupies or owns shall be considered as harboring the dog.

(Am. Ord. 02-2015, passed 8-10-15) Penalty, see § 90.99

§ 90.21 IMPOUNDMENT.

Every police officer, peace officer, or other authorized official shall have the authority to apprehend any dog running at large in violation of this chapter and any unlicensed dog in the city, and to impound such dog or have such dog impounded in the appropriate place.

(Am. Ord. 02-2015, passed 8-10-15)

§ 90.22 RECLAIMING IMPOUNDED DOG.

The owner of any dog so impounded may reclaim the dog upon the payment of all appropriate fees and after fulfilling any and all other requirements.

(Am. Ord. 02-2015, passed 8-10-15)

§ 90.23 RESTRICTIONS ON DANGEROUS ANIMALS.

(A) *Restrictions.* The following precautions must be taken by the owners of dangerous animals.

(1) Whenever outside of its enclosure as provided herein, but on its owner's property, a dangerous animal must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent its escape.

(2) No dangerous animal shall be chained, tethered or otherwise tied to any inanimate object such as a tree, post, or building outside of its own enclosure as provided herein.

(3) Owners of dangerous animals who maintain them outdoors must have their property fenced with perimeter or area fence. Within this perimeter fence, the dangerous animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or fence must have secure sides and a secure top attached to all sides. The sides of the kennel or fence must either be buried two feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked.

(4) Except when being transported in, and securely confined within, a vehicle, no dangerous animal shall be permitted off the property of its owner, except when it is attended by its owner and restrained by a secure collar and leash (not to exceed six feet in length) of sufficient strength to prevent its escape, and muzzled by sufficient means to prevent its biting other persons or domestic animals.

(B) *Enforcement of restrictions.*

(1) In the event that a Dangerous Animal Officer has probable cause to believe that a dangerous animal is being harbored in violation of this subchapter, he or she may:

(a) Order the violation immediately corrected and cite the owner;

(b) If the violation cannot be immediately corrected and the animal is posing an imminent serious threat to human beings or other domestic animals, may seize and impound the animal.

(2) If the owner or keeper of any alleged dangerous animal impounded for violation of this subchapter presents proof that it will now be kept in compliance with this subchapter, the animal will be released upon payment of any fees and penalties due.

(3) If the owner or keeper of an alleged dangerous animal fails to either provide proof that the animal will now be kept restrained or confined in compliance with the provisions of this subchapter, or fails to reclaim it after impoundment, and if it cannot be adopted by someone providing proof that it will be kept restrained or confined as specified in this subchapter, it will be humanely euthanized.

(4) *Warning signs.* All owners, keepers, or harborers of dangerous animals shall display in a prominent place on their premises, and at each entrance or exit to the area where the animal is confined, a sign, easily readable by the public, using the words “Beware of Dangerous Animal” or “Beware of Dog”. (Ord. 02-2015, passed 8-10-15) Penalty, see 90.99

§ 90.24 ANIMAL EXCREMENT; PROHIBITIONS.

(A) It is hereby declared to be unlawful for any owner, keeper or walker of any animal to permit it to discharge excrement upon any public or private property (other than the property of its owner), absent the consent of the owner of the property, within the city, if the owner, keeper, or walker does not immediately thereafter remove and clean up the animal’s excrement from the public or private property.

(B) This section shall not apply to a blind person and his or her guide dog.
(Ord. 02-2015, passed 8-10-15) Penalty, see 90.99

§ 90.99 PENALTY.

(A) Any person who violates any provision of this chapter for which another penalty is not already otherwise provided shall be guilty of a misdemeanor and shall be fined not more than \$500 for each offense. Each day the violation exists shall constitute a separate offense.

(B) Any person who violates § 90.03 shall be guilty of a misdemeanor and shall be fined not more than \$500, imprisoned for not more than 12 months, or both for each offense.

(C) Any person who violates § 90.04 shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500. (KRS 436.600)

(D) Any person, firm or corporation who violates the provisions of § 90.07 shall be subject to a fine of \$100 per day per animal with each day and animal constituting a separate offense.

(E) Any person who violates § 90.24 shall be fined \$25.
(Ord. 8-71, passed - -71; Am. Ord. O-97-12, passed 10-14-97; Am. Ord. 02-2015, passed 8-10-15)

CHAPTER 91: STREETS AND SIDEWALKS

Section

Excavations and Construction

- 91.01 Opening permit required
- 91.02 Application and cash deposit
- 91.03 Restoration of pavement
- 91.04 Barriers around excavations
- 91.05 Warning lights
- 91.06 Sidewalk construction

Road and Bridge Projects

- 91.15 Public meeting required
- 91.16 Notice requirements
- 91.17 Public may testify; effect of testimony
- 91.18 Meeting to be held prior to construction
- 91.19 Separate meeting for each project not required
- 91.20 Exemptions from meeting requirement

Obstructions

- 91.30 Unloading on street or sidewalk
- 91.31 Street and sidewalk obstruction
- 91.32 Materials on street or sidewalk
- 91.33 Removal of ice and snow
- 91.34 Regulation of roller skates, skateboards and the like

- 91.99 Penalty

EXCAVATIONS AND CONSTRUCTION

§ 91.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized city official, to make any opening in

any street, alley, sidewalk, or public way of the city unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see § 91.99

§ 91.02 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the City Commission or other authorized city official. Application shall be made on a form prescribed by the City Commission, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the City Commission or other authorized city official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 91.03 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the City Commission or other authorized city official, and in accordance with rules, regulations, and specifications approved by the City Commission.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the city may proceed without notice to make such fill and restoration and the deposit referred to in § 91.02 shall be forfeited. Thereupon the deposit shall be paid into the appropriate city fund, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the city for restoration services performed by it. If the amount of such services performed by the city should exceed the amount of the deposit, the City Clerk or other proper administrative officer shall proceed to collect the remainder due from the permittee.

§ 91.04 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 91.99

§ 91.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season

shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 91.99

§ 91.06 SIDEWALK CONSTRUCTION.

It shall be the duty of the authorized city official to supervise construction or repair of sidewalks within the city. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the City Commission for approval. When the specifications are approved, the City Commission shall advertise for proposals to do all the work which may be ordered by the city in construction and repair of sidewalks, and shall contract therefor for a period not exceeding one year, with the lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. The City Commission may make separate contracts for the different kinds of work with different parties.

Statutory reference:

Sidewalks; construction along public roads; specifications, see KRS 178.290

Sidewalks; ramps for wheelchairs, see KRS 66.660

ROAD AND BRIDGE PROJECTS

§ 91.15 PUBLIC MEETING REQUIRED.

Before the city expends state-derived tax revenues on a municipal highway, road, street, or bridge, it shall provide an opportunity to the public to provide input in a public meeting for which notice has been given under KRS 61.823(2) to (4) with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(KRS 174.100)

§ 91.16 NOTICE REQUIREMENTS.

Prior to the contemplated date of expenditure of state-derived tax revenues on a road or bridge by the city, the city shall include the topic as a specific item on the public meeting agenda.

(KRS 174.100(1))

§ 91.17 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

(A) At the meeting, any person may speak with regard to any proposed project, any project which he or she feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(B) The city shall not be bound by the comments and input provided at the meeting but shall give due consideration to them.

(KRS 174.100(1), (2))

§ 91.18 MEETING TO BE HELD PRIOR TO CONSTRUCTION.

The city shall not begin construction on a road or bridge project wherein state-derived tax revenues are involved until the meeting as provided herein has been held.

(KRS 174.100(3))

§ 91.19 SEPARATE MEETING FOR EACH PROJECT NOT REQUIRED.

This subchapter shall not be construed to require a separate meeting for each project. A single meeting encompassing the entire road and bridge program, if all projects subsequently undertaken have been identified at the meeting, shall meet the requirements of this subchapter.

(KRS 174.100(4))

§ 91.20 EXEMPTIONS FROM MEETING REQUIREMENT.

The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(KRS 174.100(5))

OBSTRUCTIONS**§ 91.30 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the

material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 91.99

§ 91.31 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 91.99

§ 91.32 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 91.99

Cross-reference:

Littering on streets or sidewalks, see Chapter 94

§ 91.33 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, accumulated thereon within a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

Penalty, see § 91.99

§ 91.34 REGULATION OF ROLLER SKATES, SKATEBOARDS AND THE LIKE.

(A) No person shall roller skate, or ride a skateboard anywhere in the city without complying with the terms of this section.

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

ROLLER SKATE. To skate on any type of roller skates or street skates, or blade skate or skateboard.

(C) Except as provided in division (F), no person shall roller skate or ride a skateboard on any street except for the purpose of crossing the street. The rules relating to pedestrians crossing streets shall apply to persons crossing a street on roller skates or a skateboard. No person crossing a street on roller skates or a skateboard shall travel too fast for safety under the conditions existing.

(D) No person shall roller skate or ride a skateboard in a reckless manner on any public sidewalk. No person shall ride a skateboard or roller skate on a sidewalk without exercising due care for the safety of other persons using the sidewalk.

(E) Any commercial establishment selling or renting street skates, roller skates, blade skates, or skateboards of any kind shall post a copy of this section, or a summary of the rules set out in this section in the conspicuous place where persons buying or renting skates will see it.

(F) The Police Chief with the approval of the Chairman of the Safety Committee of City Commission, may designate certain side streets and alleys as approved for the use and enjoyment of persons who desire to use roller skates, street skates, blade skates and skateboards. Those streets or alleys that are approved shall be designated by placing a sign on that street or alley.

(Ord. O-91-07, passed 8-13-91) Penalty, see § 91.99

Cross-reference:

Clinging to vehicles, see § 73.04

Coasting prohibited, see § 73.03

Traffic rules, see Chapter 71

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500.

(B) Any person, firm or corporation violating any provision of § 91.34 shall be fined not less than \$25 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. O-91-07, passed 8-13-91)

CHAPTER 92: NUISANCES

Section

- 92.01 Generally
- 92.02 Scope; intent; conflict with other ordinances
- 92.03 Definitions
- 92.04 Public nuisances prohibited
- 92.05 Actions constituting public nuisances
- 92.06 Dangerous buildings
- 92.07 Noise control
- 92.08 Shopping carts
- 92.09 Graffiti
- 92.10 Criminal activity as a public nuisance
- 92.11 Animals and animal excrement
- 92.12 Junked vehicles, machines, salvage materials and manufactured homes as nuisances
- 92.13 Abandoned, inoperable and unlicensed vehicles; outside storage of vehicles and trailers
- 92.14 Administration; record keeping; enforcement
- 92.15 Powers and duties of the City Clerk or designee; record keeping; inspection
- 92.16 Establishment of Code Enforcement Board; powers
- 92.17 Code enforcement proceedings; procedure
- 92.18 Code Enforcement Board hearings; notice; failure to appear; procedure; final order
- 92.19 Appeal of Code Enforcement Board decision; final judgment
- 92.20 Lien; recording; fines, charges and fees
- 92.21 Immediate action; injunction by the city
- 92.22 Lienholder notification system
- 92.23 Lienholder rights; lien precedence

- 92.99 Penalty

§ 92.01 GENERALLY.

These regulations shall be known as the “Melbourne Nuisance Code”, hereinafter referred to as “the code” or “this chapter”.

(Ord. O2-2023, passed 5-9-23)

§ 92.02 SCOPE; INTENT; CONFLICT WITH OTHER ORDINANCES.

(A) *Purpose.* This chapter is designed to protect the public health, safety and welfare by:

(1) Establishing what constitutes a nuisance on residential and non-residential properties, and properties without existing structures;

(2) Prohibiting public nuisances that substantially annoy, injure or endanger the public, or unlawfully or substantially interfere with the use and enjoyment of private or public property;

(3) Fixing the responsibilities of owners, operators and occupants of all occupied residential and non-residential structures, and vacant structures and premises; and

(4) Providing for administration, enforcement and civil penalties.

(B) *Intent.* This chapter shall be construed liberally and justly to ensure public health, safety and welfare insofar as they are affected by the continued use and maintenance of structures and premises.

(C) *Other regulations.* The provisions of this chapter shall not be construed to prevent the enforcement of other ordinances or regulations.

(D) *Application of other codes.* Any repairs, alterations or changes to a structure, which are caused directly or indirectly by the enforcement of this chapter, shall be done in accordance with the procedures and provisions of any other existing codes used and enforced by the city, including, but not limited to, the city's Property Maintenance Code and the state's Building Code, Fire Code and Electrical Code.

(E) *Remedies.* The provisions of this chapter shall not be construed to abolish or impair existing or other remedies of the city, or its officers or agencies, relating to the removal or demolition of any buildings that are dangerous, unsafe or unsanitary.

(F) *Workmanship.* All repairs, maintenance, work, alterations or installations that are required for compliance with this chapter shall be executed and installed in a workmanlike and acceptable manner.

(G) *Conflict with other ordinances or regulations.* In any case where a provision of this chapter is found to be in conflict with any existing code, ordinance or regulation of the city, the provision that establishes the highest standard shall apply, so long as the penalty for violation of that provision is civil in nature. If the penalty of the provision establishing the highest standard is not civil in nature, then this chapter shall be the prevailing authority, with the exception of the state's Building Code, Fire Code and Electrical Code, which shall control over conflicting city ordinances.

(Ord. O2-2023, passed 5-9-23)

§ 92.03 DEFINITIONS.

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

ABANDON. To give up or relinquish one's interest or right in property.

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

AEROSOL PAINT CONTAINER. Any aerosol container, regardless of the material from which it is made, that is adapted or made for the purpose of spraying paint capable of defacing property.

ALTER or ALTERATION. Any change or modification in the construction or occupancy of a building or structure.

AUTOMOBILE COLLECTOR. Any person who collects and restores motor vehicles.

BANNER SIGN. Any commercial sign composed of any pliable plastic, cloth or similar material, without a rigid supporting frame.

BASEMENT. A portion of a building or structure located partly underground, but having less than one half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

BUILDING. Any structure, constructed on, below or above ground, for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term **BUILDING** shall be construed as if followed by the words "or any part thereof".

BUILDING CODE. The Kentucky Building Code, as adopted by the city in § 150.01 of this code of ordinances.

CART. Any cart, wagon or similar device, regardless of means of propulsion, made of wire, metal, wood or other material, such as is generally provided by merchants for carting or carrying merchandise or food stuffs from the merchant's store or buildings to automobiles or other places without the merchant's building or store.

CITY. The City of Melbourne, Kentucky, a home rule municipality, and including any departments, divisions, boards or agencies thereof.

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

CODE ENFORCEMENT OFFICER. Any employee of the city charged with the enforcement of the city's Nuisance Code, exclusive of clerical and administrative staff, as well as police and fire safety officers.

CONTROL. To exercise restraint or direction over.

DELIVER. Any manner of delivery that conforms to the federal and state constitutional requirements for procedural due process.

DISORDERLY MANNER. Any manner that unreasonably causes inconvenience, annoyance or alarm to any member of the public, or anybody using any other lot or parcel of real estate within or outside of the city, or wantonly creates a risk thereof.

DWELLING. Any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating by human occupants, whether or not it is occupied or vacant, provided that temporary housing, as hereinafter defined, shall not be regarded as a **DWELLING**. The term **DWELLING** shall be construed as if followed by the words "or any part thereof".

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities that are used or intended to be used for living, sleeping, cooking and eating, whether or not it is occupied or vacant. The term **DWELLING UNIT** shall be construed as if followed by the words "or any part thereof".

ELECTRICAL CODE. The National Electrical Code, as adopted by the city in this code of ordinances.

EVERYBODY. Every human being and every organization, or combination thereof; in the form of a corporation, partnership, limited liability company, joint venture, unincorporated association or otherwise.

FINAL ORDER. Any order:

- (1) Issued by the Code Enforcement Board following a hearing in accordance with this chapter;
- (2) Created because a violator neither paid, nor contested, the citation within seven days as provided in this chapter; or
- (3) Created because a violator failed to appear at a hearing the violator requested to contest as provided in this chapter.

FIRE CODE. The National Fire Codes and the Standards of Safety promulgated by the office of the state's Fire Marshal, as adopted by the city in this code of ordinances.

FOWL. Any hen, rooster, chicken, duck, turkey, pheasant or any of several other, usually gallinaceous birds.

GARBAGE. The organic, animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food or food products. Other general organic materials, such as paper and cardboard, are also ***GARBAGE.***

GRAFFITI. Any inscription, drawing or design that has no redeeming artistic, moral or social value, and is scratched, painted, sprayed or placed on any surface of any structure.

HEARING BOARD. A body established by ordinance and empowered to conduct hearings pursuant to KRS 65.8801 to 65.8839, and composed of one or more persons appointed by the Mayor, subject to the approval of the Board of Commissioners.

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

INOPERABLE MOTOR VEHICLE. A motor vehicle that is: unlicensed as required by KRS 186.020; in a state of disrepair, caused by wreckage to the vehicle or disassembly; mechanically inoperable or legally inoperable on public streets and highways.

LIVESTOCK. Animals of the bovine, ovine, porcine, caprine, equine, camelide and cervid species, including, without limitation, horses, cattle, sheep, swine and goats.

LOCAL GOVERNMENT. The City of Melbourne, Kentucky.

MARKER PEN. Any indelible marker or similar implement, with a writing tip exceeding four millimeters in width, that contains solution that cannot be removed with water after it dries.

NUISANCE CODE. This chapter of the city code of ordinances as enacted pursuant to KRS 65.8801 et seq., and the provisions of the International Property Maintenance Code, published by the International Code Council Inc., as amended from time to time, which are hereby incorporated by reference into this chapter, along with all amendments, as if fully set forth herein.

OCCUPANT. Any person living, sleeping, cooking or eating in, or having actual possession of a dwelling unit, rooming unit, building or portion of a building.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

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

ORDINARY PUBLIC VIEW. A sight line within normal visual range by a person on a public street or sidewalk adjacent to real property.

OVERGROWN GRASS. Any grass, weeds or vegetation in excess of ten inches in length, except in agricultural zones.

OWNER. The holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. **OWNER** also means a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property. It shall also mean any person who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee or other person, firm or corporation in control of a building, or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner. It is his or her responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property.

PARTS CAR. An automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of automobiles.

PERSON. Any individual, firm, corporation, limited liability company, association or partnership.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm draining facilities; the venting system; and the public or private water supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of storm water, liquid waste or sewerage, and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

PREMISES. A lot, plot or parcel of land, including the buildings or structures thereon.

PUBLIC AREA. Unoccupied open space that is not privately owned, including, but not limited to, publicly owned property, sidewalks, streets and rights-of-way.

RECREATIONAL VEHICLE. The same meaning provided in KRS 227.550(12).

REQUIRED. Required by some provision of this chapter or other law or regulation adopted by the city.

RUBBISH. Combustible and non-combustible waste materials, except garbage. The term shall include, but not be limited to, abandoned, discarded or unused objects placed outside of a structure, such as furniture, stoves, refrigerators, freezers, washers, dryers, clothes, food, cans, containers, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, synthetic materials, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery and dust. The term shall also include the residue from the burning of wood, coal, coke, synthetic material or other combustible material.

STAGNANT WATER. A body of water without wind, waves, fish or frogs, including, but not limited to, stagnant water in natural ponds, ornamental ponds, old tires, poorly maintained pools, rain barrels, clogged gutters and other places where standing water may collect.

STAIRWAY. One or more flight of stairs and the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one story to another in a building or structure.

STRUCTURE. An edifice, cellar, building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner. The term **STRUCTURE** shall be construed as if followed by the words “or any part thereof”.

YARD. An open unoccupied space on the same lot with a building, extending along the entire length of a street, or rear or interior lot line.
(Ord. O2-2023, passed 5-9-23)

§ 92.04 PUBLIC NUISANCES PROHIBITED.

No person shall act, fail to act, behave, erect, contrive, cause, continue, maintain in any manner or permit to exist any public nuisance within the city. Repeated violations of the terms of the International Property Maintenance Code, as amended, shall constitute a public nuisance.
(Ord. O2-2023, passed 5-9-23)

§ 92.05 ACTIONS CONSTITUTING PUBLIC NUISANCES.

(A) The following acts, action, inaction, omissions, behavior or conditions constitute a public nuisance:

(1) Any act, thing, occupation, condition, use of property, non-use of property, or misuse of property that continues for a length of time so as to:

(a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

(b) In any way render the public insecure in life, peaceful uninterrupted existence, or in the use of property;

(c) Offend the public morals or decency; and/or

(d) Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage any street, alley, highway, navigable body of water or other public way, including, but not limited to, sidewalks.

(2) To allow any physical condition, use or occupancy of any premises, or its appurtenances, to be an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, standing pools of water or liquid, basements, excavations, retaining walls and unsafe fences, accessible to children or other persons on the premises. No person shall abandon or leave unattended, in any place accessible to children, any refrigerator, freezer ice chest, ice box or similar air-tight box or container, which has a locking device inoperable from within, without first unhinging and removing the door or lid thereof, or detaching the locking device from the door or lid. Nothing in this section shall be construed to prohibit the normal use of any refrigerator, ice box, freezer or similar appliance for the storage of food in any home or buildings appurtenant thereto;

(3) For any premises to have unsanitary, defective or insufficient sewerage or plumbing facilities;

(4) To keep or maintain any premises designated by a Code Enforcement Officer as unsafe or unfit for human habitation;

(5) For any premises to present an imminent fire hazard, be in imminent danger of collapse or to be unsafe or unsecure so as to endanger life, limb or property;

(6) (a) For any premises to lack electrical service, plumbing, heating and/or other equipment required by this chapter, state statute or any other ordinance of the city; and

(b) If the utility providing natural gas service to a furnace, water heater or other equipment determines that the equipment is defective, the utility shall cite or “red tag” the defective equipment and notify the City Clerk, or his or her designee, of the citation. Any equipment so cited by a utility company as defective will be deemed a public nuisance.

(7) For any structure or building to be in a state of dilapidation, deterioration or decay, or be a product of faulty construction, or to otherwise be in violation of the International Property Maintenance Code, as adopted by the city pursuant to this code of ordinances;

(8) For any structure or building to be vacant or abandoned and open or accessible to vagrants or passers-by, or damaged by fire so as to not provide shelter;

(9) To allow on any premises or in any structure decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(10) To allow on any premises or structure any carcass of an animal, bird or fowl not buried or otherwise properly disposed in a sanitary manner within 24 hours after death;

(11) To allow on any premises or structure any stagnant water in which mosquitoes, flies or other insects may breed or multiply. For stagnant water that cannot be easily eliminated, a property owner may use mosquito dunks or other environmentally safe larvacides to kill mosquitoes and other insects. Evidence of the effective use of such products will constitute a defense to any citation issued under this section;

(12) To allow any rubbish to remain on any premises;

(13) To allow any premises or structure to pollute any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other polluting substances;

(14) To allow any premises or structure within the city limits, or within one mile thereof, to emit or cause any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches repulsive to the physical senses of ordinary persons, or that annoy, cause discomfort or injure the health of any appreciable number of persons within the city;

(15) To feed pigeons in public areas;

(16) To install, maintain or operate or allow to be installed, maintained or operated an outdoor pay telephone, as that term is defined in this code of ordinances, on any premises zoned for residential use or on any premises used, in whole or in part, for residential purposes, or in violation of this code of ordinances;

(17) To use a vehicle to further engage in the act of prostitution as defined by KRS 529.020 and 529.080:

(a) A vehicle operated with the permission, express or implied, of the owner of the vehicle that is used in the commission of the act of engaging in or soliciting prostitution, shall be declared a public nuisance and may be impounded;

(b) The operator and/or owner of the vehicle shall be liable for all towing, storage, penalties and administrative fees related to the impounded vehicle;

(c) In addition to any towing, storage and penalty fees, there shall be administrative fee of \$500 for the return of an impounded vehicle used in the commission of the act of engaging in or soliciting prostitution; and

(d) The operator or owner of a motor vehicle that has been impounded pursuant to this chapter may file an appeal, pursuant to the procedures outlined by statute, or otherwise in this code of ordinances, that is incorporated by reference.

(18) To allow excessive growth of weeds, grass or similar items.

(B) Any violation of the above-referenced acts, omissions, behaviors or conditions is a public nuisance, and shall constitute a civil offense and a violation of this chapter, subject to the remedies set forth in §§ 92.18, 92.21 and 92.99 of this chapter. In addition, for a violation of divisions (A)(4), (A)(5) or (A)(8) above, the city may expend labor and materials to abate the nuisance.

(C) For violations of divisions (A)(12) or (A)(18) above, any officer designated by the city, in addition to the procedures set forth in §§ 92.17 through 92.23 of this chapter, may give five days' written notice to remedy the situation. The notice shall be served in accordance with § 92.17(B). If no compliance is achieved within the time frame given, the city is authorized to send employees or agents upon the property to remedy or abate the situation. If city employees or agents are utilized to remedy the situation, the city shall have a lien against the property for the reasonable value of labor and materials and/or abatement costs used in remedying the situation. An affidavit of a Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section. The affidavit shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording, and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board and the city taxes, and may be enforced by judicial proceeding if all legal requirements are satisfied. The city's lien may also be enforced through a civil action in accordance with § 92.19.
(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.06 DANGEROUS BUILDINGS.

(A) It shall be a public nuisance and a violation of this chapter to keep, maintain or own a dangerous building within the city. A ***DANGEROUS BUILDING*** is defined as any of the following:

(1) A building whose interior or exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

(2) A building, exclusive of the foundation, that shows 33% or more damage or deterioration to its supporting members, or 50% or more damage or deterioration to its nonsupporting members, or to the enclosing or outside walls or coverings;

(3) A building having improperly distributed loads on the floors or roofs, or in which the same are overloaded, or which have insufficient strength to be reasonably safe to occupants or the public;

(4) A building damaged by fire, wind or other causes so as to cause it to become dangerous to life, limb or property of the occupants or to the public;

(5) A building that has become or is so dilapidated, decayed, unsafe, unsanitary, or that so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness, disease or injury to the health, safety or general welfare of those living therein;

(6) A building having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;

(7) A building having inadequate facilities for egress in case of fire or panic, or having insufficient stairways, elevators, fire escapes or other means of travel;

(8) A building that has parts or elements that are attached or not attached in such a way that they may fall and cause injury to persons or property;

(9) A building that is missing or has non-functioning smoke detectors or similar detection devices in violation of the Fire Code; or

(10) A building with openings where a door, window or other architectural feature, or parts thereof, should be located.

(B) Every person owning or having control of a building shall not allow openings where a door, window or other architectural feature should be located.

(1) The city shall be authorized to abate the nuisance of an unsecured opening, and may effectuate securing the opening pursuant to the applicable code, upon recommendation of the City Clerk or his or her designee.

(2) The nuisance of an opening where a door, window or other architectural feature should be located may be securely boarded by using a minimum of three-eighths-inch plywood or other similar material in a manner that will secure the building from intrusion.

(3) Any board placed on a building shall be painted black or a color consistent with the color of the structure, and shall be cut to fit the opening.

(C) Every person violating the provisions of this section shall be subject to the procedures set forth in §§ 92.16 through 92.23 and 92.99 of this chapter.

(D) Keeping, maintaining or owning a dangerous building is a public nuisance and shall constitute a civil offense and a violation of this chapter, subject to the remedies set forth in §§ 92.18, 92.21 and 92.99 of this chapter. In addition to applicable procedures and remedies set forth herein, any officer designated by the city may give five days' written notice to abate the violation of keeping a dangerous building. The notice shall be served in accordance with § 92.17(B). If no compliance is achieved within the time frame given, the city is authorized to send employees or agents upon the property to remedy or abate the situation. If city employees or agents are utilized to remedy the situation, the city shall have a lien against the property for the reasonable value of labor and materials and/or abatement costs used in remedying the situation. An affidavit of a Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section. The affidavit shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board and the city taxes, and may be enforced by judicial proceeding if all legal requirements are satisfied. The city's lien may also be enforced through a civil action in accordance with § 92.19.
(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.07 NOISE CONTROL.

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

A-WEIGHTED DECIBELS, abbreviated ***dBA***. The unit of sound most closely approximating the auditory sensitivities of the human ear.

AMPLIFIED SOUND. Any sound increased in volume or intensity by electronic equipment, mechanical equipment, or other means.

NOISE. Unwanted sound considered undesirable, unpleasant, loud, disruptive, injurious, disturbing, or the like.

PERSON. Any individual, firm, group, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner. For purposes of this section, the president, clerk, host or other person in charge of a group, association or organization shall be responsible for requiring the group, association or organization to comply with this section, and shall likewise be subject to the penalties imposed for violation of this section by the group, association or organization.

PLAINLY AUDIBLE.

(a) Any sound able to be detected by a person of reasonable hearing ability, regardless of whether the words and phrases are discernable: or

(b) Any sound producing an average reading in excess of 55 dBA, as measured on a sound level meter reading taken over a minimum period of five minutes.

SOUND. A thing that can be heard, specifically, vibrations that propagate as an acoustic wave, through a transmission medium, that are received by the ear.

(B) *Unlawful noise prohibited.*

(1) No person shall make, continue, or cause to be made or continued, any unreasonably loud, unnecessary or unusual noise, or any noise that either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city, considering the time, date, place, and nature of the sound.

(2) Unless exempted under division (C), the following loud, disturbing, and unnecessary noises are considered public nuisances and prima facie violations of this section, but this list shall not be deemed all-inclusive:

(a) *Excessive daytime noise.* Any sound or amplified sound between the hours of 8:00 a.m. through 10:00 p.m., Sunday through Thursday, or from 8:00 a.m. to 11:00 p.m., Friday and Saturday, that is plainly audible at the following distances:

1. One hundred feet from the source of the noise when it originates on public property within the city; or
2. One hundred feet from any point on the property line when the noise originates from private property within the city.

(b) *Excessive nighttime noise.* Any sound or amplified sound between the hours of 10:00 p.m. through 8:00 a.m., beginning Sunday night through Friday morning, and from 11:00 p.m. to 8:00 a.m., beginning Friday night through Sunday morning, that is plainly audible at the following distances:

1. Twenty-five feet from the source of the noise when it originates on public property within the city; or
2. Twenty-five feet from any point on the property line when the noise originates from private property within the city.

(C) *Exemptions.* The following sounds are exempt from the provisions of this section:

(1) All construction, building, and repair activities, whether commercial or residential, between the hours of 7:00 a.m. and 6:00 p.m.;

- (2) Sounds created by police, fire, and emergency equipment;
- (3) Sounds created pursuant to public services necessary for the health, welfare and safety of the community;
- (4) Sounds originating from aircraft in flight;
- (5) Sounds created by safety signals or warning devices, used to alert persons to an emergency, or used during the conduct of emergency work, provided that the sounds cease within 30 minutes of the completion of the activity requiring their use;
- (6) Organized school or recreational-related programs, activities, events, festivals, parades or other public programs, activities or events properly authorized by the city;
- (7) Sounds emanating from discharge of firearms on legally established shooting ranges;
- (8) The operation and maintenance of businesses or industries, including, but not limited to, the operation of industrial power equipment, located on property zoned and used for industrial purposes; and
- (9) Noises regulated under KRS Chapters 189 and 224.
- (10) Bells, chimes, and carillons, including devices emulating the sounds thereof, used in conjunction with religious or celebratory events, or to denote the passage of time.

(D) *Special variances.*

- (1) The City Clerk, or his or her designated representative, shall have the authority, consistent with this chapter, to grant special variances.
- (2) Any person seeking a special variance pursuant to this section shall file an application with the City Clerk, or his or her designated representative, no less than 30 calendar days prior to the date on which the special variance is sought to be effective. The application shall contain information that demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a special variance shall be given by the City Clerk, or his or her representative, to all persons who own and/or occupy real property adjoining the site for which the special variance is sought. Notice shall be forwarded by regular mail not less than 15 calendar days prior to the date on which the special variance is sought to be effective. The failure of the City Clerk, or his or her representative, to notify any adjoining property owner or occupant shall not be fatal to the applicant's request for a special variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the City Clerk, or his or her

representative, containing any information to support his or her claim. The statement shall be filed not less than seven calendar days prior to the date on which the special variance is sought to be effective.

(3) In determining whether to grant or deny the application, the City Clerk, or his or her designated representative, shall balance the hardship to the applicant, the community, and other persons of not granting the special variance, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the City Clerk, or his or her representative, may require. In granting or denying an application, the City Clerk, or his or her representative, shall place on public file a copy of the decision and the reasons for denying or granting this special variance.

(4) Special variances shall be granted by permit issued to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until the applicant agrees to all conditions. Noncompliance with any conditions of a special variance shall terminate it, and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted. Any person granted a special variance shall be required to present this permit to enforcement officials upon request. Failure to present documentation of a variance may result in the issuance of a citation under this section.

(5) An application for an extension of a time limit specified in a special variance, or for the modification of other substantial conditions, shall be treated like an initial application for a special variance.

(6) The City Clerk, or his or her designated representative, may issue guidelines defining the procedures to be followed in applying for a special variance, and the criteria to be considered in deciding whether to grant a special variance.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.08 SHOPPING CARTS.

(A) No person shall remove a cart from the property of any retail shopping establishment. As used in this section, **PROPERTY** shall be considered to include, but not be limited to, any public or private parking lot contiguous to the retail shopping establishment.

(B) Every retail establishment that provides carts to its customers that leave the building in which the establishment is located shall post signs, in conspicuous locations throughout the parking lot of the retail establishment, stating that it is unlawful to remove the carts from the premises of the establishment, including, but not limited to, the parking lot.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.09 GRAFFITI.

(A) *Graffiti prohibited.* Graffiti is prohibited and deemed to be a public nuisance. It shall be unlawful to spray, draw, etch, carve or otherwise create graffiti on any building or structure in the city, and any person doing the same shall be subject to a civil fine for the cost of its removal.

(B) *Storage and display of aerosol paint containers and marker pens.*

(1) *Aerosol paint.* It shall be unlawful and a violation of this chapter for any person who owns, conducts, operates or manages a retail commercial establishment to provide aerosol paint containers or marker pens in an area accessible to the public without employee assistance. However, nothing in this section of the code shall preclude the storage or display of spray paint containers and marker pens in an area viewable by the public so long as they are not accessible to the public without employee assistance.

(2) *Sale of spray paint and marker pens; duties of merchants.*

(a) No person shall sell or offer to sell to any minor under the age of 18 years any aerosol paint containers or marker pens.

(b) Any person who sells or offers for sale any aerosol paint container shall require from any person desiring to purchase the container, and appearing to be less than 18 years old, identification and proof of the person's age before selling or delivering an aerosol paint container to that person.

(3) *Exception for employment or educational use.* Any person under the age of 18 whose employment or school assignment requires the purchase of an aerosol paint container or marker pen may file with the city a request for a permit to purchase such items. The request shall be in writing, specifying the reason why an exception is requested, the name, address and age of the applicant, and the proposed place of purchase. The City Clerk, or his or her designee, shall investigate the matter and, within five working days, grant or deny the application. Any denial may be appealed to the Code Enforcement Board. If the permit is granted, the City Clerk, or his or her designee, shall give written notice to the retail establishment identified in the request for permission to purchase. The notice shall be maintained and, upon request, displayed to any police or other Code Enforcement Officer.

(4) *Possession restricted.* Absent express permission from a property owner or other person having control of property, no person shall possess an aerosol paint container and/or marker pen in or next to any public building or structure, or upon private property, with the intent to deface the property. Any person who possesses an aerosol paint container and/or a marker pen in or next to any public building or structure, or upon private property, with no legitimate or lawful purpose therefor, shall be presumed to have possession of the same with the intent to deface the property. This presumption is rebuttable with sufficient evidence.

(5) *Removal of graffiti by owner.* Graffiti is a nuisance, shall constitute a violation of this chapter, and is subject to enforcement action as set forth in §§ 92.18 and 92.99 of this chapter. If a private property owner fails to abate a graffiti nuisance violation after notice is given by the Development Department, the city may abate the graffiti and place a lien for the cost of its abatement against the real property of the owner of the premises, building or structure.
(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.10 CRIMINAL ACTIVITY AS A PUBLIC NUISANCE.

(A) *Criminal nuisance violation.* For purposes of this section, a **CRIMINAL NUISANCE VIOLATION** shall be defined as a criminal citation, arrest or court-issued search warrant for crimes involving:

- (1) Prostitution;
- (2) Controlled substances;
- (3) Alcohol intoxication;
- (4) Menacing;
- (5) Assault;
- (6) Terroristic threatening;
- (7) Resisting arrest;
- (8) Disorderly conduct;
- (9) Outdoor gambling; or
- (10) Violations of KRS Chapter 527.

(B) *Criminal activity nuisance.*

(1) No owner of residential, commercial or vacant property located in the city shall allow his or her property to be used as the site for any criminal activity nuisance. A criminal activity nuisance shall exist when the following number of criminal nuisance violations have occurred at a premises within a one-year period:

Melbourne - General Regulations

	<i>Level 1 Criminal Activity Nuisance</i>	<i>Level 2 Criminal Activity Nuisance</i>	<i>Level 3 Criminal Activity Nuisance</i>
Premises with 1 to 8 residential units	2 criminal nuisance violations	3 criminal nuisance violations	Each additional criminal nuisance violation
Premises with 9 or more residential units violations	5 criminal nuisance violations	7 criminal nuisance violations	Every 3 additional criminal nuisance violations

(2) A violation of this section shall be a civil offense, subject to the civil fines set forth in § 92.99.

(C) *Excluded illegal activity.* Any other provision of this section notwithstanding, the following shall not be used as the basis for a warning, citation or abatement order for a criminal activity nuisance or criminal nuisance violation:

(1) Any activity otherwise constituting a criminal nuisance violation in which persons legally residing at the premises are only victims of the criminal activity;

(2) Any incident of domestic violence perpetrated against a resident, licensee or invitee of the premises; and

(3) Any incident where the person requesting emergency services had a good faith belief that assistance was needed for themselves or another pursuant to KRS 218A.133.

(D) *Duty of the Police Department.* The city's police shall, as soon as possible, but in all cases within 30 days of criminally citing or arresting persons or executing court-issued search warrants for crimes constituting criminal nuisance violations, notify the City Clerk, or his or her designee, in writing of the specific violation investigated, the address of the property on or in which the violations occurred, and the circumstances of the violation. After the police notify the City Clerk, or his or her designee, of a criminal nuisance violation at a property for the first time, the City Clerk, or his or her designee, shall notify the owner of the property of the violation by regular U.S. Mail.

(E) *Notice and citation.* Whenever the City Clerk, or his or her designee, receives information that a criminal activity nuisance exists in or upon residential, commercial or vacant property, he or she shall issue a citation as provided for by this chapter.

(F) *Other remedies available.*

(1) Enforcement of this section does not impair or restrict the ability of the city to bring a separate action to revoke the occupational license of a landlord or business who allows a criminal activity nuisance to exist on the landlord's property, or to bring an action before the Code Enforcement Board for the imposition of civil fines, as set forth in § 92.99 of this chapter, or take any other action pursuant to city ordinance.

(2) No civil fines will be assessed by the Code Enforcement Board until after notice is sent pursuant to division (E) above.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.11 ANIMALS AND ANIMAL EXCREMENT.

(A) No person shall keep or maintain any animal in the city in such a manner so as to become a public nuisance or to disturb the peace, comfort or health of any person residing within the city. The keeping of all animals within the city shall also be subject to all pertinent regulations of Chapter 90 of this code of ordinances and the state's Health Department.

(B) (1) No animal shall be kept within the city's territorial limits on any lot or parcel of land or property consisting of less than 10,000 square feet in area.

(2) However, this provision shall not apply to small household pets, such as dogs or cats, or those animals kept or maintained for commercial purposes, which is a lawful use under the Zoning Code.

(C) (1) Any person having the custody and control of any dog, cat or other domestic animal on public property shall be responsible for cleaning up its excrement and disposing of its feces in a sanitary manner. It shall also be the duty of that person to have in his or her possession suitable equipment or supplies for picking up, removing and disposing of the animal's excrement.

(2) No person shall allow excessive animal excrement to accumulate on his or her premises, including his or her yard. For purposes of this section, *EXCESSIVE* shall mean more than five separate deposits or droppings of animal excrement. Excessive accumulation of animal excrement is a public nuisance and shall constitute a violation of this chapter, subject to the remedies set forth in §§ 92.18 and 92.99 of this chapter.

(D) No person shall deposit any dead animal matter, offal or any solid animal matter in any sewer, watercourse, vacant lot, public right-of-way or pond or lake in the city. The depositing of the refuse of animal matter in any such place is a public nuisance and shall constitute a violation of this chapter, subject to the remedies set forth in §§ 92.18 and 92.99 of this chapter.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.12 JUNKED VEHICLES, MACHINES, SALVAGE MATERIALS AND MANUFACTURED HOMES AS NUISANCES.

(A) It shall be unlawful to allow nuisances in the form of junked or wrecked vehicles, machines, scrap, salvage materials and mobile or manufactured homes to exist on real property in the city that are

not within a duly licensed salvage yard pursuant to KRS 177.910 to 177.950. Any violation of this prohibition shall be a civil offense. Furthermore:

(1) No inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. Except as provided in division (A)(2) below, it shall be unlawful for the owner, occupant or person having control or management of any land within the city to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of:

(a) One or more junked or wrecked automobiles, vehicles, machines or other similar scrap or salvage materials, excluding non-operative farm equipment; or

(b) One or more mobile or manufactured homes, as defined in KRS 227.550, that are junked, wrecked or non-operative and are not inhabited.

(2) The provisions of division (A)(1) above shall not apply to:

(a) Junked, wrecked or non-operative automobiles, vehicles, machines or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer, as defined under the provisions of KRS 190.010(8);

(b) Junked, wrecked or non-operative motor vehicles, including parts cars, stored on private real property by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery or other means;

(c) Any motor vehicle, as defined in KRS 281.010, that is owned, controlled, operated, managed or leased by a motor carrier; and

(d) A vehicle of any type is permitted to undergo major overhaul, including body work; provided that, the work is performed inside a structure or similarly enclosed area designed and approved for these purposes.

(3) The city may take action to abate the nuisances referenced in this section by giving five days' written notice to the property owner to abate the violation of keeping junked vehicles. The notice shall be served in accordance with § 92.17(B). The city, itself, may abate or remove a nuisance referenced under this section if the property owner fails to do so after notice is given regarding the nuisance. The city shall have a lien against the property for the reasonable value of labor and material used in remedying the nuisance, including, but not limited to, the cost of towing, holding, storage and disposal. An affidavit of a Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section. The affidavit shall be recorded

in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board and the city taxes, and may be enforced by judicial proceeding if all legal requirements are satisfied.

(4) In addition to the remedies prescribed above or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien. The city may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owned.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.13 ABANDONED, INOPERABLE AND UNLICENSED VEHICLES; OUTSIDE STORAGE OF VEHICLES AND TRAILERS.

(A) No vehicle that is abandoned, non-functional, in a state of disrepair or lacking a valid license shall be stored in excess of 72 hours in any residential zone, unless it is in a completely enclosed building.

(B) It shall be unlawful for any person to live in any boat, automobile, camper, recreational vehicle or truck within the jurisdiction of the legislative body, except houseboats may be permitted along the Licking and Ohio Rivers.

(C) The outside storage in excess of 72 hours of any trailer, mobile home, recreational vehicle, camper, boat or similar type equipment shall be restricted to the rear yard of all lots within the jurisdiction of the legislative body, except as herein provided and in cases where, due to unique conditions, topographic or other, that do not allow use of the rear yard, the Code Enforcement Board may permit such storage to be located in the side yard of the lot following review and approval by the Board. The Board may impose certain requirements (such as provided in the Zoning Code) to ensure that the vehicle and related equipment are properly screened from view of the adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of an enclosed building on any lot or parcel of land.

(D) It shall be unlawful to park or to keep any truck that is 10,000 pounds in excess of the manufacturer's gross vehicle weight at any place on property located in a residential district zone, except in a completely enclosed garage.

(E) Any provision that does not comply with the provisions of division (A) above, at the time of adoption of this chapter, shall be given a period of 60 days from the date of adoption of this chapter to comply with all the provisions of this section. Further, any property that does not comply with the provisions of divisions (C) and (D) above shall be given a period of six months from the date of adoption of this section to comply with all of the provisions of these divisions.

(F) Any violation of this section shall be a civil offense, and violators may be subject to the civil fines set forth in § 92.99.

(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.14 ADMINISTRATION; RECORD KEEPING; ENFORCEMENT.

(A) The enforcement and administration of this chapter shall be carried out under the direction of the City Clerk, or his or her designee, working in conjunction with the city's Police Chief, the city's Fire Chief, the county's Health Department, and other officials or agencies deemed appropriate by the City Clerk, or his or her designee, or the Mayor and the City Council. If necessary, the City Clerk, or his or her designee, may seek written opinions concerning the conditions of dwellings and structures from officials, agencies or professionals outside the city.

(B) The City Clerk, or his or her designee, and his or her assistants, staff or employees, shall be free from personal liability for acts performed within the scope of their employment, and for those acts performed in good faith in the performance of their official duties.

(C) The City Clerk, or his or her designee, or any one of his or her assistants, staff or employees, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building in the city, except where he or she is the owner, and shall not act as an agent for real estate sales, leases or rentals of buildings in the city, except where he or she is the owner, or unless authorized by the City Clerk.

(Ord. O2-2023, passed 5-9-23)

§ 92.15 POWERS AND DUTIES OF THE CITY CLERK OR DESIGNEE; RECORD KEEPING; INSPECTION.

The powers and duties of the City Clerk, or any person that he or she may designate, including Code Enforcement Officers, assistants, staffer employees, shall include, but not be limited to, the following, all pursuant to KRS 65.8801 through 65.8840:

(A) To conduct surveys and make inspections in any area of the community or within the city to determine compliance with this chapter or other ordinances he or she is empowered to enforce;

(B) To investigate all complaints made about buildings, structures, vacant lots or other premises within the city, whether they be verbal, written or in the form of a petition, alleging or charging that a violation of this chapter exists, or that a dwelling, structure or building is unfit or unsafe for human habitation or other occupancy;

(C) To inspect, survey or investigate any building, structure, dwelling or premises between the hours of 8:00 a.m. and 6:00 p.m., or at any time if an emergency exists or if requested by the owner or occupant. A Code Enforcement Officer may enter a building, structure, dwelling or premises to inspect, survey or investigate with the consent of the owner or occupant, in emergency situations, or when an inspection, survey or investigation is required before a permit is issued or funding is provided by the city, or is part of a licensing scheme adopted by the city. If an owner or occupant refuses to consent to entry or inspection of a building, structure, dwelling or premises, a Code Enforcement Officer may obtain a search warrant for this purpose from a court of appropriate jurisdiction. In addition, a Code Enforcement Officer may obtain a search warrant to inspect several buildings or structures in a particular area as part of an area inspection policy promulgated by the city. Probable cause to issue a search warrant may be based upon the passage of time, the nature of the building (e.g., a multi-family apartment house), the condition of the entire area or other reasonable legislative or administrative standards adopted by the city. Probable cause does not need to depend upon specific knowledge of a condition existing in a particular dwelling. A Code Enforcement Officer conducting an inspection pursuant to this chapter shall provide identification and a statement of purpose before entering any building, structure, dwelling or premises. The person in possession or in charge of the building, structure, dwelling or premises shall give the City Clerk, or his or her designee, and his or her assistants, staff or employees, free access to such property for the purposes set forth herein;

(D) To administer oaths and affirmations, to examine witnesses, and receive evidence;

(E) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter;

(F) To delegate any of his or her functions and powers under this chapter and other ordinances to such officers, agents and employees as he or she designates;

(G) To seek through the appropriate judicial officer or office, such warrants that are necessary to enforce the provisions of this chapter and, in pursuit of the warrants, to make such oath or affirmation necessary in support thereof;

(H) To keep records of all complaints received, inspection reports, orders and of other actions taken. The records shall be made available for public inspection upon request within a reasonable amount of time. The City Clerk, or his or her designee, shall prepare an annual report, including statistics based on the records kept;

(I) Inspection of public documents maintained by the City Clerk, or his or her designee, shall be allowed only after a written application is made to the City Clerk, or his or her designee. Inspection of public documents shall be done in the presence of an authorized employee or agent of the City Clerk or his or her designee. If copies are requested, the city may require advance payment of a copying fee, including postage, before providing the copies to the requestor. The city reserves the right to withhold requested documents or redact portions of documents that may constitute an unwarranted invasion of personal privacy;

(J) Under normal circumstances, public records shall be provided within three days after receipt of a request for such records (excepting Saturdays, Sundays and legal holidays). In the event that a public document is determined to be exempt, pursuant to KRS 61.878, notification of that determination shall be made within three days (excepting Saturdays, Sundays and legal holidays). Notification shall be made in the manner provided by KRS 61.880; and

(K) Blanket requests for information on particular subjects, without specifying certain public documents, shall not be honored. No list of information gathered from public documents shall be provided unless it is already in existence and not otherwise confidential by law.
(Ord. O2-2023, passed 5-9-23)

§ 92.16 ESTABLISHMENT OF CODE ENFORCEMENT BOARD; POWERS.

(A) The city's Code Enforcement Board (hereinafter referred to as "the Board") is hereby established.

(B) The Board is established pursuant to KRS 65.8801 et seq. The Board shall be composed of three members appointed by the Mayor, subject to approval by the City Council.

(C) The Board members shall hear all matters pursuant to KRS 65.8801 et seq.

(D) Upon the hearing of cases pursuant to KRS 65.8801 et seq., the Board shall issue findings of fact, conclusions of law and orders pursuant to its authority described in KRS 65.8801 et seq.

(E) The initial appointments of the members of the Board shall be made pursuant to KRS 65.8808 and KRS 65.8811 et seq. The initial appointments to the Board shall be as follows:

(1) One member shall be appointed for a term of one year;

(2) Two members shall be appointed for a term of two years each.

(F) Members of the Board shall have resided within the boundaries of Campbell County for a period of at least one year prior to the date of their appointment and shall reside there throughout their term in office.

(G) A Board member may be reappointed, subject to the approval of the Mayor and City Council. All subsequent appointments shall be for a term of two years.

(H) Any vacancy on the Board shall be filled within 60 days by the executive authority, subject to the approval of the legislative body pursuant to KRS 65.8811(5). If a vacancy is not filled by the executive authority within 60 days, the remaining Board members shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(I) Any member of the Board may be removed by the appointing authority for misconduct, inefficiency or willful neglect of duty, pursuant to KRS 65.8811(6). Any appointing authority who exercises the power to remove a member of the Board shall submit a written statement, to the member and to the legislative body of the city, setting forth the reason(s) for removal. The member so removed shall have the right to appeal the removal to the county's Circuit Court pursuant to KRS 65.8811(6).

(J) Before entering upon their duties, all members of the Board shall take the oath of office prescribed by § 228 of the Kentucky Constitution.

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

(L) Each member of the Board shall be compensated for his or her services as authorized by the Mayor and City Council.

(M) Upon the initial appointment of its members, and annually thereafter, the Board shall elect a Chairperson from among its members who shall be the presiding officer and a full voting member of the Board. In the absence of the Chairperson, the remaining members of the Board shall select one of their number to preside in place of the Chairperson and exercise the powers of the Chairperson.

(N) (1) Meetings of the Board shall convene at a time and place to be designated by the Board. Regardless of the actual meeting times set by the Board, it shall convene at least once a month. These meeting times shall not be altered without proper notice to the City Clerk, or his or her designee, so that all hearing times may be noticed and scheduled.

(2) This notice shall be in writing and signed by the Chairperson or acting Chairperson of the Board.

(O) The presence of two or more members shall constitute a quorum on the Board. The affirmative vote of a majority of the members constituting a quorum shall be necessary for any official action to be taken. Any member of the Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

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

(Q) All meetings and hearings of the Board shall be open to the public.

(R) The city, by and through the City Clerk, or his or her designee, shall provide clerical and administrative personnel reasonably needed by the Board for the proper conduct of its duties.

Melbourne - General Regulations

(S) The Mayor may appoint two alternate members to serve on the Board in the absence of regular Board members. The appointment of the alternates shall be subject to the approval of the Board of Commissioners. Alternate Board members shall meet all of the qualifications and be subject to all of the requirements that apply to regular Board members.

(T) The Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing any ordinance, including any zoning ordinance or regulation, adopted by the city so long as a violation of the ordinance is classified as a civil offense, or the ordinance establishes civil fines as the penalty to be imposed on any person who violates the ordinance. Any ordinance or regulation enforced by the Board shall provide by its express terms, the following:

(1) A violation of the ordinance is a civil offense; and

(2) Either:

(a) A specific civil fine or fines that may be imposed for each violation of the ordinance;

or

(b) Two separate civil fines as follows:

1. A maximum civil fine that may be imposed for each violation of the ordinance;

and

2. A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.

(U) No provision of this chapter shall be enforced as a civil offense if the same conduct constitutes a criminal offense or a moving motor vehicle offense under any provision of the state statutes.

(V) The Board shall have the following powers when enforcing ordinances:

(1) To conduct hearings to determine whether there has been a violation of any ordinance of the city for which a violation thereof has been designated a civil offense;

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

(3) To take testimony under oath. The Chairperson of the Board shall have the authority to administer oaths to witnesses prior to their testimony before the Board on any matter;

(4) To make findings and issue orders necessary to remedy any violation of an ordinance of the city that the Board has jurisdiction to enforce; and

(5) To impose civil fines as authorized by this chapter on any person found to be in violation of any ordinance that the Board has jurisdiction to enforce.

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

(Ord. O2-2023, passed 5-9-23)

§ 92.17 CODE ENFORCEMENT PROCEEDINGS; PROCEDURE.

(A) Pursuant to KRS 65.8825(1), enforcement proceedings before the Board shall be initiated by the issuance of a citation by a Code Enforcement Officer.

(B) When, based upon personal observation or investigation, a Code Enforcement Officer has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation to the offender. The citation shall be served by one or more of the following methods:

(1) Personal service to the alleged violator;

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

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

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

(C) When authorized, a Code Enforcement Officer may, in lieu of immediately issuing a citation, give notice that a violation can be remedied within a specified time period. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

(D) (1) If a Code Enforcement Officer elects to give notice of violation in lieu of immediately issuing a citation, this notice should be sent to the offending party by regular first-class mail at the last-known address of the party.

(2) The notice required by this section shall be in plain language and shall:

Melbourne - General Regulations

- (a) Be in writing;
- (b) Include a description of the real estate sufficient for its identification;
- (c) Include a statement of the reason or reasons why the notice of violation is being issued;

and

(d) Include a correction order allowing a reasonable amount of time for the correction of any and all violations.

(E) Any citation issued by the Code Enforcement Officer shall be in a form prescribed by the city and shall contain, in addition to any other information required by ordinance or rule of the Board, the following information:

- (1) The date and time of issuance;
- (2) The name and address of the person to whom the citation is issued;
- (3) The date and time the offense or violation was committed;
- (4) The facts constituting the offense or violation;
- (5) The section of the code or number of the ordinance violated;
- (6) The name of the Code Enforcement Officer;
- (7) The civil fine that will be imposed for the violation if the person does not contest the citation;
- (8) The maximum civil fine that may be imposed if the person elects to contest the citation;
- (9) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
- (10) A statement that, if the person fails to pay the civil fine set forth in the citation or contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the Board to contest the citation, the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

(F) After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the administrative official designated by ordinance or by the Board.

(G) When a citation is issued, the person to whom the citation is issued shall respond within seven days, by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the Board to contest the citation. If a hearing is requested, the person requesting the hearing shall pay an administrative hearing fee in the amount of \$50 at the time of the written request for the hearing. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing to contest the citation, and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order, determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.

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

(I) *Destroying orders or notices.* No person or owner shall destroy, remove or deface any order or notice posted by a Code Enforcement Officer.

(J) *Disobeying orders.* No person or owner shall disobey any order issued by a Code Enforcement Officer, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Neighborhood Services Department or other appropriate department.
(Ord. O2-2023, passed 5-9-23) Penalty, see § 92.99

§ 92.18 CODE ENFORCEMENT BOARD HEARINGS; NOTICE; FAILURE TO APPEAR; PROCEDURE; FINAL ORDER.

(A) When a hearing before the Board has been requested, the Board, through its clerical and administrative staff, shall schedule a hearing. Not less than seven days before the date set for the hearing, the Board shall notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing may be given by:

- (1) Regular first-class mail;
- (2) Certified mail, return receipt requested;
- (3) Personal delivery; or

(4) By leaving the notice at the person's usual place of residence with any person residing therein who is 18 years of age or older, and who is informed of the contents of the notice.

(B) Each case before the Board may be prosecuted by an attorney selected by the city or a Code Enforcement Officer, or other person designated by the City Clerk or his or her designee.

(C) All testimony at the Board hearings shall be under oath and recorded. The Board shall take testimony from the Code Enforcement Officer, the alleged offender, and any witnesses regarding the alleged violation offered by the prosecutor or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(D) At the hearing, the Board shall determine, based on the evidence presented, whether a violation was committed. When the Board determines that no violation was committed, an order dismissing the citation shall be entered. When the Board determines that a violation has been committed, it shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount authorized by ordinance, or may order the offender to remedy a continuing violation within a specified period of time to avoid the imposition of the fine, or may order both.

(E) Every final order of the Board shall be reduced to writing, including findings and conclusions reached, and the date the order was issued. A copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order shall be delivered to that person by regular first-class mail; by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any person residing therein who is 18 years of age or older, and who is informed of the contents of the order.

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

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

(Ord. O2-2023, passed 5-9-23)

§ 92.19 APPEAL OF CODE ENFORCEMENT BOARD DECISION; FINAL JUDGMENT.

(A) (1) An appeal from any final order issued by the Board following a hearing conducted pursuant to § 92.18 of this chapter may be made to the county's District Court within 30 days after the date when the order is issued by the Board.

(2) The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action under the rules of civil procedure.

(B) A judgment of the county's District Court may be appealed to the county's Circuit Court in accordance with the rules of civil procedure.

(C) If no appeal from a final order of the Board is filed within the time period set forth in division (A) above, the Board's order shall be deemed final for all purposes.
(Ord. O2-2023, passed 5-9-23)

§ 92.20 LIEN; RECORDING; FINES, CHARGES AND FEES.

(A) The city shall possess a lien on real property owned by the person found by a non-appealable final order, as defined within § 92.03 of this chapter, or by final judgment of a court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation, for all charges, fees and abatement costs incurred by the city in connection with the enforcement of the ordinance in question. An affidavit of the code enforcement office shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to KRS 65.8801 to 65.8839. The lien:

- (1) Shall be recorded in the office of the County Clerk;
- (2) Shall be notice to all persons from the time of its recording and shall bear interest until paid;
- (3) Subject to KRS 65.8836, shall take precedence over all other liens, except state, county, school board and city taxes;
- (4) Shall continue for ten years following the date of the non-appealable final order or final judgement of the court; and
- (5) May be enforced by judicial proceedings, including an action to foreclose.

(B) In addition to the remedy prescribed in division (A) above, a person found to have committed a violation of this chapter shall be personally responsible for the amount of the lien, including all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the city in connection with the enforcement of the ordinance. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.
(Ord. O2-2023, passed 5-9-23)

§ 92.21 IMMEDIATE ACTION; INJUNCTION BY THE CITY.

(A) Nothing in this chapter shall prohibit the city from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to

the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

(B) Furthermore, the city may elect to file a suit for injunctive relief in Circuit Court against any person who creates a public nuisance described in §§ 92.05(A)(2), (A)(4), (A)(6) or (A)(16), 92.06 or 92.07 of this chapter to remove the nuisance.

(Ord. O2-2023, passed 5-9-23)

§ 92.22 LIENHOLDER NOTIFICATION SYSTEM.

The city shall obtain and maintain priority over previously and subsequently filed liens, as provided in § 92.20 of this chapter, in accordance with the following provisions.

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

(B) In order to receive the notification, the registrant shall submit the following information to the Code Enforcement Clerk or his or her designee:

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

(C) A registrant may use the electronic form provided on the city website to submit the information required by division (B) above. It shall be the responsibility of the registrant to maintain and update the required contact information with the city. The city shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

(D) No less than once a month, but no more frequently than once per week, the city shall send electronic mail notification of all final orders entered pursuant to this chapter since the last date of notification to each party registered pursuant to this section. The notification shall provide an electronic link to the City Code Enforcement database located on the city website. The database shall include the following information regarding each final order:

- (1) The name of the person charged with a violation;
- (2) The physical address of the premises where the violation occurred;

(3) The last-known mailing address for the owner of the premises where the violation occurred if, in the exercise of reasonable diligence, it is ascertainable;

(4) A copy of the full citation;

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

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

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

(F) At the same time the electronic notification under division (D) above is sent, the city shall update its code enforcement database to reflect the issued final order, and shall post this notification containing an updated link to the code enforcement database on the city website.

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

(Ord. O2-2023, passed 5-9-23)

§ 92.23 LIENHOLDER RIGHTS; LIEN PRECEDENCE.

(A) A lienholder of record who has registered pursuant to § 92.22 of this chapter may, within 45 days from the date of issuance of notification under § 92.22(D) of this chapter:

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

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

(B) Nothing in this section shall prohibit the city from taking immediate action if necessary under § 92.12 of this chapter.

(C) The lien provided by § 92.20 of this chapter shall not take precedence over previously recorded liens if:

(1) The city failed to comply with the requirements of § 92.22 of this chapter for notification of the final order; or

(2) A prior lienholder complied with division (A) above.

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

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

(F) Failure of the city to comply with §§ 92.22 and 92.23 of this chapter, or failure of a lien to take precedence over previously filed liens as provided in division (C) above, shall not limit or restrict any other remedies the city has against the property of the violator.
(Ord. O2-2023, passed 5-9-23)

§ 92.99 PENALTY.

(A) Violations of this chapter and other provisions as set out in other specified chapters of this code shall be subject to the following schedule of civil fines, which shall be in addition to any remedy or abatement costs, filing costs and other costs incurred by the city.

(1) If a citation for a violation of this chapter is not contested by the person charged with the violation, the maximum penalties below shall apply. A second offense is an offense that occurs within five years of the determination by the Code Enforcement and Nuisance Board of a prior offense. All others are those that occur within five years of the determination by the Code Enforcement and Nuisance Board of two or more prior offenses.

<i>Violation</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>All Others</i>
Animals	\$25	\$50	\$100
Building and property maintenance (non-vegetation)	\$100	\$150	\$250
Noise	\$50	\$100	\$150
Grass, vegetation and weeds	\$50	\$75	\$100
House numbers	\$50	\$100	\$150
Violation of rental dwelling licensing	\$250	\$500	\$750
Chapter 92 violations not specifically listed	\$100	\$150	\$250
Chapter 152 violations not specifically listed	\$100	\$150	\$250
Violation of ordinance designated as civil offense with no specific fine listed	\$100	\$150	\$250

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

<i>Violation</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>All Others</i>
Animals	\$50	\$100	\$200
Building and property maintenance (non-vegetation)	\$200	\$300	\$500
Noise	\$100	\$200	\$300
Grass, vegetation and weeds	\$100	\$150	\$200
House numbers	\$100	\$200	\$300
Violation of rental dwelling licensing	\$500	\$1,000	\$1,500
Chapter 92 violations not specifically listed	\$200	\$300	\$500
Chapter 152 violations not specifically listed	\$200	\$300	\$500
Violation of ordinance designated as civil offense with no specific fine listed	\$200	\$300	\$500

(B) As an additional alternative remedy to the above-listed civil penalty, any violator who violates any provision of the city nuisance code, and has been previously issued two or more citations of violations of the nuisance code relating to the same property within a 12-month period, may be assessed an additional civil penalty in the amount of \$500 per citation. The additional civil penalty may be recovered by the city in a civil action in the nature of debt, if the violator does not pay the penalty within a prescribed period of time after he or she has been cited for violation of the nuisance code.

(C) (1) Any person who violates § 92.10(B) of this code, and does not contest the citation, shall be subject to a civil fine of:

(a) Two hundred fifty dollars per violation for a Level 1 criminal activity nuisance as defined by § 92.10(B) of this chapter;

(b) Five hundred dollars per violation for a Level 2 criminal activity nuisance as defined by § 92.10(B) of this chapter; and

(c) One thousand dollars per violation for each Level 3 criminal activity nuisance as defined by § 92.10(B) of this chapter.

(2) Any person who violates § 92.10(B) of this code, contests the citation, and for whom a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board:

(a) Five hundred dollars per violation for a Level 1 criminal activity nuisance as defined by § 92.10(B) of this chapter;

(b) One thousand dollars per violation for a Level 2 criminal activity nuisance as defined by § 92.10(B) of this chapter; and

(c) Two thousand dollars per violation for each level a criminal activity nuisance as defined by § 92.10(B) of this chapter.

(D) The city shall possess a lien on property for all fines, penalties, charges, attorney's fees and other reasonable costs associated with enforcing this chapter and placing of a lien on a parcel of real property pursuant to this chapter. If all legal requirements are satisfied, the lien shall be superior to and have priority over all other liens, except state, county, school board and city taxes.

(E) Any person(s) who violates § 92.08 of this chapter shall be deemed guilty of a Class B misdemeanor.

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

(Ord. O2-2023, passed 5-9-23)

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fireworks

- 93.01 Definitions; legality of items
- 93.02 Sale or use prohibited; exception for public display
- 93.03 Consumer fireworks; restrictions on sale
- 93.04 Bond or liability insurance requirement
- 93.05 Exempted sales and uses
- 93.06 Destruction of fireworks

Fire Prevention

- 93.20 Blasting permit
- 93.21 Storage of flammables and other matter

- 93.99 Penalty

FIREWORKS

§ 93.01 DEFINITIONS; LEGALITY OF ITEMS.

(A) As used in KRS 227.700 to 227.750, ***FIREWORKS*** means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of “consumer fireworks” as defined in KRS 227.702 or “display” fireworks as set forth in KRS 227.706 and as set forth in the U.S. Department of Transportation’s (DOT) hazardous materials regulations. ***FIREWORKS*** does not include:

(1) Exception number 1: Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.

(2) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks.

(3) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.
(KRS 227.700)

(B) As used in KRS 227.700 to 227.750, **CONSUMER FIREWORKS** means fireworks that are suitable for use by the public, designed primarily to produce visible effects by combustion, and comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission. The types, sizes, and amount of pyrotechnic contents of these devices are limited as enumerated in this chapter. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. **CONSUMER FIREWORKS** are further defined by the Consumer Product Safety Commission in CPSC, 16 CFR 1500 and 1507, are classified as Division 1.4G explosives by the U.S. Department of Transportation and include the following:

(1) Ground and hand-held sparkling devices.

(a) *Dipped stick-sparkler or wire sparkler.* These devices consist of a metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to 100 grams of pyrotechnic composition per item. Those devices containing any perchlorate or chlorate salts may not exceed five grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item are not included in this category, in accordance with DOT regulations.

(b) *Cylindrical fountain.* Cylindrical tube containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(c) *Cone fountain.* Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(d) *Illuminating torch.* Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held. When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(e) *Wheel*. A device attached to a post or tree by means of a nail or string. A wheel may have one or more drivers, each of which may contain not more than 60 grams of pyrotechnic composition. No wheel may contain more than two hundred (200) grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) *Ground spinner*. Small device containing not more than 20 grams of pyrotechnic composition, similar in operation to a wheel but not intended to be placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) *Flitter sparkler*. Narrow paper tube attached to a stick or wire and filled with not more than 100 grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make the device function.

(h) *Toy smoke device*. Small plastic or paper item containing not more than 100 grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(2) *Aerial devices*.

(a) *Sky rockets and bottle rockets*. Cylindrical tube containing not more than 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(b) *Missile-type rocket*. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

(c) *Helicopter, aerial spinner*. A tube containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(d) *Roman candles*. Heavy paper or cardboard tube containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten **STARS** (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

(e) *Mine, shell*. Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition). Upon ignition, **STARS**, components producing reports containing up to 130 milligrams of explosive composition per report, or other devices are propelled into the air. The term **MINE** refers to a device with no internal components containing a bursting charge, and the term **SHELL** refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one tube provided the tubes fire in sequence upon ignition of one external fuse. The term **CAKE** refers to a dense-packed collection of mine or shell tubes. Total chemical

composition, including lift charges, of any multiple tube devices may not exceed 200 grams. The maximum quantity of lift charge in any one tube of a mine or shell device shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any component shall not exceed 25% of the total weight of chemical composition in the component. The tube remains on the ground.

(f) *Aerial shell kit, reloadable tube.* A package kit containing a cardboard, high-density polyethylene (HDPE), or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed one and three-fourths inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of chemical composition in the shell. The total chemical composition of all the shells in a kit, including lift charge, shall not exceed 400 grams. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission.

(3) *Audible ground devices.*

(a) *Firecrackers, salutes.* Small paper-wrapped or cardboard tube containing not more than 50 milligrams of pyrotechnic composition. Those used in aerial devices may contain not more than 130 milligrams of explosive composition per report. Upon ignition, noise and a flash of light is produced.

(b) *Chaser.* Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 milligrams.
(KRS 227.702)

(C) Items listed below are classified as **NOVELTIES** and **TRICK NOISEMAKERS** and are not classified as consumer fireworks by the U.S. Department of Transportation, and their transportation, storage, retail sale, possession, sale, and use shall be allowed throughout the state at all times.

(1) *Snake, glow worm.* Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) *Smoke device.* Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(3) *Wire sparkler.* Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed 100 grams of composition

per item. Devices containing any chlorate or perchlorate salts may not exceed five grams of composition per item.

(4) *Trick noisemaker*. Item that produces a small report intended to surprise the user. These devices include:

(a) *Party popper*. Small plastic or paper item containing not more than 16 milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) *Booby trap*. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) *Snapper*. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

(d) *Trick match*. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

(e) *Cigarette load*. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) *Auto burglar alarm*. Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, when ignited. A small quantity of explosive, not exceeding 50 milligrams may also be used to produce a small report. A squib is used to ignite the device.
(KRS 227.704)

(D) As used in KRS 227.700 to 227.750, **DISPLAY FIREWORKS** means pyrotechnic devices or large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, firecrackers containing more than two grains (130 milligrams) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as consumer fireworks. Display fireworks are defined by the Consumer Product Safety Commission in CPSC, 16 CFR 1500 and 1507, and are classified as Class B explosives by the U.S. Department of Transportation.
(KRS 227.706)

(E) *Legality of items*.

(1) Items described in division (B) above are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

(2) Items described in division (D) are not legal for retail sale but are legal under permits granted pursuant to § 93.02 for the purposes specified in this chapter for public displays and may be sold at wholesale as provided in this chapter.

(3) Items described in division (C) are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.
(KRS 227.708)

§ 93.02 SALE OR USE PROHIBITED; EXCEPTION FOR PUBLIC DISPLAY.

No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode, any display fireworks, except for the following:

(A) (1) The Chief of the Fire Department or other authorized city official may grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Every display shall be handled by a competent display operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, to not be hazardous to property or endanger any person.

(3) **COMPETENT DISPLAY OPERATOR** shall be defined as the person with overall responsibility for the operation and safety of a fireworks display. The competent display operator shall have a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five public displays. A **COMPETENT DISPLAY OPERATOR** is also an employee possessor. A permit under division (A)(1) shall be issued only to a competent display operator holding an ATF license.

(4) At least one competent display operator shall be on site during display set-up and firing. This competent display operator shall maintain a copy of the permit application, as signed by the local authority having jurisdiction as identified in this section, on site and at all times the display is in place, and shall be presented on demand of the State Fire Marshal or local fire chief. All public displays that require issuance of a permit shall be conducted in accordance with the provisions of National Fire Protection Association (NFPA) 1123 – Code for Fireworks Display (adopted edition).

(5) Permits shall be filed with the State Fire Marshal at least 15 days in advance of the date of the display. After the privilege is granted, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this division shall be transferable. For the purposes of this section, **PUBLIC DISPLAY OF FIREWORKS** shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.

(6) Any person remaining within the display area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display area shall be at least 18 years of age.

(7) The Commissioner of the Department of Housing, Buildings and Construction with recommendation from the State Fire Marshal shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this division. The regulations shall address the process by which permits are issued and any other procedures that are reasonably necessary to effectuate this division.

(B) The sale, at wholesale, of any display fireworks for permitted displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, if the sale is to the person holding a display permit as outlined in division (A) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.

(C) The sale of display fireworks in accordance with a license issued by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

(D) The sale and use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.

(E) The use of fuses and railway torpedoes by railroads.

(F) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(G) The use of any pyrotechnic device by military organizations.

(H) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

(I) Nothing in this section shall prohibit a person, firm, co-partnership, non-profit, or corporation from offering for sale, exposing for sale, selling at retail, keeping with intent to sell, possessing or using consumer fireworks as defined in § 93.01(B) and as permitted pursuant to § 93.03.

(KRS 227.710) Penalty, see § 93.99

§ 93.03 CONSUMER FIREWORKS; RESTRICTIONS ON SALE.

(A) Except as provided in § 93.02, the consumer fireworks described in § 93.01(B) may be offered for sale, sold at retail, or kept with the intent to sell, only if the requirements of this section are met.

(B) Any person, firm, co-partnership, non-profit or business intending to sell consumer fireworks described in § 93.01(B) shall register annually with the State Fire Marshal, who may assess a fee of no more than \$25 for each site at which fireworks shall be sold. The registration requirement under this section shall not apply to permanent business establishments which are open year round and in which the sale of fireworks is ancillary to the primary course of business. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200.

(C) Permanent business establishments open year round and in which the sale of consumer fireworks is ancillary to the primary course of business shall only be permitted to sell those consumer fireworks described in § 93.01(B)(1), or shall meet the criteria for “seasonal retailer” described in division (D) of this section.

(D) A **SEASONAL RETAILER** shall be defined as any person, firm, co-partnership, non-profit, or corporation intending to sell consumer fireworks between June 10 and July 7, or December 26 and January 4 of each year, or both, and shall include permanent businesses, temporary businesses, stores, stands, or tents. A seasonal retailer shall register with the State Fire Marshal, who may assess a fee of no more than \$250 for each site at which fireworks shall be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200.

(E) Any person, firm, co-partnership, non-profit, or corporation intending to sell consumer fireworks, as defined in § 93.01(B)(2) and (3), as the primary source of business, that is not a seasonal retailer as defined in division (D) of this section, shall register with the State Fire Marshal, who may assess a fee of no more than \$500 for each site at which fireworks will be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;

(F) The annual registration required by this section shall be received by the State Fire Marshal at least 15 days prior to offering fireworks for sale at the site for which the registration is intended. Evidence that a sales and use tax permit has been obtained from the Department of Revenue shall be presented to the State Fire Marshal as a condition of registration. If the registration is received less than 15 days prior to offering fireworks for sale at the site for which registration is intended, an additional assessment of \$100 shall be added to the initial fee.

(G) Each site at which fireworks are offered for sale shall have its registration certificate displayed in a conspicuous location at the site.

(H) Each site at which fireworks are offered for sale shall comply with all applicable provisions of the International Building Code, with Kentucky Amendments (adopted edition), and NFPA 1124 (National Fire Protection Association) - Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (adopted edition).

(I) No person or business shall give, offer for sale, or sell any consumer fireworks listed in § 93.01(B) to any person under 18 years of age.

(J) No person under 18 years of age may be employed by a fireworks distribution facility, or manufacturing facility. No person under 18 years of age shall sell consumer fireworks at a consumer fireworks retail sales facility registered under this section unless the individual is supervised by a parent or guardian.

(K) The State Fire Marshal may revoke the registration of any site which is in violation of a requirement of this section, or any other requirement provided pursuant to this chapter. If the violation renders any property especially susceptible to fire loss, and there is present such hazard to human life or limb that the public safety imperatively requires emergency action, the State Fire Marshal may take that action, as provided in KRS 227.330(6).

(L) A person lawfully possessing consumer fireworks, as defined in § 93.01(B)(2) and (3), may use those items if:

(1) He or she is at least 18 years of age;

(2) Fireworks are not ignited within 200 feet of any structure, vehicle, or any other person;

and

(3) Use of the fireworks does not place him or her in violation of any lawfully enacted local ordinance.

(KRS 227.715) Penalty, see § 93.99

§ 93.04 BOND OR LIABILITY INSURANCE REQUIREMENT.

No permit shall be issued under § 93.02 unless the applicant shall give bond or evidence of liability insurance deemed adequate by the official to whom application for the permit is made, in a sum not less than \$1,000,000. However, the appropriate city official or the State Fire Marshal may require a larger amount if in their judgment the situation requires it, conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, and arising from any acts of the licensee, his agents, employees or subcontractors.

(KRS 227.720) Penalty, see § 93.99

§ 93.05 EXEMPTED SALES AND USES.

Nothing in this chapter shall prevent the retail sale and use of explosives or signaling flares used in the course of ordinary business or industry, or gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, or shells or cartridges, used as ammunition in firearms, or blank cartridges for a show or theater, or for signal or ceremonial

purposes in athletics or sports, or for use by military organizations, or the sale of any kind of fireworks provided the same are to be shipped by the seller directly out of the state.

(KRS 227.730)

§ 93.06 DESTRUCTION OF FIREWORKS.

(A) The State Fire Marshal, or any fire department having jurisdiction which has been deputized to act on behalf of the State Fire Marshal, shall cause to be removed at the expense of the owner all stocks of fireworks stored and held in violation of this chapter. After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified fireworks wholesaler.

(B) After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified manufacturer, distributor, or wholesaler. All seized fireworks or explosives with a Class 1.3G or display designation shall require the notification of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives. The State Fire Marshal shall provide the owner or possessor a receipt containing the complete inventory of any fireworks seized within five business days of the seizure.

(C) Before any seized fireworks may be disposed of:

(1) If the owner of the seized fireworks is known to the State Fire Marshal, the State Fire Marshal shall give notice by registered mail or personal service to the owner of the State Fire Marshal's intention to dispose of the fireworks. The notice shall inform the owner of the State Fire Marshal's intent. The State Fire Marshal shall conduct an administrative hearing in accordance with KRS Chapter 13B concerning the disposal of fireworks; or

(2) If the identity of the owner of any seized fireworks is not known to the State Fire Marshal, the State Fire Marshal shall cause to be published, in a newspaper of general circulation in the county in which the seizure was made, notice of the seizure, and of the State Fire Marshal's intention to dispose of the fireworks. The notice shall be published once each week for three consecutive weeks. If no person claims ownership of the fireworks within ten days of the date of the last publication, the State Fire Marshal may proceed with disposal of the fireworks. If the owner does claim the fireworks within ten days of the date of the last publication, a hearing as set out in division (C)(1) of this section shall be held.

(D) Nothing in KRS 227.700 to 227.750 shall restrict a local government from enacting ordinances that affect the sale or use of fireworks within their jurisdiction.

(KRS 227.750)

FIRE PREVENTION

§ 93.20 BLASTING PERMIT.

No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the City Commission or other authorized city official. The City Commission or other authorized city official, before granting such permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting. Penalty, see § 93.99

§ 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire. Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Any person violating the provisions of §§ 93.02 or 93.03, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$1,000, or imprisoned for not more than 30 days, or both. (KRS 227.990(4))

(B) Any person who violates any other provision of this chapter shall be fined not more than \$500.

CHAPTER 94: LITTERING

Section

- 94.01 Throwing litter from vehicle
- 94.02 Tracking foreign matter on streets
- 94.03 Hauling loose material
- 94.04 Sweeping litter into gutters
- 94.05 Litter on private property

- 94.99 Penalty

§ 94.01 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.

Penalty, see § 94.99

§ 94.02 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, see § 94.99

§ 94.03 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.

Penalty, see § 94.99

§ 94.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Penalty, see § 94.99

§ 94.05 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not. Penalty, see § 94.99

§ 94.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 95: HOUSING

Section

- 95.01 Adoption of Uniform Residential Landlord/Tenant Act
- 95.02 Adoption of Residential Anti-displacement and Relocation Act

§ 95.01 ADOPTION OF UNIFORM RESIDENTIAL LANDLORD/TENANT ACT.

(A) By the adoption of this section, the city enacts a comprehensive scheme of legislation to deal with landlord/tenant problems.

(B) The city adopts and enacts the provisions of KRS 338.500 to 383.705, *Uniform Residential Landlord Tenant Act*, without any changes.
(Ord. O-92-02, passed 2-11-92)

§ 95.02 ADOPTION OF RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ACT.

(A) The elements of the Residential Anti-displacement and Relocation Assistance Plan under Section 104 (d) of the *Housing and Community Development Act of 1974* as required by all 1993 Community Development Block Grant recipients having been duly adopted by the city on February 11, 1997, all of which is incorporated by reference as if herein fully set out, the same shall be and are hereby adopted and approved as the city's residential anti-displacement and relocation assistance plan.

(B) The same shall be approved and adopted only when the city expends funds under the *Housing and Community Development Act* as amended or other federal funds related to the displacement of persons or demolition or conversion of vacant or occupied units to a use other than as low and moderate income housing.
(Order 97-06, passed 2-11-97)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL LICENSING PROVISIONS**
- 111. PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS**
- 112. PAWNBROKERS**
- 113. INSURANCE COMPANIES**
- 114. GARAGE SALES**
- 115. OCCUPATIONAL LICENSE FEES**

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 Licenses required to engage in certain trades, businesses, or professions
- 110.02 Application for license
- 110.03 Standards; issuance of license
- 110.04 Date and duration of license
- 110.05 License not transferable
- 110.06 License certificate to be displayed
- 110.07 Revocation or suspension
- 110.08 Appeal and review
- 110.09 Exemptions

- 110.99 Penalty

Cross-reference:

Occupational license fees, see Ch. 115

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN TRADES, BUSINESSES, OR PROFESSIONS.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by any provision of this code or any other ordinance of the city without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk in writing upon forms to be furnished by him and shall contain:

- (1) The name of the applicant and of each officer, partner, or business associate;
- (2) His present occupation and place of business;
- (3) His place of residence for five years next preceding the date of application;
- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;

Melbourne - Business Regulations

(6) A description of the merchandise to be sold, if for a vendor;

(7) Such other information concerning the applicant and his business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Renewal of an annual license may be granted to a licensee in good standing upon the original application, unless otherwise provided.

(C) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(D) It shall be unlawful knowingly to make any false statement or representation in the license application.

Penalty, see § 110.99

§ 110.03 STANDARDS; ISSUANCE OF LICENSE.

(A) Upon receipt of such application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the City Clerk shall forthwith deposit the fee in the General Fund of the city and issue to the applicant a proper license certificate signed by the City Clerk and any other appropriate city official. If for any reason the license is not issued, the license fee shall be returned to the applicant.

(B) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(C) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

(1) Has been convicted of a crime of moral turpitude; or

(2) Has made willful misstatements in the application; or

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts; or

(6) Has an unsatisfactory moral character

will constitute valid reasons for disapproval of an application.

§ 110.04 DATE AND DURATION OF LICENSE.

(A) A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 14 licenses may be issued for the ensuing calendar year. Unless otherwise specified the full annual fee will be required of licensees irrespective of the date of issue of the license.

(B) In no event shall a license be granted to any business or any person for a longer time than one year.

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided no license shall be assigned or transferred.

Penalty, see § 110.99

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the licensed premises, the license certificate. Other licensees shall carry their license certificates at all times and whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 110.99

§ 110.07 REVOCATION OR SUSPENSION.

(A) Any license may be revoked by the City Commission at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial; for any misrepresentation of a material fact in the application discovered after issuance of the license; for violation of any provision of this chapter or other law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or upon conviction of a licensee for any federal, state, or municipal law or ordinance involving moral turpitude.

(B) The revocation shall become effective upon notice served upon the licensee or posted upon the premises affected.

(C) As a preliminary to revocation, the City Commission may issue an order suspending the license, which shall become effective immediately upon service of written notice to the licensee. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with these conditions within the time specified, the license may be restored.

§ 110.08 APPEAL AND REVIEW.

In case any applicant has been denied a license, or if his license has been revoked or suspended, the applicant or licensee as the case may be, shall within three business days have the right to appeal to the City Commission from the denial, revocation, or suspension. Notice of appeal shall be filed in writing with the City Clerk who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The City Clerk shall notify the City Commission of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the City Commission members shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Commission present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

§ 110.09 EXEMPTIONS.

The provisions of this chapter shall not apply to any business, occupation or profession which is exempt from municipal licensing and/or license taxes pursuant to state or federal law.

§ 110.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification

- 111.99 Penalty

§ 111.01 DEFINITIONS.

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

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

PEDDLER.

(1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.

A person who is a peddler is not an itinerant merchant.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 111.02 LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the City Commission.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 111.99

§ 111.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application the following:

(1) If required by the city, copies of all printed advertising proposed to be used in connection with the applicant's business;

(2) If required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 111.99

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

(1) Has been convicted of a crime of moral turpitude; or

(2) Has made willful misstatements in the application; or

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts; or

(6) Has an unsatisfactory moral character

will constitute valid reasons for disapproval of an application.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application; or

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or

(C) Any violation of this chapter; or

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the City Commission. The appeal shall be taken by filing with the City Commission, within 14 days

after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Commission shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the City Commission after the hearing shall be final.

§ 111.08 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 111.99

§ 111.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day's violation shall constitute a separate offense.

CHAPTER 112: PAWNBROKERS

Section

- 112.01 Definitions
- 112.02 Bond
- 112.03 Register to be kept; daily reports
- 112.04 Receipt to be given for each article; sale of article
- 112.05 Maximum interest, resale price
- 112.06 Receipt to be given for payment of loan
- 112.07 Prohibited activities
- 112.08 Enforcement

- 112.99 Penalty

§ 112.01 DEFINITIONS.

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

PAWNBROKER. Any person who loans money on deposit of personal property; deals in the purchase of personal property on condition of selling the property back again at a stipulated price; makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business; or who publicly exhibits a sign advertising money to loan on personal property or deposit.
(KRS 226.010)

§ 112.02 BOND.

Every person to whom a city license is granted to carry on the business of a pawnbroker shall annually enter into bond to the city, with good and sufficient surety to be approved by the City Commission, in the penal sum of \$1000. This bond shall be conditioned that he will observe the provisions of this chapter and all ordinances and laws in force in the city not inconsistent with this chapter.
(KRS 226.020)

§ 112.03 REGISTER TO BE KEPT; DAILY REPORTS.

(A) (1) Every pawnbroker shall keep a register of all loans and purchases of all articles by the pawnbroker from the general public. The register shall:

(a) Be reported to an online, Internet-based transaction recording service accessible to law enforcement agencies;

(b) Show the dates and the amounts of all loans or purchases by the pawnbroker from the general public, and the names and:

1. A driver's license number;

2. Another state or federally issued picture identification card number; or

3. If the identification specified in division (A)(1)(b)1. or 2. of this section is not available, a Social Security number may be accepted;

of all persons who have left any property that has been pawned or sold;

(c) At all times be available to the inspection of any law enforcement officer of this state when in the discharge of his or her official duty; and

(d) Contain a full description of all property purchased by the pawnbroker from the general public or received on deposit as collateral or security. When requested by law enforcement and pertaining to an investigation, a photograph of the merchandise shall be made available to law enforcement if the property is still in the possession of the pawnbroker. For purposes of this division, ***FULL DESCRIPTION*** includes but is not limited to:

1. Make;

2. Model;

3. Color;

4. Size;

5. Manufacturer;

6. Vintage; and

7. Distinguishing marks or characteristics.

(2) When secondhand merchandise is sold to a pawnbroker, the merchandise shall be held for a minimum of 12 days before being resold.

(3) Prior to the release of property to a representative of law enforcement, the law enforcement representative shall provide to the pawnbroker a case report or other documentation that the item has been reported as stolen. (KRS 226.040)

(B) Every pawnbroker shall, by 11:00 a.m. each day, make available to the Chief of Police, or to the Department of Kentucky State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. The Chief of Police or the Department of Kentucky State Police shall furnish blanks for these reports. (KRS 226.070)

Penalty, see § 112.99

§ 112.04 RECEIPT TO BE GIVEN FOR EACH ARTICLE; SALE OF ARTICLE.

(A) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased or upon which money is loaned, having on each a copy of the entries required by § 112.03(A) to be kept in his register. He shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 60 days from the maturity of the loan. However, not less than ten days before making the sale, the pawnbroker shall give notice to the person by whom the article was pawned by mail addressed to the post office address of that person as shown on the pawnbroker's register, notifying such person that, unless he redeems the article within ten days from the date of mailing of the notice, the article will be sold.

(KRS 226.050) Penalty, see § 112.99

§ 112.05 MAXIMUM INTEREST, RESALE PRICE.

Any pawnbroker as defined in § 112.01, may, in loaning money on deposit of personal property, charge, contract for, or receive interest at a rate not exceeding 2% per month on the unpaid principal balance of the loan, and may charge, contract for, and receive a reasonable fee, not to exceed one-fifth of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers if required by § 112.03, and for other expenses, losses, and incidental costs associated with servicing such loans. Further, this fee, when made and collected, shall not be deemed as interest for any purpose of law. No pawnbroker shall directly or indirectly charge, receive, or contract for any interest or consideration greater than that allowed by this section.

(KRS 226.080) Penalty, see § 112.99

§ 112.06 RECEIPT TO BE GIVEN FOR PAYMENT OF LOAN.

Every pawnbroker, upon receiving any payment of money from a borrower, shall give to that person a plain and complete receipt for such payment, specifying separately the amount applied to principal and the amount applied to interest. In a case where the pawnbroker has purchased personal property under an agreement to sell it back at a stipulated price, the pawnbroker shall, on receiving any payment of money from the person from whom the property was purchased, give that person a receipt stating the original purchase price, the stipulated resale price, and the amount received.

(KRS 226.090) Penalty, see § 112.99

§ 112.07 PROHIBITED ACTIVITIES.

No pawnbroker shall receive, by way of either pledge or pawn, any article whatever from a minor at any time nor from any person between 8:00 p.m. and 7:00 a.m.

(KRS 226.030) Penalty, see § 112.99

§ 112.08 ENFORCEMENT.

The Police Department shall enforce the provisions of this chapter unless otherwise provided by KRS 226.100. However, county police, for the purpose of locating stolen goods, may carry out the provisions of KRS 226.060 within the city.

(KRS 226.100)

§ 112.99 PENALTY.

(A) Any pawnbroker or pawnbroker's clerk who violates any of the provisions of this chapter for which no penalty is otherwise provided shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500, and his license may be forfeited to the city. (KRS 226.990(1))

(B) Any pawnbroker who violates any of the provisions of § 112.03(B) shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$100. (KRS 226.990(3))

CHAPTER 113: INSURANCE COMPANIES

Section

- 113.01 Imposition of license fee
- 113.02 Amount of fee for companies issuing life insurance
- 113.03 Amount of fee for companies issuing policies other than life insurance
- 113.04 Due date; interest
- 113.05 Written breakdown of collections

§ 113.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.

§ 113.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 10% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.

(Am. Ord. 05-04, passed 3-23-04)

Statutory-reference:

For provisions concerning similar state law, see KRS 91A.080(2)

§ 113.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE INSURANCE.

The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be 10% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act, and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2), or premiums received by any state employee benefit fund created pursuant to KRS Chapter 18A for the purpose of providing health benefits to state employees.

(Am. Ord. 05-04, passed 3-23-04)

Statutory-reference:

For provisions concerning similar state law, see KRS 91A.080(3), (10)

§ 113.04 DUE DATE; INTEREST.

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(KRS 91A.080(8), (9))

§ 113.05 WRITTEN BREAKDOWN OF COLLECTIONS.

Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

(A) Casualty.

(B) Automobile.

(C) Inland marine.

(D) Fire and allied perils.

(E) Health.

(F) Life.

(KRS 91A.080(8))

CHAPTER 114: GARAGE SALES

Section

- 114.01 Definition
- 114.02 Compliance required
- 114.03 Permit required; conditions
- 114.04 Signs; limits on posting

- 114.99 Penalty

§ 114.01 DEFINITION.

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

GARAGE SALES or ***YARD SALES***. A sale from a residence or residential property of personal property. A yard, patio, or driveway sale is included within the definition of ***GARAGE SALE***. The term ***GARAGE SALE*** does not include the mere incidental sale of one or two items of personal property when the sale is not part of a general sale of a number of items of personal property.
(Ord. O-88-12, passed - -88)

§ 114.02 COMPLIANCE REQUIRED.

Garage sales shall be conducted in compliance with all laws, ordinances, rules, and regulations not in conflict herewith; however, no occupational license shall be required therefor.
(Ord. O-88-12, passed - -88)

§ 114.03 PERMIT REQUIRED; CONDITIONS.

(A) No garage sale may be conducted within the city without a permit having been first issued for the sale by the City Clerk. Application for permits shall be made in writing at least seven days prior to the date of the sale. The permit shall set forth and restrict the time and location of the garage sale. No more than 12 permits may be issued to one residence or family or household during any calendar year. The permits shall be limited in time to no more than the daylight hours for two consecutive calendar days. Permits shall not be issued within two weeks of one another.

(B) Prior to issuance of any garage sale permit the person conducting the sale shall file a written statement with the City Clerk setting forth the following information:

(1) The persons's interest in the residential property (ownership, current lessee or other control as the person may have).

(2) An affirmative statement that the property to be sold was neither acquired or consigned for the purposes of resale.

(C) The permit required by this chapter shall be prominently displayed at the sale.

(D) In no event shall the items and goods involved in any "sale" as defined herein, be visible from the roadway other than during the specific times set for the sale.

(E) Written applications shall be made to the Melbourne City Clerk, P.O. Box 63, Melbourne, Kentucky 41059.

(Ord. O-88-12, passed - -88)

§ 114.04 SIGNS; LIMITS ON POSTING.

One sign of not more than four square feet shall be permitted to be displayed on the property of the residence where a garage sale is being conducted pursuant to a permit issued under this chapter. The signs shall be displayed only during the times of the sales as delineated on the permit. In no case shall the sign be placed on any property other than the property of the residence to which the permit has been issued or upon the public right-of-way.

(Ord. O-88-12, passed - -88)

§ 114.99 PENALTY.

Any person who conducts or aids in conducting any garage sale not in accordance with the provisions of this chapter shall be in violation of this chapter and shall, upon conviction, be fined not less than \$50 nor more than \$100. Each day that the violation continues or exists shall constitute a separate offense.

(Ord. O-88-12, passed - -88)

CHAPTER 115: OCCUPATIONAL LICENSE FEES

Section

- 115.01 Definitions
- 115.02 Annual business license fee
- 115.03 Disposition of funds
- 115.04 Certificate
- 115.05 Due date
- 115.06 Collection

- 115.99 Penalty

§ 115.01 DEFINITIONS.

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

BUSINESS. An enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. **BUSINESS** shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, injuries to the benefit of any private shareholder or other person.

BUSINESS ENTITY. Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

CITY. The City Of Melbourne, Campbell County, Kentucky.

FISCAL YEAR. An accounting period of 12 months ending on the last day of any month other than December.

PERSON. Every natural person, whether a resident or non-resident of the county. Whenever the word **PERSON** is used in a clause prescribing and imposing a penalty in the nature of a fine or

imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04)

§ 115.02 ANNUAL BUSINESS LICENSE FEE.

(A) There is hereby levied and established an annual business license fee in the amount of \$50 upon all persons and business entities doing business or conducting business in the city. No person or business entity shall conduct business within the corporate limits of the city without having first paid the fee and without having obtained the prescribed license therefore. A person or business entity operating a two-dwelling unit rental property, where the owner occupies one dwelling unit and rents the other dwelling unit that is a part thereof, shall not be subject to the license fee imposed by this chapter.

(B) Collection of this fee shall become effective January 1, 2005.

(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04) Penalty, see § 115.99

§ 115.03 DISPOSITION OF FUNDS.

All revenue received from the payment of business license fees required by this chapter shall be paid into and become part of the general fund of the city to be used for the general operating expenses of the city. The city may designate an agent to receive and process the business license fees.

(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04)

§ 115.04 CERTIFICATE.

Every person and business entity desiring to obtain a license to do business in the city shall apply to the City Clerk or his or her agent. The person or business entity to whom such license certificate shall be issued shall pay to the city or its designated agent the required license fee.

(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04) Penalty, see § 115.99

§ 115.05 DUE DATE.

(A) The business license fee hereby established, levied and imposed shall be due and payable in full on or before April 15 in each year when the business entity's records are kept on a calendar basis. For persons or business entities whose records are kept on a fiscal year basis the business license fee shall be due and payable in full on or before the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for paying the fee shall be supplied by the city.

(B) A person or business entity subject to the license fee may be subject to a penalty equal to 5% of the tax due for each calendar month or fraction thereof if the person or business entity fails to pay the

license fee on or before the due date prescribed for filing. The total penalty levied pursuant to this section shall not exceed 25% of the total license fee due. In addition to the penalties described in this section, any person or business entity shall pay, as part of the license fee due, an amount equal to 12% per annum simple interest on the fee shown due, but not previously paid, from the time the license fee was due until the license fee is paid. A fraction of a month is counted as an entire month.
(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04) Penalty, see § 115.99

§ 115.06 COLLECTION.

The provisions of this chapter shall be administered and enforced by the City Clerk, and or any agent appointed by the City Commission to collect these fees.
(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04)

§ 115.99 PENALTY.

Any person or business entity who engages in or is employed in any business activity or operation with the city for which the business license has not been paid, upon conviction in a court of competent jurisdiction, shall be subject to a fine of up to \$250 and each day that the person is in violation of this chapter shall be deemed a separate offense.
(Ord. 09-00, passed 12-12-00; Am. Ord. 13-04, passed 12-13-04)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

- 130.01 Limitations on the discharge of firearms
- 130.02 Erroneous activation of security alarms prohibited

Curfew Regulations

- 130.10 Purpose
 - 130.11 Definitions
 - 130.12 Curfew times
 - 130.13 Exceptions
 - 130.14 Parental responsibility
 - 130.15 Police procedures
-
- 130.99 Penalty

GENERAL PROVISIONS

§ 130.01 LIMITATIONS ON THE DISCHARGE OF FIREARMS.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

LICENSED FIRING RANGE. A range designed for the purpose of allowing the safe discharge of a weapon for the purpose of target practice in such a manner so as to eliminate the danger to persons or property in the event the projectile fails to hit its target. The range may be an indoor or outdoor type. It must be constructed in such a manner as to prevent the penetration of any projectile fired in its direction that is permitted to be used at that facility. The range shall be constructed in such a manner as to prevent the projectile from rebounding in any direction.

(B) The use or discharge of a B-B gun, air rifle, air pistol, pellet gun, pellet pistol and any other instrument capable of issuing a projectile, whether by air, gas, spring or other means, is hereby prohibited, except at licensed firing ranges.

(C) The use or discharge of a rifle, pistol, shot gun, muzzle loading rifle or muzzle loading pistol, long bow, cross bow, blowgun, or any instrument capable of issuing a projectile, whether by air, gas, spring or other means, is hereby prohibited, except at licensed firing ranges. No weapon of greater than 45-caliber is permitted to be used, except muzzle loading rifles or pistols that may be used in conjunction with black power.

(D) The City Clerk shall issue all licenses for firing ranges. The fee for a license shall be \$5 per year. No license shall be issued until the firing range has been inspected and approved by the Chief of Police.

(Ord. O-91-06, passed 8-13-91) Penalty, see § 130.99

§ 130.02 ERRONEOUS ACTIVATION OF SECURITY ALARMS PROHIBITED.

(A) No person or company that owns or controls a premise located within the city shall permit a security alarm system to be erroneously activated on or at the premise.

(B) For each erroneous activation of a security alarm system located within the city, except for the first two erroneous activations thereof in each calendar year, the person or company that owns or controls a premise upon which is located a security alarm system shall be charged and assessed a fee of \$25 for each erroneous activation of the security alarm system.

(C) The City Clerk shall maintain a record of erroneous activations or false alarms and provide copies thereof to the City Council each month. If approved by a majority of Council, the Clerk shall send a bill for the appropriate charges to the person or company who controls the premises upon which the security alarm system is located. Upon nonpayment of the bill for a period of 30 days, the respective security alarm system shall be removed forthwith from the police dispatcher's office, if so connected, and the person or company shall be cited to District Court for violation of this section.

(Ord. O-88-10, passed - -88) Penalty, see § 130.99

CURFEW REGULATIONS

§ 130.10 PURPOSE.

This subchapter shall be known and shall be cited as the *Melbourne Curfew Ordinance*. This subchapter is designed to provide for the protection of minors from each other and from other persons on the street during nighttime hours, the enforcement of parental control of and responsibility for children, the protection of the public from nocturnal mischief by minors, and the reduction in the incidence of juvenile criminal activity.

(Ord. O-95-02, passed 2-14-95)

§ 130.11 DEFINITIONS.

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

ALLOW. Either to permit or neglect to refrain or prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know about the child violating this curfew section, or the circumstances must be that a reasonably prudent parent or guardian should have known the child was violating the curfew.

MINOR. Any person under the age of 18, or as may be otherwise phrased, any person the age of 17 and under.

PARENT. Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person to whom legal custody has been given by order of court.

REMAIN. To stay behind, to tarry or to stay unnecessarily upon or in any public assembly, building, place, street or highway.
(Ord. O-95-02, passed 2-14-95)

§ 130.12 CURFEW TIMES.

It shall be unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, street or highway within the city at night during the period beginning at 12:00 a.m. and ending at 6:00 a.m., Sunday through Thursday; and beginning at 1:00 a.m. and ending 6:00 a.m., Friday and Saturday.
(Ord. O-95-02, passed 2-14-95) Penalty, see § 130.99

§ 130.13 EXCEPTIONS.

In the following exceptional cases a minor in or upon any public assembly, building, place, street or highway in the city during the nocturnal hours provided for in § 130.12 shall not be considered in violation of *this subchapter*:

- (A) When the minor is accompanied by a parent or guardian;

(B) When accompanied by an adult authorized by a parent or guardian of the minor;

(C) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, provide that written notice signed by the minor and countersigned by a parent is in the possession of the minor specifying when, where, and in what manner the minor will be exercising such First Amendment rights;

(D) In case of reasonable necessity but only after the minor's parent has communicated to the Campbell County Police Department the facts establishing the reasonable necessity;

(E) When the minor is on the property of the place where the minor resides or on the property of a next-door neighbor who has not communicated an objection to a police officer or the Police Department;

(F) When returning home, by a direct route from and within one hour of the termination of a school activity, or any activity of a religious or other voluntary association, provided that justification indicating the place and time of termination of the event can be given to any investigating officer of the Campbell County Police Department;

(G) When authorized by regulation issued by the City Commission in case of reasonable necessity involving more minors than may be dealt with on an individual basis. The regulations should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, street or highway permitted, and the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary. The Mayor shall notify the Campbell County Police Department of the information;

(H) When engaged in a business or occupation which the laws of the Commonwealth of Kentucky authorize a person under 17 years of age to perform;

(I) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver;
or

(J) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the city for the purpose of passing through, by direct route, from one location to either within or out of the city, including all minors that may also be within the vehicle.
(Ord. O-95-02, passed 2-14-95)

§ 130.14 PARENTAL RESPONSIBILITY.

It shall be unlawful for a parent or guardian having legal custody of a minor to allow a minor to be or remain in or upon a public assembly, building, place, street or highway in the city under

circumstances not constituting an exception to this subchapter. It shall be no defense that a parent was completely indifferent to the activities, conduct or whereabouts of the minor.
(Ord. O-95-02, passed 2-14-95) Penalty, see § 130.99

§ 130.15 POLICE PROCEDURES.

(A) Police officers of the Campbell County Police Department finding or being notified of any minor in or upon any public assembly, building, place, street or highway believed to be in violation of this subchapter shall confront the minor and request information such as the name, age, address, and the name of a parent or legal guardian. In addition, the police officer may request proof of the age of the minor.

(B) If it is determined that a minor is of the age subject to the curfew (under 18 years of age), the police officer shall forthwith take the minor to the police station and the parent or guardian shall immediately be notified to come for the minor, whereupon they shall be interrogated. This is intended to discover the relevant facts and circumstances and such information shall be duly recorded for future reference in the event of subsequent violations of this subchapter.

(C) Police procedures may provide that a police officer may deliver a minor to a parent or guardian under appropriate circumstances, for example a minor of tender age near home whose identify and address may be readily ascertained or are known. In the event of such delivery, the police officer shall file a written report within 24 hours which shall be duly recorded. The Chief of Police of the Campbell County Police Department, or his duly authorized representative, can issue regulations of effectuate expeditious procedure under this section.

(D) When a parent has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of the parent.

(E) If a parent or guardian cannot be located, or fails to take charge of the minor, the minor may temporarily be entrusted to a relative, neighbor, or other person who will assume the responsibility for the minor on behalf of the parent or guardian pending the availability of the parent or guardian. In the absence of any person to assume the responsibility for the minor, the minor shall be released to the juvenile authorities.

(Ord. O-95-02, passed 2-14-95)

§ 130.99 PENALTY.

(A) Any person who shall discharge or shoot a rifle, pistol, shot gun, muzzle loading rifle or muzzle loading pistol, long bow, cross bow, blowgun, B-B gun, air rifle, air pistol, pellet gun, pellet pistol, or any instrument capable of issuing a projectile, whether by air, gas, spring or other means, within the city in violation of § 130.01 shall, upon conviction thereof, be fined in a sum not less than \$25 or exceeding \$500 and court costs for each offense. (Ord. O-91-06, passed 8-13-91)

Melbourne - General Offenses

(B) Failure of any person or company to pay the fee imposed by § 130.02 shall constitute a violation and any person or company found guilty of a violation shall be fined not less than \$25 nor more than \$100 for each violation. (Ord. O-88-10, passed - -88)

(C) Any parent or guardian violating § 130.14 shall be subject to a fine of no more than \$500 or imprisonment for a period not to exceed six months or both.
(Ord. O-95-02, passed 2-14-95)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. FLOOD DAMAGE PREVENTION**
- 152. MOBILE HOMES**
- 153. PLANNING AND ZONING**

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

- 150.01 Adoption of Kentucky Building Code; enforcement agent/agency
- 150.02 Building inspection program
- 150.03 Appeals
- 150.04 Building permits required; fees for permits and inspections

Residential Code

- 150.10 Adoption of Kentucky Residential Code; revisions

Property Maintenance

- 150.15 Adoption of Property Maintenance Code; amendments
- 150.16 Discarding or storing items on one's own or another's property
- 150.17 Enforcement

Electrical Standards

- 150.30 Definitions
- 150.31 Minimum electrical standards
- 150.32 Duties of examining and appeal board
- 150.33 Licenses required
- 150.34 Reciprocity agreement
- 150.35 Electrical permits

- 150.99 Penalty

Cross-reference:

Landlord Tenant Act adopted, see § 95.01

Residential anti-displacement and relocation assistance plan, see § 95.02

GENERAL PROVISIONS**§ 150.01 ADOPTION OF KENTUCKY BUILDING CODE; ENFORCEMENT AGENT/AGENCY.**

(A) The Kentucky Building Code, promulgated in 815 KAR 7:120, and the Kentucky Residential Code, promulgated in 815 KAR 7:125 by the Board of Housing, Buildings and Construction, Commonwealth of Kentucky, are hereby adopted in full as if set out at length herein. A copy of the Kentucky Building Code is on file in the Office of the Campbell County Clerk, and the Clerk shall at all times keep a copy of it for reference. An attested copy of Ordinance O1-09 shall be transmitted to the Office of Housing, Buildings and Construction of the Commonwealth of Kentucky.

(B) The Campbell County Department of Planning and Zoning shall be designated as the local enforcement agent/agency for the Kentucky Building Code. All building code inspections shall be performed by persons certified by the Kentucky Office of Housing, Buildings and Construction. All electrical inspections shall be performed by a state-certified electrical inspector specifically approved by this jurisdiction.

(Ord. 01-09, passed 9-14-09) Penalty, see § 150.99

§ 150.02 BUILDING INSPECTION PROGRAM.

Pursuant to KRS 198B.060(8), a building inspection program is hereby established for application to all buildings in the city. Local jurisdictions may adopt by ordinance inspection programs for detached, single-family dwellings as provided in the adopted codes.

(Ord. 01-09, passed 9-14-09)

§ 150.03 APPEALS.

Appeals from decisions made by the Building Inspector under this chapter may be taken to the State Board of Housing, Buildings and Construction unless and/or until a local board of housing appeals, as set forth in KRS Chapter 198B, is established to hear such appeals.

Statutory reference:

Appeals procedure, see KRS 198B.070

§ 150.04 BUILDING PERMITS REQUIRED; FEES FOR PERMITS AND INSPECTIONS.

(A) Any person, partnership, corporation or other legal entity desiring to build or erect a new structure on any lot located in the city, must first obtain a building permit from the City Clerk. A separate permit must be obtained for each new building or structure to be erected.

(B) The fees for permits and inspections shall be as provided for in a separate schedule.
(Ord. 47-74, passed 8-13-74; Am. Ord. O1-09, passed 9-14-09)

RESIDENTIAL CODE

§ 150.10 ADOPTION OF KENTUCKY RESIDENTIAL CODE; REVISIONS.

(A) Certain documents, three copies of which are on file in the office of the Department of Planning and Zoning within the Campbell County Fiscal Court, being marked and designated as International Residential Code, including Appendix G, In-ground Swimming Pools, and Appendix K, Sound Transmission, as published by the International Code Council, and is hereby adopted as the code for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the city, and providing for the issuance of permits and collection of fees therefor. Each and all of the regulations, provisions, conditions, and terms of the Kentucky Residential Code, 2007 Edition, published by the International Code Council, on file in the office of the Campbell County Fiscal Court, Department of Planning and Zoning, are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(B) The following sections are hereby revised:

(1) Section R101.0, Insert: "City of Melbourne";

(2) Section R301.2(1), Insert: attached table.

(Ord. O2-09, passed 9-14-09)

PROPERTY MAINTENANCE

§ 150.15 ADOPTION OF PROPERTY MAINTENANCE CODE; AMENDMENTS.

(A) That a certain document, one copy of which is on file in the city building, being marked and known as *The BOCA National Property Maintenance Code/1996* as published by the Building Officials and Code Administrators International Inc., is hereby adopted as the Property Maintenance Code of the City of Melbourne, Kentucky, for the control of buildings, structures and real and personal properties as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the *BOCA National Property Maintenance Code* are hereby referred to, adopted, and made a part hereof,

as if fully set out in this section, with the additions, insertions, deletions and changes prescribed in division (B) of this section.

(B) That the *BOCA National Property Maintenance Code* is amended and revised in the following respects:

(1) Section PM-101.1 (page 1, second line). Insert “City of Melbourne, Kentucky.”

(2) Section PM-106.2 (pages 2 and 3). Shall be deleted in its entirety and shall read as follows: Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than \$10, nor more than \$500 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(3) Section PM-111.1 (page 4). Add the following: There shall be a fee of \$50 to file an application for an appeal. The appeal fee shall be paid to the City of Melbourne at the City Building at the time of the filing of the appeal. The appeal fee will be refunded to the appellant if the appellant prevails on appeal. If an appellant can not afford the appeal fee, the appellant can file an appeal if the appellant files an affidavit with the City Clerk's Office verifying that the appellant can not afford to pay the appeal fee.

(4) Section PM-111.2 (page 4). Shall be deleted in its entirety and shall read as follows: The board of appeals shall consist of three members appointed by the mayor as follows: one for three years, one for two years and one for one year. Thereafter, each new member shall serve for three years or until a successor has been appointed.

(5) Section PM-111.2.1 (page 5). Shall be deleted in its entirety and shall read as follows: The board of appeals shall consist of three residents of the City of Melbourne with a demonstrated interest in the welfare of the community.

(6) Section PM-111.5 (page 5, first line). Delete “five” and replace with “three”.

(7) Section PM-111.6 (page 5, line 2). Deleted “three” and replace with “two”.

(8) Section 302.1 (page 9). Shall add the following definition under public nuisance: 9. Any violation(s) of this code.

(9) Section 302.1 (pages 9 and 10, last line). Shall add the phrase “The term shall also include tires, indoor furniture and automobile parts.” to the definition of the term *rubbish* following the word “materials”.

(10) Section PM-303.8 (page 10). Shall be deleted in its entirety and shall read as follows: No automotive vehicle, trailer, mobile home, recreational vehicle, camper, boat or similar type equipment

that is abandoned, nonfunctional, in a state of disrepair, or lacking a valid license, shall be stored or parked on any premises unless it is in a completely enclosed building.

(11) Section PM-304.15 (page 11, first and second lines). Insert "April 1 to October 31".

(12) Section PM-602.2.1 (page 17, fifth line). Insert "October 1 to April 1".

(13) Section PM-602.3 (page 17, third line). Insert "October 1 to April 1".

(Ord. O-93-12, passed 9-14-93; Am. Ord. O-97-22, passed 1-13-98; Am. Ord. 2-01, passed 4-10-01)

§ 150.16 DISCARDING OR STORING ITEMS ON ONE'S OWN OR ANOTHER'S PROPERTY.

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

(1) ***DILAPIDATED ITEM.*** Any item which is in a state of disrepair, junk, dismantled or stripped vehicle, or parts thereof; any item which is damaged, in a state of decay or ruin, or unable to be reasonably used for its intended purpose without substantial repair or restoration. This definition includes, but is not limited to, any motor vehicle, boat, equipment, home appliance, and furniture, or parts thereof that is in a dilapidated or inoperable condition and which is left in the condition for more than seven consecutive days.

(2) ***DISCARDED ITEM.*** Any item which is cast off, sat aside as having no particular use other than as junk, or having no particular value or worth other than as junk. This definition includes, but is not limited to, any motor vehicle, boat, equipment, home appliance, and furniture, or parts thereof that is discarded for more than seven consecutive days.

(B) *One's own property.* No property owner, record title holder, tenant, or person in possession of real estate, shall discard, store, place, leave, deposit, or allow to be discarded, stored, placed, left or deposited any dilapidated or discarded item upon his private property. This section shall not apply to a dilapidated or discarded item or parts thereof which are enclosed within a building or where the dilapidated or discarded item or parts thereof are not visible from a neighboring property, street, road, or public property or otherwise is totally concealed with appropriate covering, or a dilapidated or discarded item which is stored or parked in a lawful manner on nonresidential, private property in connection with the business of a licensed dissembler, licensed vehicle dealer, junk yard or salvage yard, provided, however, this exception shall not authorize the maintenance of a public or private nuisance as defined under provision of law other than this subchapter.

(C) *Another's property.* No person shall discard, store, place, leave or deposit any dilapidated or discarded item on the property of another or on any public property or right-of-way in the city.
(Ord. O-97-22, passed 1-13-98) Penalty, see § 150.99

§ 150.17 ENFORCEMENT.

Any police officer, other law enforcement officer or Citation Officer/Inspector, may issue a citation to any person who commits a violation of this subchapter in his presence. Any person who knows, sees or otherwise has probable cause to believe that there has been a violation of any of the provisions of this subchapter may sign a criminal complaint against the responsible party for the violation of this subchapter.

(Ord. O-97-22, passed 1-13-98)

ELECTRICAL STANDARDS**§ 150.30 DEFINITIONS.**

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

ELECTRICAL. The installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

ELECTRICAL CONTRACTOR. Any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.

ELECTRICAL INSPECTOR. Any person certified by the Commissioner of Housing, Buildings and Construction pursuant to KRS 227.489 who, for compensation, inspects the construction and

installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the national electrical code incorporated in the *State Building Code* promulgated pursuant to KRS 198B.050 or the *Standards of Safety* of the Commonwealth of Kentucky.

ELECTRICIAN. Any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.

(Ord. O-90-15, passed - -90)

§ 150.31 MINIMUM ELECTRICAL STANDARDS.

The State Building Code as is established by the Board of Housing, Buildings and Construction of the State of Kentucky, and as is adopted by § 150.01 of this chapter, shall have the effect as if it were written fully herein, as a minimum standard for the construction, alteration and repair of any electrical wiring done within the effective area of this subchapter. These standards shall also be used by the Electrical Inspector in making his inspections.

(Ord. O-90-15, passed - -90)

§ 150.32 DUTIES OF EXAMINING AND APPEALS BOARD.

The formerly established Northern Kentucky Electric Authority, the examining and appeal board consisting of seven members as authorized in KRS 227.450 to 227.500, shall:

(A) Administer electrical contractor's examinations which have been selected and approved by the Department of Housing, Buildings and Construction and administer electrician examinations;

(B) Have the power to issue, renew, suspend and revoke electrical contractor and electrician licenses;

(C) Have the power to require electrical contractors and electricians to pay reasonable fees for examinations, initial licenses and renewals;

(D) Accept an electrical contractor examination certificate issued by the Department of Housing, Buildings and Construction as evidence that an applicant has met the examination requirements;

(E) Have the power to require all electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation;

(F) Compile and submit to the Department of Housing, Buildings and Construction all disciplinary actions taken against licensed electrical contractors on a quarterly basis;

(G) Have all other powers authorized for a local examining board by KRS 227.450 *et seq.*
(Ord. O-90-15, passed - -90)

§ 150.33 LICENSES REQUIRED.

It shall be unlawful for any person to engage in the business of installing, altering or repairing, within the limits of the city, any electrical wiring, devices or equipment unless the individual is the holder of the electrical contractors license or employed by a licensed electrical contractor and a holder of an electrician's license. Application for the license must be made in writing to the Board, stating the name, experience and qualifications of applicant. Upon the applicant's complying with the requirements of this chapter and passing an examination approved by the Northern Kentucky Electric Authority, a license shall be granted to the individual applying for the same.

(Ord. O-90-15, passed - -90)

§ 150.34 RECIPROCITY AGREEMENT.

There is hereby established an agreement of reciprocity between the city and any other city and county in which there exists legislation basically containing the provisions of this subchapter and the Mayor and/or Commission is hereby authorized to execute an interlocal agreement with any such city or county.

(Ord. O-90-15, passed - -90)

§ 150.35 ELECTRICAL PERMITS.

(A) Electrical permits shall be obtained prior to the installation, addition, alteration, repair, relocation, or removal of electrical wiring.

(B) The cost of the permit for electrical installation, additions, alterations, repair, relocation, or removal shall be as established by ordinance.

(C) All electrical permits shall be obtained from the Campbell County Planning and Zoning Department.

(Ord. O-90-14, passed - -90)

§ 150.99 PENALTY.

(A) Any person who violates any provision of the state codes adopted in § 150.01 shall be subject to the following penalties:

(1) Violators of the State Building Code shall, upon conviction, be subject to a fine of not less than \$10 nor more than \$1000 for each offense. (KRS 198B.990(1))

(2) Violators of the *State Standards of Safety* shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$1000, imprisonment for not more than 60 days, or both, for each offense. (KRS 227.990(1))

(3) Violators of the State Plumbing Code shall, upon conviction, be subject to a fine of not less than \$10 nor more than \$100, imprisonment for not more than 90 days, or both, for each offense. (KRS 318.990)

(B) Any person, firm or corporation violating the provisions of §§ 150.30 through 150.35 shall be guilty of a misdemeanor and, upon conviction in any court of competent jurisdiction, shall be fined not less than \$25 nor more than \$250 or imprisoned for not more than 90 days, or both, so fined and imprisoned in the discretion of the court for each offense, and each day that the person, firm or corporation violates the sections, or any provision thereof may be deemed a separate offense. (Ord. O-90-15, passed - -90)

(C) Whoever violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the provisions of § 10.99.

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

151.01 Adoption of revised flood damage prevention ordinance

§ 151.01 ADOPTION OF REVISED FLOOD DAMAGE PREVENTION ORDINANCE.

(A) The city of adopts the most current Flood Insurance Rate Maps (FIRM) and Flood Damage Prevention Ordinance and subsequent amendments, on file with Campbell County.

(B) The Flood Damage Prevention Ordinance shall apply to all areas of special flood hazard within the jurisdiction of the city as identified by the Federal Emergency Management Agency in the Flood Insurance Study for Campbell County, and mandates that no structure or land in these areas shall hereafter be located or extended, converted or structurally altered without compliance with its provisions.

(1) The Flood Damage Prevention Ordinance requires the approval of the Floodplain Administrator and a permit from the Mayor and the Kentucky Division of Water for the placement of new construction, substantial improvements, or manufactured homes or businesses within areas of special flood hazard.

(2) New construction and substantial improvements shall be constructed with materials and utilities resistant to flood damage. The lowest floor of any residential or business structure constructed or substantially improved shall be elevated to or above base flood elevation.

(3) The Flood Damage Prevention Ordinance provides penalties and/or imprisonment for each violation of its provisions.

(Ord. O1-14, passed 2-10-14)

CHAPTER 152: MOBILE HOMES

Section

- 152.01 Definitions
- 152.02 Occupancy and area requirements
- 152.03 Exceptions
- 152.04 Registration requirement
- 152.05 Compliance with state law
- 152.06 Violations

- 152.99 Penalty

§ 152.01 DEFINITIONS.

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

MOBILE HOME. Any vehicle without motor power, designed to be drawn by a motor vehicle and to be used for human habitation on a temporary or permanent basis, including a trailer, coach or house trailer. **MOBILE HOME** is defined by the Commonwealth of Kentucky in KRS 227.550.

MOBILE HOME PARK. A parcel of land, under the control of any person, available to the public in which two or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure or other facility used as part of the park. All parks must possess a permit as provided for in KRS 219.310.
(Ord. O-92-06, passed 7-9-92)

§ 152.02 OCCUPANCY AND AREA REQUIREMENTS.

(A) All mobile homes placed in the city, except those listed in § 152.03, shall be designed and built for year round occupancy.

(B) All mobile homes placed in the city, except those listed in § 152.03, shall not be permitted, where the area of the lot the individual mobile home will be placed on, is less than 9,680 square yards.
(Ord. O-92-06, passed 7-9-92)

§ 152.03 EXCEPTIONS.

Any existing mobile homes presently in year round use within the city are exempt from the provisions of § 152.02 of this chapter.

(Ord. O-92-06, passed 7-9-92)

§ 152.04 REGISTRATION REQUIREMENTS.

All mobile homes must be registered with the City Clerk. The form to be used for the registration shall be supplied by the City Clerk.

(Ord. O-92-06, passed 7-9-92)

§ 152.05 COMPLIANCE WITH STATE LAW.

All mobile homes that are placed into service within the city after the enactment of this chapter shall be in full compliance with all sections of KRS 227.550 to 227.660.

(Ord. O-92-06, passed 7-9-92)

§ 152.06 VIOLATIONS.

(A) Any person found to be violating any provision of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation.

(Ord. O-92-06, passed 7-9-92)

§ 152.99 PENALTY.

Any person who shall continue any violation beyond the time limit provided for in § 152.06 shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(Ord. O-92-06, passed 7-9-92)

Cross-reference:

For violations not specifically listed herein, see civil penalties set forth in § 92.99

CHAPTER 153: PLANNING AND ZONING

Section

153.01 Planning and zoning regulations adopted by reference

§ 153.01 PLANNING AND ZONING REGULATIONS ADOPTED BY REFERENCE.

The city hereby adopts the planning and zoning regulations, including text and zoning map and revised subdivision regulations, adopted by the Campbell County-Municipal Planning and Zoning Commission on December 15, 1977, which are incorporated by reference as if fully set out herein. (Ord. 66-78, passed - -78; Am. Ord. 01-00, passed 2-8-00; Am. Ord. 10-01, passed 12-11-01; Am. Ord. 01-18, 3-12-18)

TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS**
- II. DEDICATIONS**
- III. FRANCHISES**
- IV. INTERLOCAL AGREEMENTS**
- V. REAL ESTATE TRANSACTIONS**
- VI. RESOLUTIONS**
- VII. STREET CLOSINGS**

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
17-71	12-14-71	Annexing approximately 242.50 acre tract of land now owned by the Sisters of Divine Providence and others lying on the westerly corporate limits of the city and on the north and south sides of Ky. Route 8
33-72	- -	Annexing certain unincorporated territory abutting the city and lying along the southerly side of Ky. Route 8, beginning at a point in intersection of the westerly right-of-way line of Anderson Road
49-74	11-12-74	Annexing an approximately 16.50 acre tract of land lying just south of the Ohio River
52-75	8-26-75	Annexing certain territory or tract of land lying just south of the Ohio River, beginning at a point in the westerly line of the right-of-way of the Chesapeake and Ohio Railroad
55-76	4-27-76	Annexing certain territory lying just south of the Ohio River and an approximately 16.50 acre tract of land lying just south of the Ohio River and an approximately 31.80 acre tract of land lying along the southerly side of Ky. Route 8 and an approximately 242.50 acre tract of land now owned by the Sisters of Divine Providence and others lying on the westerly corporate limits of the city

Melbourne - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O-88-03	- -	Annexing certain territory lying along the northerly side of Mary Ingles Highway, between Upper Eight Mile Road and the easterly corporation line of the town
O-90-08	11-13-90	Annexing certain territory, beginning at a point in the centerline of Mary Ingles (Ky. Route 8) and the easterly corporation line of the city
O-90-10	8-14-90	Annexing certain property beginning at an iron pin set at a corner post at the corner of the Reinert property, Sisters of Divine Providence property, and the Douglas Murphey property, containing 51.895 acres, and a second parcel containing 0.412 acres
O-90-12	6-12-90	Annexing certain property beginning at an iron pin set at a corner post at the corner of the Reinert property, Sisters of Divine Providence property, and the Douglas Murphey property containing 51.895 acres
O-93-14	12-14-93	Annexing certain territory beginning at a cut in the center of the cul-de-sac of Rainbow Court containing 2.628 acres
O-95-09	6-6-95	Annexing certain territory lying along the north side of Ky Route 8 and the east boundary of the town containing 12.766 acres of land
O-96-03	3-12-96	Annexing certain territory lying along the north side of State Route 8 and the east boundary of the town and containing 12.766 acres
O2-10	8-9-10	Correcting typographical errors in the descriptions of the two properties annexed by Ordinance O-90-10

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O5-10	8-9-10	Correcting typographical errors in the descriptions of the two properties annexed by Ordinance O-90-12

TABLE II: DEDICATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O-94-08	7-12-94	Dedicating five public ways to be called Blevins Avenue, Harrison Avenue, Spenser Avenue, North Lincoln Avenue and Burns Avenue
O-94-09	8-9-94	Dedicating the roadway beginning at a point west of North Lincoln Road at property currently titled in the name of Carlos Spencerk dedicated as Spencer Avenue

TABLE III: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O-97-04	6-10-97	Authorizing the Mayor to enter into a contract with Rumpke Waste System for an exclusive franchise for the purpose of residential solid waste collection in the city
O-98-04	4-14-98	Adopting the cable television system franchise renewal with TCI-TKR of Northern Kentucky, Inc., d/b/a TKR Cable of Northern Kentucky
O-98-08	- -98	Authorizing the Mayor to enter into a contract with Rumpke System for an exclusive franchise to collect solid waste in the city
06-00	5-9-00	Granting to the Union, Light, Heat and Power Company a 20-year franchise to place gas transmission and distribution facilities in public streets and places of the city

TABLE IV: INTERLOCAL AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
29-72	7-11-72	Authorizing a contract with other municipalities, agreeing to the terms and conditions of an intergovernmental cooperative agreement, pursuant to KRS 65.210 <i>et seq.</i> , creating a Solid Waste Authority
31-72	8-8-72	Authorizing a contract with other municipalities, agreeing to the terms and conditions of an inter-governmental cooperative agreement, pursuant to KRS 65.210 <i>et seq.</i> creating a solid waste authority
R-01-81	2-10-81	Authorizing an agreement to form and operate a joint planning unit with the Campbell County Fiscal Court
O-94-03	3-8-94	Adopting an interlocal agreement between the Campbell County Fiscal Court and cities of Campbell County, establishing the Campbell County Cable Board as the cable television regulatory authority for the participating local governments
02-00	3-14-00	Approving a joint and cooperative program for self-insurance, and the investment of public funds among various cities, urban-county governments, and other public agencies within the Commonwealth; authorizing the execution of the interlocal cooperation agreement to establish the Kentucky Municipal Risk Management Association; approving the Articles of Association and Bylaw of the Kentucky Municipal Risk Management Association

Melbourne - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
03-00	10-30-00	Adopting an interlocal cooperation agreement between various cities and counties and establishing the Northern Kentucky Regional Ethics Authority
04-00	5-9-00	Adopting an amended agreement changing the membership on the Campbell County and Municipal Planning Commission
Order 2-01	4-10-01	Authorizing the Mayor to enter into an interlocal agreement with the Northern Kentucky Animal Control Board
7-01	6-12-01	Authorizing and directing the city to participate in the County Employees Retirement System, effective June 1, 2001, pursuant to KRS 78.510 to 78.990
3-02	10-8-02	Adopting an amended agreement to form and operate a joint planning unit pursuant to KRS Ch. 100
06-05	11-14-05	Adopting an amended agreement to form and operate a Board of Adjustment pursuant to KRS Ch. 100

TABLE V: REAL ESTATE TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O-89-07	10-10-89	Purchasing the building and property located on Garfield Avenue

TABLE VI: RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
R-1	11-17-70	Police judge appointed
2	2-20-72	Expressing approval of creation of garbage and refuse disposal authority
3	3-14-72	Expressing approval of county-wide uniform placement of all city motor vehicle stickers
4	5-18-73	Adopting and approving execution of a contract between the incorporated area of Melbourne and the Department of Highways, and accepting all streets listed, for the fiscal year beginning July 1, 1973
5	4-29-74	Adopting and approving execution of a contract between the city and the Bureau of Highways, for the year beginning July 1, 1974
6	2-10-75	Adopting and approving execution of a contract between the city and the Bureau of Highways, for the year beginning July 1, 1975
6-75	8-26-75	Supporting and approving the action taken by the Campbell County Fiscal Court prohibiting construction of sanitary solid waste landfills within two miles of the corporate limits of any city

Melbourne - Table of Special Ordinances

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
R-16-76	5-18-76	Authorizing the establishment of special service road districts in conformance with the 1976 amendment to KRS 179.470 and establishing the financing and procedures for the road districts
R-10-81	2-2-81	Authorizing the County Judge/Executive to execute an agreement to form and operate a joint planning unit with the city
R-01-81	2-10-81	Authorizing an agreement to form and operate a Joint Planning Unit with the Campbell County Fiscal Court
-	--	Terminating litigation with shop
R-01-84	2-14-84	Opposition to the proposed route of AA (Alexandria-Ashland) Highway through the city
-	5-8-84	Appointing members to Board of Adjustments
06-84	5-8-84	Directing the city to retain membership with Campbell County, Kentucky, Council of Governments
04-84	5-8-84	Permission for the United Methodist Church to use city streets to conduct a parade
05-84	5-8-84	Appointing a member to fill a vacant position on the Board of Adjustments for the Campbell County-Municipal Planning and Zoning Commission
01-85	--	Establishment of escrow account pursuant to ADF grant application
-	--	Appointing members as city representatives to the Campbell County-Municipal Planning and Zoning Commission

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
86-04	7-25-86	Preliminary approval of pooled financing, authorizing the appointment of Bond Council Financial Advisor and Purchaser's Council
R-86-03	8-12-86	Adopting fee schedule for budget pursuant to Campbell County Zoning Commissioner's request
R-86-06	11-12-86	Purchasing Lots 444, 445 and 446 and the payment
86-08	12- -86	Adopting Campbell County Solid Waste Plan and recognizing a solid waste area
87-01	2-10-87	Appointing member to the Cable Board
86-05	2-10-87	Appointing member to Campbell County-Municipal Planning and Zoning Commission
R-87-02	3-10-87	Appointing Building Inspector/Codes Administrator pursuant to Joint Planning Agreement
R-87-03	3-10-87	Fee schedule for Campbell County-Municipal Planning and Zoning Commission
R-87-04	4-14-87	Reappointing member to Board of Adjustments for a four-year term
R-87-05	4-14-87	Reappointing member to Board of Adjustments for a four-year term
87-06	5-12-87	Appointing member to Campbell County-Municipal Planning and Zoning Commission

Melbourne - Table of Special Ordinances

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
R-88-04	1-21-88	Recommending fee schedule changes for Campbell County-Municipal Planning and Zoning Commission
R-88-01	2-9-88	Appointing member to Campbell County-Municipal Planning and Zoning Commission
R-88-02	2-9-88	Appointing City Treasurer for a two-year term
R-88-03	2-9-88	Appointing City Clerk for a two-year term
88-05	5-10-88	Withdrawing the annexation enacted in Ordinance 88-03
R-89-01	--	Releasing liability for the construction of a drainage ditch
R-89-02	--	Appointing a member to the Campbell County-Municipal Planning and Zoning Commission
R-89-05	11-21-89	Authorizing Mayor to sign a grant request for the Department of Local Government FY Land and Water Conservation Fund
-	2-13-90	Ratifying the modification of the Storer Communications of Northern Kentucky, Inc., franchise for the operation and maintenance of a cable communications system
R-90-10	10-9-90	Adopting schedule of fees for the Campbell County-Municipal Planning and Zoning Commission, Board of Adjustments and Campbell County Codes Administrator
R-91-06	2-12-91	Adopting procurement code and calling for the installation of sewer system

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
R-91-08	2-12-91	Authorizing the filing of project application and appointing the Mayor Official Project Representative of the federally-assisted Waste Water Revolving Fund
R-91-09	- -	Endorsement of statewide mandatory <i>Seat Belt Law</i>
R-91-11	4-25-91	Relating to the construction of sewer system
R-91-13	9-10-91	Implementing a number of HUD/CDBG program requirements related to the construction of a central sewer system
R-93-16	12-14-93	Recommendations to Governor and Kentucky General Assembly to join cities and counties throughout the Commonwealth in an association
R-96-09	7-9-96	Authorizing to retain outside legal service

TABLE VII: STREET CLOSINGS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
O-92-07	6-9-92	Closing portions of Huntington, Lincoln, Garfield, Melbourne, Gerard, Ohio, Carlisle, Kenton, Blackburn, and Kentucky Avenues and portions on alleys
O-94-19	12-13-94	Closing a portion of Ohio and Kentucky Avenues, and an alley and esplanade
O-94-21	6-6-95	Closing a portion of an alley located between Gerard Avenue and Ohio Avenue
O4-09	5-11-09	Closing portions of Jefferson and Ohio Avenues, along with certain unnamed alleys

PARALLEL REFERENCES

References to Kentucky Revised Statutes
References to Resolutions
References to Ordinances

REFERENCES TO KENTUCKY REVISED STATUTES

<i>KRS Section</i>	<i>Code Section</i>
6.050	32.47
6.955 - 6.975	33.04
Ch. 13A	93.02
Ch. 13B	93.06
15.409	34.16
16.220	72.21
Ch. 18A	113.03
18A.225(2)	113.03
Ch. 31	34.16
41.240(4)	33.05
42.450 - 42.495	33.04
43.050	33.04
Ch. 45A	34.16
Ch. 54	34.16
Ch. 61	32.21
61.168	34.16
61.169	34.16
61.823(2) - (4)	91.15
61.870	34.01
61.870 - 61.884	34.17, 37.56
61.872(4)	34.06
61.872(5)	34.07
61.872(6)	34.08
61.872 - 61.884	37.19
61.874(1)	34.12
61.874(2)	34.12
61.874(3)	34.12, 34.13
61.874(4)	34.13
61.874(5)	34.14
61.874(6)	34.15
61.878	34.01, 34.16, 92.15
61.878(1)	34.16
61.880	92.15
61.880(1)	34.09, 34.16
61.884	34.11

Melbourne - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
62.020	31.01
Ch. 65	37.03
65.067	31.01
65.120	71.99
65.210 et seq.	37.70
65.8801 et seq.	92.03, 92.16
65.8801 - 65.8839	92.03, 92.20
65.8801 - 65.8840	92.15
65.8808	92.16
65.8811 et seq.	92.16
65.8811(5)	92.16
65.8811(6)	92.16
65.8825(1)	92.17
65.8836	92.20
66.660	91.06
82.082	37.03
83A.010(3)	10.02
83A.010(6)	10.02
83A.010(8)	10.02
83A.030(2)	30.02
83A.040(1)	31.21
83A.040(2)(a)	31.21
83A.040(2)(b)	31.21
83A.040(2)(d)	31.21
83A.040(3)	31.21
83A.040(4)	32.01
83A.040(5)	32.02
83A.040(6)	31.21, 32.02
83A.040(7)	31.21, 32.02
83A.040(8)	31.21, 32.02
83A.040(9)	31.03
83A.045(2)(b)	31.20
83A.045(2)(b)1,2,3,4,5,6	31.20
83A.045(2)(b)(1)	31.20
83A.050	31.20
83A.060(1)	32.35
83A.060(2)	32.36
83A.060(3)	32.37
83A.060(4)	32.38
83A.060(5)	32.39

<i>KRS Section</i>	<i>Code Section</i>
83A.060(6)	32.22
83A.060(7)	32.38
83A.060(8)	32.40, 32.41
83A.060(9)	32.42
83A.060(10)	32.43
83A.060(11)	32.44
83A.060(12)	32.45
83A.060(13)	32.45
83A.060(14)	32.46
83A.060(15)	32.47
83A.070	31.02
83A.075	31.02
83A.080	37.04
83A.080(1)	31.35
83A.080(2)	31.03, 31.35
83A.080(3)	31.20
83A.080(4)	31.20
83A.090	32.04
83A.130 - 83A.150	31.21
83A.140(1)	30.01
83A.140(2)	30.02
83A.140(3)	32.03
83A.140(4)	31.21, 32.20
83A.140(5)	32.03
83A.140(6)	32.04
83A.140(7)	32.21
83A.140(8)	32.03
83A.175	32.02
91A.010(6)	33.01
91A.010(7)	33.01
91A.010(8)	10.02
91A.020	33.02
91A.030	33.03
91A.040	33.04
91A.050	33.04
91A.060	33.05
91A.080(2)	113.02
91A.080(3)	113.03
91A.080(8)	113.04, 113.05
91A.080(9)	113.04

Melbourne - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
91A.080(10)	113.03
91A.200	33.11
91A.210	33.10
91A.220	33.11
91A.230	33.12
91A.240	33.13
91A.250	33.14
91A.260	33.15
91A.270	33.16
91A.280	33.17
91A.290	33.18
Ch. 107	33.11
131.010(6)	113.04
131.190	34.16
132.285	35.01
132.487	35.04
134.800	35.04
134.810	35.04
139.200	93.03
Ch. 150	90.07
Ch. 154	34.16
174.100	91.15
174.100(1)	91.16, 91.17
174.100(2)	91.17
174.100(3)	91.18
174.100(4)	91.19
174.100(5)	91.20
177.910 - 177.950	92.12
178.290	91.06
186.020	72.21, 92.03
186A.145	72.21
186A.190	72.21
Ch. 189	92.07
189.020	71.27
189.285	73.02
189.287	73.01
189.290	71.25
189.330(8)	71.02
189.338	70.15
189.450(5)	72.03

<i>KRS Section</i>	<i>Code Section</i>
189.450(6)	72.03
189.580	71.15
189.635(8)(b)1.a. to e	34.01
189.725	72.08
189.930	71.26
189.990(1)	72.99
189.993(8)	71.99
190.010(8)	92.12
196.099	34.01
Ch. 198B	150.03
198B.050	150.30
198B.060(8)	150.02
198B.070	150.03
198B.990(1)	150.99
218A.133	92.10
219.310	152.01
Ch. 224	92.07
226.010	112.01
226.020	112.02
226.030	112.07
226.040	112.03
226.050	112.04
226.060	112.08
226.070	112.03
226.080	112.05
226.090	112.06
226.100	112.08
226.990(1)	112.99
226.990(3)	112.99
227.330(6)	93.03
227.450 et seq.	150.32
227.450 - 227.500	150.32
227.489	150.30
227.550	92.12, 152.01
227.550 - 227.660	152.05
227.550(12)	92.03
227.700	93.01
227.700 - 227.750	93.01, 93.06
227.702	93.01
227.704	93.01

Melbourne - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
227.706	93.01
227.708	93.01
227.710	93.02
227.715	93.03
227.720	93.04
227.730	93.05
227.750	93.06
227.990(1)	150.99
227.990(4)	93.99
257.100(1)	90.06
257.100(2)	90.06
257.100(3)	90.06
257.100(4)	90.01
281.010	92.12
281.605(12)	72.21
281.920 - 281.936	72.21
281.926	72.21
281.928	72.21
281.928(1)	72.21
281.932	72.21
318.990	150.99
338.500 - 383.705	95.01
355.1-107	10.01
359.230	72.21
376.275	72.21
376.275(1)	72.21
376.275(2)	72.21
376.275(3)	72.22
Ch. 386	10.02
Ch. 386A	10.02
Ch. 424	32.42, 33.04, 33.14, 33.15
424.120	33.04
424.220	33.04
424.220(6)(b)	33.04
436.600	90.04, 90.99
446.010(1)	10.02
446.010(2)	10.02
446.010(6)	10.02
446.010(9)	10.02
446.010(10)	10.02

<i>KRS Section</i>	<i>Code Section</i>
446.010(12)	10.02
446.010(13)	10.02
446.010(14)	10.02
446.010(15)	10.02
446.010(17)	10.02
446.010(18)	10.02
446.010(23)	10.02
446.010(25)	10.02
446.010(26)	10.02
446.010(27)	10.02
446.010(28)	10.02
446.010(30)	10.02
446.010(31)	10.02
446.010(33)	10.02
446.010(37)	10.02
446.010(39)	10.02
446.010(43)	10.02
446.010(46)	10.02
446.010(47)	10.02
446.010(49)	10.02
446.020(1)	10.03
446.020(2)	10.03
446.030	10.04
446.050	10.05
446.060	10.06
446.080(1)	10.03
446.080(3)	10.03
446.080(4)	10.03
446.090	10.07
446.100	10.09
446.110	10.09
446.140	10.01
520.010	34.01
525.125	90.03, 90.11
525.130	90.03, 90.11
525.135	90.11
Ch. 527	92.10
527.020	36.15
529.020	92.05
529.080	92.05

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	T.S.O. VI
R-1	11-17-70	T.S.O. VI
2	2-20-72	T.S.O. VI
3	3-14-72	T.S.O. VI
4	5-18-73	T.S.O. VI
5	4-29-74	T.S.O. VI
6	2-10-75	T.S.O. VI
6-75	8-26-75	T.S.O. VI
R-16-76	5-18-76	T.S.O. VI
R-10-81	2-2-81	T.S.O. VI
R-01-81	2-10-81	T.S.O. VI
R-01-84	2-14-84	T.S.O. VI
—	5-8-84	T.S.O. VI
04-84	5-8-84	T.S.O. VI
05-84	5-8-84	T.S.O. VI
06-84	5-8-84	T.S.O. VI
01-85	--	T.S.O. VI
86-04	7-25-86	T.S.O. VI
R-86-03	8-12-86	T.S.O. VI
R-86-06	11-12-86	T.S.O. VI
86-08	12--	T.S.O. VI
86-05	2-10-87	T.S.O. VI
87-01	2-10-87	T.S.O. VI
R-87-02	3-10-87	T.S.O. VI
R-87-03	3-10-87	T.S.O. VI
R-87-04	4-14-87	T.S.O. VI
R-87-05	4-14-87	T.S.O. VI
87-06	5-12-87	T.S.O. VI
R-88-04	1-21-88	T.S.O. VI
R-88-01	2-9-88	T.S.O. VI
R-88-02	2-9-88	T.S.O. VI
R-88-03	2-9-88	T.S.O. VI
88-05	5-10-88	T.S.O. VI
R-89-01	--	T.S.O. VI

Melbourne - Parallel References

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
R-89-02	- -	T.S.O. VI
R-89-05	11-21-89	T.S.O. VI
—	2-13-90	T.S.O. VI
R-90-10	10-9-90	T.S.O. VI
R-91-06	2-12-91	T.S.O. VI
R-91-08	2-12-91	T.S.O. VI
R-91-09	- -	T.S.O. VI
R-91-11	4-25-91	T.S.O. VI
R-91-13	9-10-91	T.S.O. VI
R-93-16	12-14-93	T.S.O. VI
Order R-94-28	12-13-94	38.01
R-96-09	7-9-96	T.S.O. VI

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
12-71	1-12-71	36.15
8-71	- -71	90.07, 90.99
9-71	- -71	90.08
17-71	12-14-71	T.S.O. I
29-72	7-11-72	T.S.O. IV
31-72	8-8-72	T.S.O. IV
33-72	- -	T.S.O. I
47-74	8-13-74	150.04
49-74	11-12-74	T.S.O. I
52-75	8-26-75	T.S.O. I
55-76	4-27-76	T.S.O. I
66-78	- -78	153.01
R-01-81	2-10-81	T.S.O. IV
O-88-03	- -	T.S.O. I
O-88-10	- -88	130.02, 130.99
O-88-12	- -88	114.01 - 114.04, 114.99
O-89-07	10-10-89	T.S.O. V
O-89-09	1-9-90	32.21
O-90-12	6-12-90	T.S.O. I
O-90-10	8-14-90	T.S.O. I
O-90-08	11-13-90	T.S.O. I
O-90-14	- -90	150.35
O-90-15	- -90	150.30 - 150.34, 150.99
O-91-06	8-13-91	130.01, 130.99
O-91-07	8-13-91	91.34, 91.99
O-91-09	10-8-91	Ch. 75, Sch. I
O-91-14	12-10-91	50.02
O-92-02	2-11-92	95.01
O-92-07	6-9-92	T.S.O. VII
O-92-06	7-9-92	152.01 - 152.06, 152.99
O-92-05	7-14-92	50.01
O-92-14	1-12-93	50.03

Melbourne - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
O-93-12	9-14-93	150.15
O-93-13	9-14-93	71.05, 71.99; Ch. 74, Sch. I
O-93-14	12-14-93	T.S.O. I
O-93-15	1-11-94	50.04, 50.99
O-94-03	3-8-94	T.S.O. IV
O-94-04	6-14-94	50.03
O-94-02	7-1-94	50.03
O-94-08	7-12-94	T.S.O. II
O-94-09	8-9-94	T.S.O. II
O-94-10	11-8-94	37.01 - 37.04, 37.15 - 37.21, 37.35 - 37.39, 37.50, 37.56, 37.70, 37.99
O-94-15	11-8-94	50.02, 50.99
O-94-16	11-8-94	50.03, 50.99
O-94-19	12-13-94	T.S.O. VII
O-94-24	1-10-95	33.06
O-95-02	2-14-95	130.10 - 130.15, 130.99
O-94-21	6-6-95	T.S.O. VII
O-95-09	6-6-95	T.S.O. I
O-95-10	- -95	90.19
O-96-03	3-12-96	T.S.O. I
O-96-04	4-9-96	31.37
O-96-09	10-8-96	31.20
O-97-24	1-13-97	39.15
O-97-03	4-8-97	37.70
O-97-01	5-13-97	36.10 - 36.12
O-97-04	6-10-97	T.S.O. III
Order 97-06	2-11-97	95.02
O-97-12	10-14-97	90.07, 90.99
O-97-22	1-13-98	150.15 - 150.17
O-98-04	4-14-98	T.S.O. III
O-98-7	6-9-98	90.09
O-98-08	- -98	T.S.O. III
O-98-10	8-11-98	35.01
O-98-11	11-10-98	35.04
O-99-06	4-13-99	36.01
O-99-07	7-13-99	31.36
O-9-99	9-17-99	35.01, 35.03
10-99	9-17-99	51.01, 51.02, 51.99
01-00	2-8-00	153.01
02-00	3-14-00	T.S.O. IV

References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
03-00	5-9-00	37.21, 37.36, 37.50, 37.56, 37.70, T.S.O. IV
04-00	5-9-00	T.S.O. IV
05-00	5-9-00	Adopting Ordinance
06-00	5-9-00	T.S.O. III
09-00	12-12-00	115.01 - 115.06, 115.99
10-00	10-10-00	35.01, 35.03
12-00	1-9-01	36.13
2-01	4-10-01	150.15 (A0, (B)
Order 2-01	4-10-01	T.S.O. IV
3-01	4-10-01	Repeals §§ 39.01 - 39.04, 39.99, 150.18
7-01	6-12-01	T.S.O. IV
10-01	12-11-01	153.01
3-02	10-8-02	T.S.O. IV
6-02	12-10-02	38.02
05-04	3-23-04	113.02, 113.03
3-04	4-20-04	90.10
4-04	4-20-04	31.02, 32.01
13-04	12-13-04	115.01 - 115.06, 115.99
01-05	2-15-05	32.21
06-05	11-14-05	T.S.O. IV
7-05	12-12-05	36.13
2-06	4-10-06	31.02
O1-09	9-14-09	150.01, 150.02, 150.04
O2-09	9-14-09	150.10
O4-09	5-11-09	T.S.O. VII
O2-10	8-9-10	T.S.O. I
O5-10	8-9-10	T.S.O. I
O1-14	2-10-14	151.01
O2-2015	8-10-15	90.15 - 90.24, 90.99
O1-18	3-12-18	153.01
O1-2022	2-14-22	31.02
O2-2023	5-9-23	92.01 - 92.23, 92.99

INDEX

INDEX

ANIMALS

- Abandoning domestic animals prohibited, 90.05
- Animals running at large, 90.02
- Certain animals prohibited, 90.07
- Cruelty to animals in the second degree, 90.03
- Definitions, 90.01
- Destruction of abandoned and suffering animal, 90.06
- Dogs
 - Animal excrement; prohibitions, 90.24
 - Definitions, 90.15
 - Dogs running at large; dogs to be under owner's control, 90.19
 - Impoundment, 90.21
 - License required, 90.16
 - License tag to be attached to dog, 90.18
 - Noise disturbance, 90.20
 - Reclaiming impounded dog, 90.22
 - Registration and issuance of license, 90.17
 - Restrictions on dangerous animals, 90.23
- Dyeing or selling dyed chicks or rabbits, 90.04
- Participation in Campbell County Animal Control Board, 90.09
- Penalty, 90.99
- Regulations for horseback riding, 90.08
- Spay and neuter incentive, 90.10
- Torture of dogs or cats, 90.11

ANNEXATIONS, T.S.O. I

ANNUAL AUDIT OF CITY FUNDS, 33.04

ANNUAL BUDGET ORDINANCE, 33.03

ATTORNEY, 31.37

AUDIT OF CITY FUNDS, 33.04

BICYCLES AND MOTORCYCLES

- Clinging to vehicles, 73.04
- Coasting prohibited, 73.03
- Operation of bicycles, 73.01
- Operation of motorcycles and motorscooters, 73.02
- Penalty, 73.99
- Required obedience to traffic directions, 70.02(C)

BOARD OF ETHICS, 37.70**BRIDGE PROJECTS (See STREETS AND SIDEWALKS)****BUDGET ORDINANCE, 33.03****BUILDING REGULATIONS**

- Adoption of Kentucky Building Code; enforcement agent/agency, 150.01
- Appeals, 150.03
- Building inspection program, 150.02
- Building permits required; fees for permits and inspections, 150.04
- Electrical Standards
 - Definitions, 150.30
 - Duties of examining and appeal board, 150.32
 - Electrical permits, 150.35
 - Licenses required, 150.33
 - Minimum electrical standards, 150.31
 - Reciprocity agreement, 150.34
- Landlord Tenant Act adopted, 95.01
- Penalty, 150.99
- Property Maintenance
 - Adoption of Property Maintenance Code; amendments, 150.15
 - Discarding or storing items on one's own or another's property, 150.16
 - Enforcement, 150.17
- Residential anti-displacement and relocation assistance plan, 95.02
- Residential Code
 - Adoption of Kentucky Residential Code; revisions, 150.10

CITY ATTORNEY, 31.37**CITY CLERK-TREASURER, 31.36**

CITY COMMISSION

Each Commissioner to superintend specific city departments, 32.04

Members; election, qualifications, compensation, 32.01

Ordinances

Additional requirements for adoption may be established by city, 32.43

Adoption of standard codes by reference, 32.39

Form of amendment, 32.37

Indexing and maintenance requirements, 32.41

Introduction; enacting clause, 32.36

Legislative immunity, 32.47

CITY COMMISSION (Cont'd)

Ordinances (Cont'd)

- Municipal orders, 32.45
- Official city records, 32.40
- One subject; title, 32.35
- Periodic review required, 32.44
- Proved by City Clerk; received in evidence, 32.46
- Publication requirements, 32.42
- Reading requirement; exception for emergency, 32.38

Powers and duties, 32.03

Rules of Procedure

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

Vacancies, 32.02

CITY DEPARTMENTS ESTABLISHED, 36.01

CITY POLICIES

- City building designated no-smoking area, 38.01
- Personnel policies, 38.02

CITY OFFICIALS

Compensation, 31.02

Elected Officials

- Commissioners, 31.22
- Election procedure, 31.20
- Mayor; Mayor Pro Tem, 31.21

Nonelected City Officials

- City Attorney, 31.37
- City Clerk-Treasurer, 31.36
- Establishment of nonelected city offices, 31.35

Oath; bond, 31.01

Removal from office, 31.03

CLERK-TREASURER, 31.36

CODE OF ETHICS

Board of Ethics

- Northern Kentucky Regional Ethics Authority, 37.70

Complaint Investigation

- Filing and investigation of complaints, 37.50
- Reprisals against persons disclosing violations prohibited, 37.56

Definitions, 37.04

CODE OF ETHICS (Cont'd)

Financial Disclosure

- Annual statement of financial interests, 37.35
- Contents of the statement, 37.37
- Filing procedure and due date; amendments, 37.36
- Maintenance of statements, 37.39
- Noncompliance, 37.38

Findings, 37.02

Penalty, 37.99

Purpose, 37.03

Short title, 37.01

Standards of Conduct

- Conflicts of interest, 37.15
- Misuse of information, 37.19
- Nepotism prohibited, 37.21
- Post-employment restriction, 37.20
- Receipt of gifts; compensation and honoraria, 37.16
- Representation of interests, 37.18
- Use of city property, equipment and personnel, 37.17

CODE OF ORDINANCES; RULES OF CONSTRUCTION; GENERAL PENALTY

- Amendments to code; amendatory language, 10.14
- Computation of time, 10.04
- Conflicting provisions, 10.15
- Construction of section references, 10.10
- Definitions, 10.02
- Errors and omissions, 10.17
- Historical and statutory references, 10.18
- Majority may act for all; authorized agent, 10.05
- Ordinances repealed, 10.11
- Ordinances saved, 10.13
- Ordinances unaffected, 10.12
- Penalty, 10.99
- Reference to offices, 10.16
- Revivor, 10.08
- Rights and liabilities accruing before repeal of ordinance, 10.09
- Rules of construction, 10.03
- Severability, 10.07
- Short titles, 10.01
- Writings and signatures, 10.06

COMMISSION (See CITY COMMISSION)

COMMISSIONERS, 31.22

COMMISSION PLAN

- Form of government, 30.01
- Governing officers, 30.02

CURFEW REGULATIONS

- Curfew times, 130.12
- Definitions, 130.11
- Exceptions, 130.13
- Parental responsibility, 130.14
- Police procedures, 130.15
- Purpose, 130.10

DEDICATIONS, T.S.O. II

DEPARTMENTS ESTABLISHED, 36.01

DOGS (See ANIMALS)

ELECTRICAL STANDARDS (See BUILDING REGULATIONS)

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

- Creation; members, 36.10
- Duties; findings, 36.11
- Integration with other county councils, 36.12
- 911 emergency service fee, 36.13

ETHICS BOARD, 37.70

FINANCE AND REVENUE

Financial Administration

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

Improvements

- Adoption of ordinance; notice to affected owners, 33.15
- Affected owner may contest, 33.16
- Apportionment of cost, 33.12
- Comprehensive report required, 33.13
- Definitions, 33.10
- Effect of additional property or change in financing, 33.18

FINANCE AND REVENUE (Cont'd)

Improvements (Cont'd)

Financing of improvements, 33.11

Public hearing required, 33.14

When city may proceed; assessment constitutes lien, 33.17

FIREARMS; DISCHARGE OF; 130.01

FIREWORKS; FIRE PREVENTION

Fire Prevention

Blasting permit, 93.20

Storage of flammables and other matter, 93.21

Fireworks

Bond or liability insurance requirement, 93.04

Consumer fireworks; restrictions on sale, 93.03

Definitions; legality of items, 93.01

Destruction of fireworks, 93.06

Exempted sales and uses, 93.05

Sale or use prohibited; exception for public display, 93.02

Penalty, 93.99

FLOOD DAMAGE PREVENTION

Adoption of revised flood damage prevention ordinance, 151.01

FRANCHISES, T.S.O. III

GARAGE SALES

Compliance required, 114.02

Definition, 114.01

Penalty, 114.99

Permit required; conditions, 114.03

Signs; limits on posting, 114.04

GENERAL PENALTY, 10.99

HOUSING

Adoption of Residential Anti-displacement and Relocation Act, 95.02

Adoption of Uniform Residential Landlord/Tenant Act, 95.01

INSURANCE COMPANIES

Amount of fee for companies issuing life insurance, 113.02

Amount of fee for companies issuing policies other than life insurance, 113.03

Due date; interest, 113.04

INSURANCE COMPANIES (Cont'd)

- Imposition of license fee, 113.01
- Written breakdown of collections, 113.05

INTERLOCAL AGREEMENTS, T.S.O. IV

ITINERANT MERCHANTS (See PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS)

KENTUCKY BUILDING CODE; ENFORCEMENT AGENT/AGENCY

- ADOPTION OF, 150.01 (See also BUILDING REGULATIONS)

KENTUCKY RESIDENTIAL CODE; REVISIONS

- ADOPTION OF, 150.10 (See also BUILDING REGULATIONS)

LICENSING PROVISIONS; GENERALLY

- Appeal and review, 110.08
- Application for license, 110.02
- Date and duration of license, 110.04
- Exemptions, 110.09
- License certificate to be displayed, 110.06
- License not transferable, 110.05
- Licenses required to engage in certain trades, businesses, or professions, 110.01
- Penalty, 110.99
- Revocation or suspension, 110.07
- Standards; issuance of license, 110.03

LITTERING

- Hauling loose material, 94.03
- Litter on private property, 94.05
- Penalty, 94.99
- Sweeping litter into gutters, 94.04
- Throwing litter from vehicle, 94.01
- Tracking foreign matter on streets, 94.02

MAYOR; MAYOR PRO TEM, 31.21

MOBILE HOMES

- Compliance with state law, 152.05
- Definitions, 152.01
- Exceptions, 152.03
- Occupancy and area requirements, 152.02
- Penalty, 152.99

MOBILE HOMES (Cont'd)

- Registration requirement, 152.04
- Violations, 152.06

NORTHERN KENTUCKY REGIONAL ETHICS AUTHORITY, 37.70**NUISANCES**

- Abandoned, inoperable and unlicensed vehicles; outside storage of vehicles and trailers, 92.13
- Actions constituting public nuisances, 92.05
- Administration; record keeping; enforcement, 92.14
- Animals and animal excrement, 92.11
- Code enforcement proceedings; procedure, 92.17
- Code Enforcement Board
 - Appeal of decision, 92.19
 - Establishment of, 92.16
 - Failure to appear, 92.18
 - Final judgement, 92.19
 - Final order, 92.18
 - Hearings, 92.18
 - Notice, 92.18
 - Powers, 92.16
 - Procedure, 92.18
- Criminal activity as a public nuisance, 92.10
- Dangerous buildings, 92.06
- Definitions, 92.03
- Generally, 92.01
- Graffiti, 92.09
- Immediate action; injunction by the city, 92.21
- Junked vehicles, machines, salvage materials and manufactured homes as nuisances, 92.12
- Lien; recording; fines, charges and fees, 92.20
- Lienholder notification system, 92.22
- Lienholder rights; lien precedence, 92.23
- Noise control, 92.07
- Penalty, 92.99
- Powers and duties of the City Clerk or designee; record keeping; inspection, 92.15
- Public nuisances prohibited, 92.04
- Scope; intent; conflict with other ordinances, 92.02
- Shopping carts, 92.08

OCCUPATIONAL LICENSE FEES

- Annual business license fee, 115.02
- Certificate, 115.04

OCCUPATIONAL LICENSE FEES (Cont'd)

- Collection, 115.06
- Definitions, 115.01
- Disposition of funds, 115.03
- Due date, 115.05
- Penalty, 115.99

OFFENSES GENERALLY

- Curfew Regulations
 - Curfew times, 130.12
 - Definitions, 130.11
 - Exceptions, 130.13
 - Parental responsibility, 130.14
 - Police procedures, 130.15
 - Purpose, 130.10
- Erroneous activation of security alarms prohibited, 130.02
- Limitations on the discharge of firearms, 130.01
- Penalty, 130.99

OFFICIALS (See CITY OFFICIALS)

ORDINANCES (See CITY COMMISSION; CODE OF ORDINANCES; RULES OF CONSTRUCTION; GENERAL PENALTY)

PARADES

- Alternative permit, 71.46
- Appeal procedure when permit denied, 71.45
- Application for permit, 71.42
- Contents of permit, 71.48
- Definitions, 71.40
- Duties of permittee, 71.49
- Notice of rejection of permit, 71.44
- Notice to city and other officials when permit issued, 71.47
- Permit required, 71.41
- Public conduct during parades, 71.50
- Revocation of permit, 71.51
- Standards for issuance of permit, 71.43

PARKING PROHIBITED ON CERTAIN STREETS, Ch. 75, Sch. I

PARKING REGULATIONS (See TRAFFIC CODE)

PARKING SCHEDULES

Parking prohibited on certain streets, Ch. 75, Sch. I

PAWNBROKERS

Bond, 112.02

Definitions, 112.01

Enforcement, 112.08

Maximum interest, resale price, 112.05

Penalty, 112.99

Prohibited activities, 112.07

Receipt to be given for each article; sale of article, 112.04

Receipt to be given for payment of loan, 112.06

Register to be kept; daily reports, 112.03

PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Appeal procedure, 111.07

Application procedure, 111.03

Definitions, 111.01

Exhibition of identification, 111.08

License requirement, 111.02

Penalty, 111.99

Revocation procedure, 111.05

Standards for issuance, 111.04

Standards for revocation, 111.06

PLANNING AND ZONING

Regulations adopted by reference, 153.01

POLICE DEPARTMENT

Authority to carry concealed weapons, 36.15

PROPERTY MAINTENANCE CODE; AMENDMENTS

ADOPTION OF, 150.15 (See also BUILDING REGULATIONS)

PUBLIC RECORDS

Definitions, 34.01

Procedures for Requesting Public Records

Access to records relating to particular individual, 34.11

Concealing or destroying records prohibited, 34.10

Fees for copies, 34.13

Format of copies, 34.12

Initial request with immediate inspection, 34.05

Misstatement of purpose prohibited, 34.14

Notification of the Attorney General, 34.17

PUBLIC RECORDS (Cont'd)

Procedures for Requesting Public Records (Cont'd)

- On-line access to public records in electronic form, 34.15
- Public records not immediately available, 34.07
- Public records protected from disclosure, 34.16
- Referral to proper custodian, 34.06
- Refusal of unreasonable requests, 34.08
- Time limitation; denial of inspection, 34.09

REAL ESTATE TRANSACTIONS, T.S.O. V

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ACT; ADOPTED, 95.02

RESOLUTIONS, T.S.O. VI

REVENUE (See FINANCE AND REVENUE)

ROAD AND BRIDGE PROJECTS (See STREETS AND SIDEWALKS)

RULES OF CONSTRUCTION (See CODE OF ORDINANCES; RULES OF CONSTRUCTION;
GENERAL PENALTY)

SEWERS

- Adoption of regulations for public and private sewers, 50.01
- Establishing user charges, 50.03
- Mandatory connection to city sanitary sewer service, 50.02
- Penalty, 50.99
- Surface water in drainage system prohibited, 50.04

SIDEWALKS (See STREETS AND SIDEWALKS)

SNOW EMERGENCY (See TRAFFIC CODE)

SOLID WASTE

- Definition, 51.01
- Penalty, 51.99
- Waste collection assessment levied, 51.02

SOLICITORS (See PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS)

SPEED LIMITS, 71.05

STOP INTERSECTIONS, Ch. 74, Sch. I

STREET CLOSINGS, T.S.O. VII

STREETS AND SIDEWALKS

Excavations and Construction

- Application and cash deposit, 91.02
- Barriers around excavations, 91.04
- Opening permit required, 91.01
- Restoration of pavement, 91.03
- Sidewalk construction, 91.06
- Warning lights, 91.05

Obstructions

- Materials on street or sidewalk, 91.32
- Regulation of roller skates, skateboards and the like, 91.34
- Removal of ice and snow, 91.33
- Street and sidewalk obstruction, 91.31
- Unloading on street or sidewalk, 91.30

Penalty, 91.99

Road and Bridge Projects

- Exemptions from meeting requirement, 91.20
- Meeting to be held prior to construction, 91.18
- Notice requirements, 91.16
- Public meeting required, 91.15
- Public may testify; effect of testimony, 91.17
- Separate meeting for each project not required, 91.19

TAXATION

- Ad valorem taxes on motor vehicles, 35.04
- County assessment adopted, 35.01
- Delinquency, 35.03
- Disposition of funds, 35.05
- Due date; payment, 35.02

TRAFFIC CODE

Accidents

- Accident report, 71.16
- Duty of operator, 71.15

Authority for enforcement, 70.04

Bicycles (See BICYCLES AND MOTORCYCLES)

Definitions, 70.01

General penalty, 70.99

Impounding

- Impoundment of vehicles authorized; redemption, 72.20
- Required notice to owner, 72.21
- Sale of vehicle, 72.21
- Sale or disposal of contents of vehicle, 72.22

Motorcycles (See BICYCLES AND MOTORCYCLES)

TRAFFIC CODE (Cont'd)

Operation Generally

- Backing vehicles, 71.03
- Obstructing traffic, 71.01
- Reverse or U turns, 71.02
- Speed limits, 71.05
- Vehicles crossing sidewalks, 71.04

Parades (See PARADES)

Parking Generally

- Display of parked vehicle for sale, 72.11
- Limitations of stopping and parking, 72.03
- Manner of parking, 72.02
- Obstructional parking; double parking, 72.01
- Owner responsibility, 72.09
- Parking in excess of certain number of hours prohibited; towing authorized, 72.06
- Parking in parks, 72.10
- Parking on off-street facility, 72.08
- Parking on parade route, 72.07
- Parking restricted to allow street cleaning, 72.05
- Parking with handicapped permits, 72.12
- Restrictions and prohibitions on designated streets, 72.04

Parking prohibited on certain streets, Ch. 75, Sch. I

Parking schedules

- Parking prohibited on certain streets, Ch. 75, Sch. I

Penalty, 72.99

Powers and duties of Police Department, 70.03

Prohibitions

- Operator of vehicle to drive carefully, 71.25
- Right-of-way of emergency vehicles; following emergency vehicles; driving over fire hose, 71.26
- Smoke emission or other nuisance, 71.27

Required obedience to traffic directions, 70.02

Snow Emergency

- Announcement of snow emergency, 72.35
- Snow emergency routes, 72.37
- Termination of emergency, 72.36

Stop intersections, Ch. 74, Sch. I

Temporary regulations, 70.05

Traffic rules penalty, 71.99

Traffic schedules

- Stop intersections, Ch. 74, Sch. I

Traffic-Control Devices

- Device to be legible and in proper position, 70.20
- Establishment and maintenance of traffic-control devices, 70.16

TRAFFIC CODE (Cont'd)

Traffic-Control Devices (Cont'd)

Interference with signals, 70.18

Obedience to signals, 70.17

Signal legends, 70.15

Temporary disregard of devices by police officer, 70.21

Unauthorized signals or markings, 70.19

TRAFFIC RULES (See TRAFFIC CODE)

TRAFFIC SCHEDULES

Stop intersections, Ch. 74, Sch. I

U TURNS, 71.02

UNIFORM RESIDENTIAL LANDLORD/TENANT ACT; ADOPTED, 95.01

WATER (See SEWERS)

ZONING (See PLANNING AND ZONING)