CITY OF RUSSELL, KENTUCKY CODE OF ORDINANCES

CITY OF RUSSELL, KENTUCKY
CODE OF ORDINANCES

2015 S-2 Supplement contains:
Local legislation current with ordinances adopted through 6-30-2015
State legislation current through KRS 2015

Published by:
American Legal Publishing Corporation
One West Fourth Street, Third Floor
Cincinnati, Ohio 45202
Tel: (800) 445-5588
Fax: (513) 763-3562
Internet: http://www.amlegal.com

ADOPTING ORDINANCE

ADOPTING ORDINANCE

ADOPTING ORDINANCE / ORDINANCE #7, 2010

ORDINANCE #7, 2010

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE CITY OF RUSSELL, REVISING, 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 Russell are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the City; and

WHEREAS, the Act 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 any 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 Russell 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, BE IT ORDAINED by the Legislative Body of the City of Russell that:

Section 1. The general ordinances of the City of Russell as herein revised, amended, restated, codified, and compiled in book for are adopted as and shall constitute the "Code of Ordinances of the City of Russell."

Section 2. The Code as adopted in Section 1 shall consist of the following titles:

RUSSELL, KENTUCKY
TABLE OF CONTENTS

Chapter

TITLE I: GENERAL PROVISIONS

10. Rules of Construction; General Penalty

TITLE III: ADMINISTRATION

30. Mayor-Council Plan

31. City Officials

32. City Council

33. Finance and Revenue

34. Departments, Boards and Commissions

35. Personnel Policies

36. Taxation

37. Public Records

38. Miscellaneous Provisions

39. Code Enforcement Board

TITLE V: PUBLIC WORKS

50. Garbage

51. Sewers

52. Water

TITLE VII: TRAFFIC CODE

70. Traffic Rules

71. Parking Regulations

72. Traffic Schedules

73. Parking Schedules

TITLE IX: GENERAL REGULATIONS

90. Animals

91. Fire Prevention

92. Nuisances

93. Streets and Sidewalks

94. Trees

TITLE XI: BUSINESS REGULATIONS

110. Advertising

111. Amusements

112. Budget Service Companies

113. Flea Markets

114. Garage Sales

115. Parking Lots For Hire

116. Peddlers and Solicitors

117. Scrap Yards

118. Occupational Licenses

119. Alcoholic Beverages

TITLE XIII GENERAL OFFENSES

130. General Provisions

131. Curfew

TITLE XV: LAND USAGE

150. Building Regulations

151. Flood Damage Prevention

152. Property Maintenance Code

153. Erosion Prevention and Sediment Control

154. Illicit Discharge and Connection

155. Zoning

TABLE OF SPECIAL ORDINANCES

Table

I. Annexations

II. Bond Issues

III. Contracts and Agreements

IV. Easements

V. Franchises

VI. Real Estate Transactions

VII. Street Closings

VIII. Street Name Changes

IX. Zoning Map Changes

PARALLEL REFERENCES

References to Kentucky Revised Statutes

References to Resolutions

References to Ordinances

INDEX

Section 3. 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 they 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 certain 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 streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or cover by the Code.

Section 4. 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 Russell is hereby authorized and ordered to file a copy of the Code in the Office of the City Clerk.

Section 5. 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 courts and places 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 thereof as required by law have been given.

Passed this 17th day of May, 2010.

Passed on First reading April 26, 2010

Adopted on the Second Reading May 17, 2010

Signed by the Mayor May 17, 2010

Published in the Paper July 8, 2010

William C. Hopkins /s/
Mayor

ATTEST:

Joyce E. Conley /s/
City Clerk

TITLE I: GENERAL PROVISIONS

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

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	General penalty

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.01 SHORT TITLES.

§ 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 Russell Code, for which designation "codified ordinances" or "code" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the code.

(KRS 446.140)

(B) All references to codes, titles, chapters and sections are to those 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.02 DEFINITIONS.

§ 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. All proceedings in any court of this Commonwealth.

(KRS 446.010(1))

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

ANIMAL. Every warm-blooded living creature except a human being.

(KRS 446.010(2))

AVIS. The automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boat and information on holders of motor vehicle operator’s licenses and personal identification cards. (KRS 446.010(52))

CATTLE. Horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex.

(KRS 446.010(7))

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

COMPANY. May extend and be applied to any corporation, company, person, partnership, joint stock company or association.

(KRS 446.010(8))

CORPORATION. May extend and be applied to any corporation, company, partnership, joint stock company or association.

(KRS 446.010(9))

COUNCIL. The city legislative body.

(KRS 83A.010(5))

COUNTY. Greenup 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(11))

DIRECTORS. When applied to corporations, includes managers or trustees.

(KRS 446.010(12))

DOMESTIC. When applied to a corporation, partnership, business trust, or limited liability, means all those incorporated or formed by authority of this Commonwealth.

(KRS 446.010(13))

DOMESTIC ANIMAL. Any animal converted to domestic habitat.

(KRS 446.010(14))

EXECUTIVE AUTHORITY. The Mayor.

(KRS 83A.010(6))

FEDERAL. Refers to the United States.

(KRS 446.010(16))

FOREIGN. When applied to a corporation, partnership, business trust, or limited liability, includes all those incorporated or formed by authority of any other state.

(KRS 446.010(17))

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

KRS. Kentucky Revised Statutes.

LAND or ***REAL ESTATE.*** Lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest.

(KRS 446.010(22))

LEGISLATIVE BODY. The City Council.

(KRS 91A.010(8))

LEGISLATIVE BODY MEMBER. A City Council member.

(KRS 83A.010(8))

MAY. The act referred to is permissive.

(KRS 446.010(24))

MONTH. Calendar month.

(KRS 446.010(25))

MUNICIPALITY. The City of Russell, Kentucky.

OATH. Affirmation, in all cases in which an affirmation may be substituted for an ***OATH***. (KRS 446.010(26))

PARTNERSHIP. Both general and limited ***PARTNERSHIPS***.

(KRS 446.010(28))

PEACE OFFICER. Sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, police officers and other persons with similar authority to make arrests.

(KRS 446.010(29))

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(31))

PERSONAL PROPERTY. All property except real.

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

PROPERTY. Real, personal, mixed estates and interests.

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

PUBLIC PLACE. 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. 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(34))

SHALL. The act referred to is mandatory.

(KRS 446.010(36))

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

STATE. The Commonwealth of Kentucky.

STREET. 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.***

SWORN. Includes ***AFFIRMED*** in all cases in which an affirmation may be substituted for an oath.

(KRS 446.010(40))

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 the premises, alone or

with others.

VACANCY IN OFFICE. Exists when there is an unexpired part of a term of office without a lawful incumbent therein, 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 Commonwealth, county, city, district or otherwise.

(KRS 446.010(43))

VIOLATE. Failure to comply with.

(KRS 446.010(44))

YEAR. Calendar year.

(KRS 446.010(46))

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.03 RULES OF CONSTRUCTION.

§ 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 Council.

(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 others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to that meaning.

(KRS 446.080(4))

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.04 COMPUTATION OF TIME.

§ 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.

(KRS 446.030(1)(a))

(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.

(KRS 446.030(1)(b))

(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(2))

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

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.05 MAJORITY MAY ACT FOR ALL; AUTHORIZED AGENT.

§ 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 the authority to a majority of the 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, the requirement shall be construed to include those acts when done by an authorized agent.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.06 WRITINGS AND SIGNATURES.

§ 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)

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.07 SEVERABILITY.

§ 10.07 SEVERABILITY.

It shall be considered that it is the intent of Council 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 Council 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 Council.

(KRS 446.090)

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.08 REVIVOR.

§ 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 Council.

(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 Council 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 Council 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 Council, as long as the repealing ordinance takes effect prior to the effective date of the original amendment.

(E) No other action of Council 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)

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.

§ 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.

(A) 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 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 the proceedings.

(B) If any penalty, forfeiture or punishment is mitigated by any provision of the new ordinance, the provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(KRS 446.110)

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.10 CONSTRUCTION OF SECTION REFERENCES.

§ 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, the 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.11 ORDINANCES REPEALED.

§ 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.12 ORDINANCES UNAFFECTED.

§ 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.13 ORDINANCES SAVED.

§ 10.13 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the Council, 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 the purpose effected prior to the codification and not inconsistent thereto shall remain in effect and are saved.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.14 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.

§ 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 the subsequent ordinances until Council 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.15 CONFLICTING PROVISIONS.

§ 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.16 REFERENCE TO OFFICES.

§ 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.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY / § 10.17 ERRORS AND OMISSIONS.

§ 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 the error.

TITLE I: GENERAL PROVISIONS / CHAPTER 10: RULES OF CONSTRUCTION;

§ 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 amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(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)

(C) 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:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by Commonwealth law.

Statutory reference:

Inspection of public records, see KRS 61.870 et seq.

§ 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.

Statutory references:

Enforcement of ordinances, see KRS 83A.065

Maximum fine for violations, see KRS 534.040(2)(c)

TITLE III: ADMINISTRATION

Chapter

30. MAYOR-COUNCIL PLAN

31. CITY OFFICIALS

32. CITY COUNCIL

33. FINANCE AND REVENUE

34. DEPARTMENTS, BOARDS AND COMMISSIONS

35. PERSONNEL POLICIES

36. TAXATION

37. PUBLIC RECORDS

38. MISCELLANEOUS PROVISIONS

39. CODE ENFORCEMENT BOARD

CHAPTER 30: MAYOR-COUNCIL PLAN

Section

30.01 Form of government
30.02 Governing officers

TITLE III: ADMINISTRATION / CHAPTER 30: MAYOR-COUNCIL PLAN / § 30.01 FORM OF GOVERNMENT.

§ 30.01 FORM OF GOVERNMENT.

The form of government provided for this city shall be known as the "Mayor-Council Plan".

(Ord. 3-1981, passed 2-21-1981)

Statutory reference:

Similar provisions, see KRS 83A.130(1)

TITLE III: ADMINISTRATION / CHAPTER 30: MAYOR-COUNCIL PLAN / § 30.02 GOVERNING OFFICERS.

§ 30.02 GOVERNING OFFICERS.

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

(KRS 83A.130(2))

(B) The City Council shall be composed of six members.

(Ord. 3-1981, passed 2-21-1981)

Statutory reference:

Similar provisions, see KRS 83A.030(1)

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

31.01 Oath; bond
31.02 Compensation
31.03 Removal from office

Elected Officials

31.20 Election procedure
31.21 Mayor
31.22 Council members

Non-Elected City Officials

31.35 Establishment of non-elected city offices
31.36 City Clerk/Treasurer

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / GENERAL PROVISIONS / § 31.01 OATH; BOND.

§ 31.01 OATH; BOND.

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

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

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / GENERAL

PROVISIONS / § 31.02 COMPENSATION.

§ 31.02 COMPENSATION.

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

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

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

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

(C) The City Council shall establish the compensation of city employees in accordance with §§ 35.04 and 35.05.

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

Statutory reference:

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

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / GENERAL PROVISIONS / § 31.03 REMOVAL FROM OFFICE.

§ 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 or her office, may be removed from office by a unanimous vote of the members of the City Council exclusive of any member to be removed,

who shall not vote in the deliberation of his or her removal. 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) *Non-elected officers.* Non-elected city officers may be removed by the Mayor at will, unless otherwise provided by Commonwealth law or ordinance.

Penalty, see § 10.99

Statutory reference:

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

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

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / ELECTED OFFICIALS

ELECTED OFFICIALS

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / ELECTED OFFICIALS / § 31.20 ELECTION PROCEDURE.

§ 31.20 ELECTION PROCEDURE.

(A) Election of city officers is governed by general election laws as provided in KRS Chapters 116 through 121 unless City Council otherwise prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in KRS Chapter 83A. The ordinance shall become effective no later than 23 days prior to the date prescribed by the election law generally for filing notification and declaration forms with the County Clerk in a year in which a regular election is to be held in which any city office is to be filled. Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of the ordinance shall be filed with the County Clerk of the county in which the city is located.

(B) The city may change the manner of election of city officers within the provisions of division (A) above 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 City Council members may not be abolished.

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

(F) No ordinance abolishing any elected office shall be enacted no 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 the provisions of divisions (D), (E) and (F) above, but no existing elected office may be changed.

Penalty, see § 10.99

Statutory reference:

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

Election of city officers, see KRS 83A.050

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / ELECTED OFFICIALS / § 31.21 MAYOR.

§ 31.21 MAYOR.

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

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

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

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

(1) When voting to fill a vacancy in the Office of Mayor, a member of the City Council shall not vote for himself or herself.

(KRS 83A.040(2)(c))

(2) When voting to fill a vacancy created by the resignation of the Mayor, the resigning Mayor shall not vote on his 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 Council. The resignation shall be effective at the next regular or special meeting of the City Council occurring after the date specified in the written letter of resignation.

(KRS 83A.040(7))

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

(KRS 83A.040(8))

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

(KRS 83A.040(2)(d))

(D) *Powers and duties.*

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

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

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

she finds in the public interest.

(KRS 83A.130(3))

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

(KRS 83A.130(4))

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

(KRS 83A.130(7))

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

(KRS 83A.130(8))

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

(KRS 83A.130(9))

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

(KRS 83A.130(10))

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / ELECTED OFFICIALS / § 31.22 COUNCIL MEMBERS.

§ 31.22 COUNCIL MEMBERS.

For provisions concerning City Council, see Chapter 32.

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / NON-ELECTED CITY OFFICIALS

NON-ELECTED CITY OFFICIALS

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / NON-ELECTED CITY OFFICIALS / § 31.35 ESTABLISHMENT OF NON-ELECTED CITY OFFICES.

§ 31.35 ESTABLISHMENT OF NON-ELECTED CITY OFFICES.

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

(1) Title of office;

(2) Powers and duties of office;

(3) Oath of office;

(4) Bond, if required; and

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

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

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

(D) The following are non-elected city offices: City Clerk/Treasurer, City Attorney, Police Chief, Fire Chief/Code Enforcement Officer, Distribution/Street Supervisor and Chief Water Plant Operator.

Statutory reference:

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

TITLE III: ADMINISTRATION / CHAPTER 31: CITY OFFICIALS / NON-ELECTED CITY OFFICIALS / § 31.36 CITY CLERK/TREASURER.

§ 31.36 CITY CLERK/TREASURER.

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

(B) The Office of City Clerk/Treasurer may, by ordinance, be combined with any other non-elected city office by inclusion of the title and duties of the office.

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

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

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

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

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

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

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

(b) The correct name of the city, mailing address for City Hall and

telephone number of City Hall; and

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

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

(6) The Department for Local Government shall immediately forward one copy of the information received from each City Clerk to the Legislative Research Commission.

(KRS 83A.085)

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

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

Penalty, see § 10.99

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL

CHAPTER 32: CITY COUNCIL

Section

General Provisions

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

Rules of Procedure

32.20 Mayor as presiding officer
32.21 Meetings
32.22 Quorum

Ordinances

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

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / GENERAL PROVISIONS / § 32.01 MEMBERS; ELECTION, QUALIFICATIONS AND COMPENSATION.

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS AND COMPENSATION.

(A) *Election; term of office.* Each Council member shall be elected at large by the voters of the city at a regular election. Terms of office begin on the first day of January following the election and 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.* For provisions concerning compensation, see § 31.02.

§ 32.02 VACANCIES.

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

(KRS 83A.040(5))

(1) No vacancy by reason of a voluntary resignation of a member of the City Council shall occur unless a written resignation which specifies a resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the City Council occurring after the date specified in the written letter of resignation.

(KRS 83A.040(7))

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

(KRS 83A.040(8))

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

(KRS 83A.040(6))

Statutory reference:

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

§ 32.03 POWERS AND DUTIES.

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

(KRS 83A.130(11))

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

(KRS 83A.130(12))

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

(KRS 83A.130(12))

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

(KRS 83A.130(13))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / RULES OF PROCEDURE

RULES OF PROCEDURE

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / RULES OF PROCEDURE / § 32.20 MAYOR AS PRESIDING OFFICER.

§ 32.20 MAYOR AS PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Council.

(1) The member of Council to preside at meetings of the Council in the place of the Mayor when the Mayor is not present shall be elected by popular vote of the Council at the first meeting in January after a new Council is elected. The member of Council elected shall maintain that position for the entire three-year period that the Council is in office.

(2) If the member of Council selected can no longer maintain the position, then Council shall elect a successor in office by popular vote when the vacancy occurs.

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

(KRS 83A.130(5)) (Ord. 1-1982, passed 2-1-1982; Ord. 1, passed 1-24-1994)

Cross-reference:

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

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / RULES OF PROCEDURE / § 32.21 MEETINGS.

§ 32.21 MEETINGS.

(A) The regular monthly meeting of the City Council hereafter shall take place in the Council Chambers at 6:00 p.m. on the fourth Monday of each month.

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

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

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

(KRS 83A.130(11)) (Ord. 17-1988, passed 1-4-1988; Ord. 6, passed 8-1-2005)

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / RULES OF PROCEDURE / § 32.22 QUORUM.

§ 32.22 QUORUM.

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

(KRS 83A.060(6))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES

ORDINANCES

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.35 ONE SUBJECT; TITLE.

§ 32.35 ONE SUBJECT; TITLE.

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

(KRS 83A.060(1))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.36 INTRODUCTION; ENACTING CLAUSE.

§ 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 Russell".

(KRS 83A.060(2))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.37 FORM OF AMENDMENT.

§ 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)) Penalty, see § 10.99

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.38 READING REQUIREMENT.

§ 32.38 READING REQUIREMENT.

(A) Prior to the enactment of any ordinance establishing a permanent rule of action or law affecting the general public of the city, the ordinance or law shall be read at two consecutive regularly held meetings of the City Council prior to publication as required by law.

(B) By two-thirds vote of the Council having a quorum, the reading or readings may be dispensed with the Council may enact the ordinance or law and direct the same to be published as required by law.

(C) This section shall be deemed an internal rule of the City Council and any oversight with respect thereto shall not invalidate or otherwise affect the binding effect of an ordinance enacted by the City Council for the city, which has been published by law.

(Ord. 17-1976, passed 7-12-1976)

Statutory reference:

For statutory requirements concerning the declaration of a state of emergency, see KRS 83A.060

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.39 APPROVAL AND DISAPPROVAL BY MAYOR.

§ 32.39 APPROVAL AND DISAPPROVAL BY MAYOR.

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

(B) No ordinance shall take effect without the Mayor's approval unless he or she fails to return it to the legislative body within ten days after receiving it or unless the Council votes to override the Mayor's veto, upon reconsideration of the ordinance no later than the second regular meeting following its return, by the affirmative vote of one more than a majority of the membership.

(KRS 83A.130(6))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

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

(KRS 83A.060(5))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.41 OFFICIAL CITY RECORDS.

§ 32.41 OFFICIAL CITY RECORDS.

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

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

(KRS 83A.060(8))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

§ 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

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

(KRS 83A.060(8))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.43 PUBLICATION REQUIREMENTS.

§ 32.43 PUBLICATION REQUIREMENTS.

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

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

(1) The title of the ordinance;

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

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

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

(KRS 83A.060(9))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.44 ADDITIONAL REQUIREMENTS FOR ADOPTION MAY BE ESTABLISHED BY CITY.

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

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

(KRS 83A.060(10))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.45 PERIODIC REVIEW REQUIRED.

§ 32.45 PERIODIC REVIEW REQUIRED.

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

(KRS 83A.060(11))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.46 MUNICIPAL ORDERS.

§ 32.46 MUNICIPAL ORDERS.

(A) The Council may adopt municipal orders.

(1) All municipal orders shall be in writing and shall be adopted only at an official meeting.

(2) Orders may be amended only by a subsequent municipal order or ordinance.

(3) All orders adopted shall be maintained in an official order book.

(KRS 83A.060(12))

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

(KRS 83A.060(13))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.47 PROVED BY CITY CLERK/TREASURER; RECEIVED IN EVIDENCE.

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

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

(KRS 83A.060(14))

TITLE III: ADMINISTRATION / CHAPTER 32: CITY COUNCIL / ORDINANCES / § 32.48 LEGISLATIVE IMMUNITY.

§ 32.48 LEGISLATIVE IMMUNITY.

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

(KRS 83A.060(15))

Statutory reference:

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

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE

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 budget proposal
33.05 Annual audit of city funds
33.06 Official depositories; disbursement of city 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

Use of Outside Consultants

33.30 Scope of provisions
33.31 Policies and procedures

33.99 Penalty

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE /

FINANCIAL ADMINISTRATION

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.01 DEFINITIONS.

§ 33.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context 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.

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

(KRS 91A.010)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

§ 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;

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

(3) Readily provide such financial data as may be required by the Federal Revenue Sharing Program.

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

(KRS 91A.020)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.03 ANNUAL BUDGET ORDINANCE.

§ 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 monies 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 re-adopted.

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

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

(F) The budget proposal shall be prepared in such form and detail as prescribed by § 33.04.

(G) The budget proposal together with a budget message shall be submitted to Council no 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 Council may adopt the budget ordinance making appropriations for the fiscal year in such sums as it finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may take any form that the Council finds most efficient in enabling it to make the necessary fiscal policy decisions.

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

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

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

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. The responsibility includes the preparation and submission to the Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. The reports shall be submitted no 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, 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 the existing appropriations are void; nor shall any city officer issue any bond, certificate or warrant for the payment of money by the city in any way to any extent, beyond the balance of any appropriation made for the purpose.

(KRS 91A.030) Penalty, see § 10.99

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.04 ANNUAL BUDGET PROPOSAL.

§ 33.04 ANNUAL BUDGET PROPOSAL.

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

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

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

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

(1) A budget message, as specified in KRS 91A.030(7); and

(2) A budget summary, as specified in division (E) below, supported by:

(a) An estimate of fund balance carry-forward, as specified in division (F) below;

(b) An estimate of all anticipated revenues of the city compared to previous years, as specified in division (G) below;

(c) Proposed expenditures compared to previous years, as specified in division (H) below; and

(d) An estimate of anticipated transfers, as specified in division (I) below.

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

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

(G) *Anticipated revenues, comparison with other years.* In parallel columns opposite

the several items of anticipated revenue, there shall be placed:

(1) The amount of each item actually received during the next preceding fiscal year;

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

(3) The amount of each item anticipated to be received during the budget year, estimated as accurately as possible.

(H) *Proposed expenditures, comparison with other years.* In parallel columns, opposite the several items of proposed expenditures, there shall be placed:

(1) The amount of each item expended during the next preceding fiscal year;

(2) The amount of the amount actually expended to the time of preparation of the annual budget proposal plus the expenditures for the remainder of the current fiscal year estimated as accurately as possible; and

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

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

(Ord. 6-1981, passed 6-15-1981)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.05 ANNUAL AUDIT OF CITY FUNDS.

§ 33.05 ANNUAL AUDIT OF CITY FUNDS.

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

(B) 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 the tests of the accounting records and the auditing procedures as considered necessary under the circumstances. Where the audit is to cover the use of Commonwealth or federal funds, appropriate Commonwealth 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 Council at a regular or special meeting; and

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

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

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

(1) The auditor's opinion letter;

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

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

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

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

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

(KRS 91A.040) Penalty, see § 33.99

Statutory reference:

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

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / FINANCIAL ADMINISTRATION / § 33.06 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

§ 33.06 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

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

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

authorization shall be numbered and recorded.

(KRS 91A.060)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS

IMPROVEMENTS

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.10 DEFINITIONS.

§ 33.10 DEFINITIONS.

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

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

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

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

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

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

PROPERTY. Any real property benefitted by an improvement.

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

SQUARE FOOT BASIS. The apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property.

(KRS 91A.210)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.11 FINANCING OF IMPROVEMENTS.

§ 33.11 FINANCING OF IMPROVEMENTS.

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

(KRS 91A.200)

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

(KRS 91A.220(2))

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

(KRS 91A.220(3))

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.12 APPORTIONMENT OF COST.

§ 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 Commonwealth, a local unit of government or any educational, religious or charitable organization. The Council may assess the property in the

same manner as for privately owned property, or it may pay the costs so apportioned out of general revenues.

(KRS 91A.230)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.13 COMPREHENSIVE REPORT REQUIRED.

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.14 PUBLIC HEARING REQUIRED.

§ 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)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

(A) Within 90 days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed, shall adopt an ordinance so stating and containing all necessary terms, including the items referred to in § 33.13 and a description of all properties.

(B) Promptly upon passage, the city shall publish the 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)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.16 AFFECTED OWNER MAY CONTEST.

§ 33.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in § 33.15, any affected property owner may file an action in the Circuit Court of the county, contesting the undertaking of the project by special assessment, the inclusion of his or her property in the improvement, or the amount of his or her assessment. If the action contests the undertaking of the improvement by the special assessment method of the inclusion of the property of that property owner, no further

action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

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

(KRS 91A.270)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

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

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / IMPROVEMENTS / § 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

§ 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)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / USE OF OUTSIDE CONSULTANTS

USE OF OUTSIDE CONSULTANTS

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / USE OF OUTSIDE CONSULTANTS / § 33.30 SCOPE OF PROVISIONS.

§ 33.30 SCOPE OF PROVISIONS.

The policies and procedures set forth in § 33.31 will be used by all department heads and city employees when dealing with outside consultants.

(Ord. 20-1992, passed 10-26-1992)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / USE OF OUTSIDE CONSULTANTS / § 33.31 POLICIES AND PROCEDURES.

§ 33.31 POLICIES AND PROCEDURES.

The policies and procedures for use of outside of consultants shall be as follows:

(A) Consult with the Mayor as to the problem, its scope and its emergency status;

(B) Ascertain the cost of correcting the problem as nearly as possible;

(C) The Mayor will then make a decision as to solving the problem and the method to be used based on the criteria in set forth in this division.

(1) If the cost is covered in the budget, and within the area of non-bidding, such as less than $1,000, the Mayor may proceed with the repairs. However, the members of Council are to be informed, especially the Chairperson of the particular committee. Here, the Mayor must make a judgmental decision based on all the facts available to include, but not limited to, emergency status, type of repair, availability of money and the like.

(2) If the cost is not covered in the budget, is beyond what is in the budget or is of a nature that the budget ordinance is not a consideration, the Mayor must do the following.

(a) If the problem is of such a nature that a vital service to the citizens will stop, or could stop, then the Mayor should act decisively to immediately correct the situation utilizing KRS 45A.380. The Mayor will notify the Chairperson of the appropriate committee immediately or as soon as possible. The remaining Council members should then be notified as soon as practical, but no later than the next scheduled Council meeting, at which time any action that is required of the Council may be initiated.

(b) If the problem is of such a nature that is can wait until the next scheduled Council meeting without endangering the citizens or depriving them of a vital service, then the Mayor should wait and seek the Council's advice and consent prior to proceeding. The Mayor should immediately notify the Chairperson of the appropriate committee involved. However, here the city must consider also the scarcity of the proper, proficient personnel to correct the situation and their availability.

(D) In all instances, the following will be required of all foreman and department heads relative to outside consultants:

(1) A log is to be maintained and signed by the supervising employee documenting time on the job, what work was accomplished and the personnel on the job;

(2) These should be included as documentation and submitted with the bill; and

(3) Verify any changes to the city's original agreements and the city as why they were made.

(E) The responsibilities of the consultant will be as follows:

(1) Provide an estimate as to the cost of the repairs as soon as practical details of any changes in those estimates and reasons why if changes are made after the work has started;

(2) Inform the city up front as to the other expenses that will be charged such as mileage and how figured, meals, motel and labor;

(3) Provide to the supervising employee and to the City Clerk/Treasurer, documentation of all expenses incurred at least weekly; and

(4) If a prolonged job, one going longer than one month, the city will be billed monthly with each bill clearly showing:

(a) Inclusive dates;

(b) What was done and where;

(c) Cost;

(d) Labor; and

(e) Expenses and documentation thereof.

(F) Whenever possible, a written contract showing all pertinent information will be drawn up before work starts or as soon thereafter as practicable;

(G) In work where there is probability of an insurance claim, the insurance agent will be notified as soon as possible upon discovery. This will be done whether there is an insurance claim filed or not; and

(H) In situations when the Mayor needs to be notified and is not available, then the Mayor Pro-Tem is the choice, and if the Mayor Pro-Tem is not available, then the Chairperson of the appropriate committee is in line.

(Ord. 20-1992, passed 10-26-1992)

TITLE III: ADMINISTRATION / CHAPTER 33: FINANCE AND REVENUE / USE OF OUTSIDE CONSULTANTS / § 33.99 PENALTY.

§ 33.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Annual audit of city funds.* Any person who violates any provision of § 33.05 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 § 33.05 shall, for each failure, be subject to a forfeiture of not less than $50 nor more than $500, in the discretion of the court, which may be recovered only once,

in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

(KRS 91A.040(8))

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS

CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Fire Department

34.01 Composition; compensation
34.02 Excessive false fire alarms

Police Department

34.10 Adoption by reference of standards
34.11 Uniform standard for police-media relations
34.12 Disposition of personal property in the custody of the Police Department
34.13 Model policy prohibiting racial profiling; adopted by reference
34.14 Domestic violence policies and procedures; adopted by reference
34.15 Police daily activity report; adopted by reference
Appendix A: Public Record Inspection Request Form

Cross-reference:

Code Enforcement Board, see Chapter 39

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / FIRE DEPARTMENT

FIRE DEPARTMENT

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND

COMMISSIONS / FIRE DEPARTMENT / § 34.01 COMPOSITION; COMPENSATION.

§ 34.01 COMPOSITION; COMPENSATION.

(A) The personnel composing the Russell Fire Department shall be limited to a Fire Chief, an Assistant Fire Chief, a Senior Captain, two Captains and 28 paid firefighters.

(B) The City Fire Department is a Volunteer Fire Department. Nevertheless, the Compensation Plan of the City Fire Department, as it pertains to pay received on a "per drill" and "per fire" basis, may have to be updated from time to time in order to reflect changed circumstances or policies.

(C) No officer or firefighter identified herein above shall receive compensation for more than two drills per month.

(Ord. 4-1982, passed 4-22-1982; Ord. 11,2003, passed 11-11-2003)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / FIRE DEPARTMENT / § 34.02 EXCESSIVE FALSE FIRE ALARMS.

§ 34.02 EXCESSIVE FALSE FIRE ALARMS.

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

ALARMS. All types of alarms including, but not limited to: Burglar, hold-up and fire.

CALENDAR YEAR. January 1 through December 31.

RESIDENTIAL ADDRESS. In an apartment complex, each apartment is a separate residential address.

(B) *Attention of excessive false alarms.* In the past there have been excessive false fire alarms to certain businesses and residences serviced by the Police and Fire Departments. It has been determined that the only way to cause the residential owners and business owners to cease having false fire alarms is to assess charges to the owners when excessive false fire alarms occur.

(C) *Residential address allowed six false alarms a year.* For each calendar year a residential address shall be allowed six false fire alarms without being charged for same. If a residential address has in excess of six false fire alarms within one calendar year, each false

alarm in excess of six shall cause the residential owner to be charged a fee of $320. If the fee is not paid within 30 calendar days from the date of the assessment, a lien shall be placed upon the residential property with interest at the legal rate of interest at the time the lien is established.

(D) *Business owner allowed 12 false alarms a year.* For each calendar year the titled owner of a business shall be allowed 12 false fire alarms throughout all of the owner's business addresses without being charged for same. If a business owner has in excess of 12 false fire alarms within one calendar year, each false alarm in excess of 12 shall cause the business owner to be charged a fee of $370. If the fee is not paid within 30 calendar days from the date of the assessment, a lien shall be placed upon the business property with interest at the legal rate of interest at the time the lien is established.

(Ord. 1-1988, passed 2-22-1988; Ord. 5, passed 6-24-2003)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT

POLICE DEPARTMENT

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.10 ADOPTION BY REFERENCE OF STANDARDS.

§ 34.10 ADOPTION BY REFERENCE OF STANDARDS.

The Weapons and Qualifications Requirements, the adoption of the controlled expansion hollow point bullet as the service ammunition for the City Police Department and the Firearms, Munitions and Use of Force Policy consisting of 29 pages which are attached to Ord. 5-1987 and made a part of this Code by reference as fully to all intents and purposes as if copied at length herein, are hereby adopted.

(Ord. 5-1987, passed 6-20-1987)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.11 UNIFORM STANDARD FOR POLICE-MEDIA RELATIONS.

§ 34.11 UNIFORM STANDARD FOR POLICE-MEDIA RELATIONS.

(A) *Purpose.* The purpose of this section is to establish a uniform standard for police-media relations.

(B) *Intent.*

(1) *Public interest.* It is necessary to recognize that police matters generally are a matter of public interest and concern. The intent of this section is to permit the free flow of information to all news media while protecting both the defense's and the prosecution's case from possible prejudicial publicity. The problem in criminal cases is seeking a balance between:

(a) First Amendment right to free speech, a free press and the importance of the public's right to know what their police and courts are doing; and

(b) The Sixth Amendment right to a free trial, free of public pressure or a jury biased by news heard or read that a subject is guilty.

(2) *Cooperation.* It is important that, when it is known, the news media have access to information about the occurrence of crime, who, what, when, where, why and how. However, police need the cooperation of news media to avoid prejudicial pre-trail publicity just as the news media needs police cooperation to accurately and fairly report the occurrence of crime. This section is devised to minimize prejudicial pre-trail publicity. Members of the Police Department are directed to cooperate fully with the news media consistent with this section.

(3) *Trust.* Both the news media and the law enforcement community serve the public interest and it is incumbent upon personnel in both areas to develop a mutual trust and understanding to serve this common purpose.

(C) *Responsibility of direct release of information to news media.*

(1) In all criminal or noncriminal incidents or cases, a division commander who has direct responsibility for the management of a case or incident is authorized to give facts concerning news worthy activity other than that contained in the news release form.

(2) Release of information shall be documented on the Department "News Release Form".

(3) Administrative matters, the release of information to news media, shall be the sole responsibility of the Police Chief or his or her designee, consistent with city policy and the Kentucky Revised Statutes.

(4) All members of the Police Department must exercise care, common sense

and discretion to avoid rendering statements or information which, if later quoted, may create a misunderstanding or compromise the effectiveness of the police service.

(5) It is understood that statements made by members of the Police Department to news media representatives may be disseminated to the public by the media.

(6) No preferential treatment will be accorded any representative of the news media. This statement will not be construed to require notifying all news media prior to the release of information.

(D) *News release guidelines in criminal cases.*

(1) *Information made available.* The following information should be made available to the news media in criminal matters:

(a) The name of an adult arrested, age, sex and residence. If juvenile, only age, sex and city;

(b) The legal title of the charge, complaint or indictment;

(c) The name of the investigating officer and/or arresting officer(s);

(d) The circumstances immediately surrounding the arrest, including the time and the place arrested;

(e) The name of any victim, address, age and sex, and if pertinent, crime, the type of property taken and a conservative estimate of its value. The name, address and present location of any victims of sex offenses shall not be released; and

(f) The type of force used against the victim and general extent of injuries to either victim or assailant.

(2) *Information not available.* The following information should not be released to the news media in criminal matters:

(a) Opinions related to the character, reputation, credibility or anticipated testimony of an accused person or a perspective witness;

(b) Admissions, confession or the contents of a statement or alibi attributable to an accused person;

(c) The performance or the results of any tests, the refusal of the accused to take a test or participate in a line-up;

(d) The possibility of a plea of guilty to the offense charged, to a lesser offense or other possible disposition;

(e) Opinions concerning evidence or any argument in this case whether or not it is anticipated that the evidence or argument would be used at trial;

(f) Names and addresses of witnesses;

(g) Name and addresses of any subject ought for a crime, but not yet formally charged, unless help is wanted from the news media in an effort to locate the subject and prior approval for such release has been granted by the prosecutor's office holding the primary responsibility of the matter at hand; and

(h) The contents of any suicide note.

(E) *Policy on photographing and releasing photographs of prisoners.*

(1) Members of the Police Department will not prevent the photographing of defendants when they are in a place open to the general public unless so directed by court order. They will neither encourage or discourage pictures or televising, but must not pose the accused.

(2) Department photographs of a suspect may be released provided the photograph does not jeopardize an investigation and a valid law enforcement function is served. It is proper to disclose this type of information to enlist public assistance in apprehending fugitives from justice. The releases must have the prior approval of prosecuting attorney and the officer having primary responsibility for the management of the case.

(F) *Policy on releasing names of persons killed or injured.* Members of the Police Department shall first notify the next of kin and obtain identification of a deceased person or a seriously injured victim of a criminal act or an accident prior to releasing the name and address to the news media. However, if the next of kin is unknown or has not been located in 48 hours, this information may be released as authorized by the Police Chief or detective having primary responsibility for the investigation.

(G) *Policy on permitting news personnel to enter area of a serious incident or crime scene.*

(1) In the event of a major crime, incident or disaster, police lines are established for crowd control and to conserve evidence. Dependent upon the tactical situation and the likelihood of jeopardizing operations related to an investigation and collecting evidence, members of the news media should be allowed to enter these areas when possessing current news media credentials.

(2) While news media representatives may be permitted in the area of a crime scene or a serious incident, they do not have the authority to be within a crime scene or area that has been secured to conserve evidence, or at any location where their presence jeopardizes Department operations.

(3) After a crime scene has been processed, only the owner, legal occupant or his or her agents may grant permission to news persons to enter privately-owned structures or the surrounding premises to gather news.

(4) Duly authorized representatives of news media may be granted authorization to enter any area restricted to the general public after producing valid press credentials. This authorization must be granted by the Police Chief or his or her designee having direct responsibility for the incident at hand. The decision to assume the risk of possible danger remains with the individual news person involved and is not the responsibility of Department members to provide for the safety of those representatives of any news media who voluntarily choose to subject themselves to danger.

(5) Whenever possible during a major crime, incident or disaster, a secure area should be established for the news media personnel to receive and disseminate news information.

(H) *Policy on news media not exempt from the law.* A news media personnel's responsibility is to gather information and photographs of any news worthy event. Occasionally, the opportunity to carry out these assignments is short lived. Therefore, members of the Police Department must not necessarily obstruct news representatives carrying out their assignments. However, news representatives are not exempt from any laws enforced by the Police Department.

(I) *Regional Public Safety Communication Center (RPSCC) dispatchers; release of information.* Regional Public Safety Communication Center dispatchers are authorized to release to bona fide members of the press known facts as follows:

(1) A particular incident was reported;

(2) Officers having been dispatched and are investigating;

(3) Location of incident; and

(4) A press release should be forthcoming following the investigation.

(Ord. 7-1990, passed 6-25-1990)

Cross-reference:

Public Record Inspection Request Form, see Appendix A of this chapter

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.12 DISPOSITION OF PERSONAL PROPERTY IN THE CUSTODY OF THE POLICE DEPARTMENT.

§ 34.12 DISPOSITION OF PERSONAL PROPERTY IN THE CUSTODY OF THE POLICE DEPARTMENT.

(A) Pursuant to KRS 67.594 and KRS 95.845 the following is enacted:

(1) Custodial property shall be any property retained by the Police Department or either seized or forfeited property or property found and unclaimed;

(2) The sale of any property that is or has been used as evidence will not be sold until properly released by the Court in writing and no lawful claimant has been found as indicated by KRS 67.594; and

(3) Property found or presented to the Police Department or lost property will be sold only after:

(a) The property has been in custody for not less than 90 days;

(b) Reasonable efforts have been made by the Property Clerk or his or her deputy to ascertain the name of the true owners or lawful claimant of the property; and

(c) The sale of the property is in conformity with applicable Commonwealth and federal laws and regulations.

(B) (1) Pursuant to KRS 95.845, the Police Chief is hereby designated as custodian of all property which comes within the purview of KRS 67.592.

(2) The Police Chief may appoint an officer within the Police Department as Deputy Property Clerk who will be subject to the same conditions as the Property Clerk under the appropriate Kentucky Revised Statutes.

(3) Custody and disposition of all personal property in the possession of the Property Clerk shall be governed by the provisions of KRS 67.592 and KRS 67.594 except that:

(a) The Mayor may prescribe regulations in regard to the duties of the Property Clerk and his or her deputy;

(b) All proceeds from the sale of the personal property shall be placed in the general fund for the city; and

(c) Reports shall be made monthly as to the possession and disposition of the personal property.

(C) All property that remains in the custody of the Property Clerk without any lawful claimant thereto and which is not subject to the provisions of KRS 67.594(2) or (3), may be sold

at public auction in a suitable room designated for such purposes after being duly advertised pursuant to KRS Chapter 424.

(Ord. 4-1991, passed 5-13-1991)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.13 MODEL POLICY PROHIBITING RACIAL PROFILING; ADOPTED BY REFERENCE.

§ 34.13 MODEL POLICY PROHIBITING RACIAL PROFILING; ADOPTED BY REFERENCE.

The city's model policy prohibiting racial profiling is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 6,2001, passed 11-13-2001)

Statutory reference:

Model policy prohibiting racial profiling, see KRS 15A.195

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.14 DOMESTIC VIOLENCE POLICIES AND PROCEDURES; ADOPTED BY REFERENCE.

§ 34.14 DOMESTIC VIOLENCE POLICIES AND PROCEDURES; ADOPTED BY REFERENCE.

The city's domestic violence policies and procedures are hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 10,1997, passed 7-14-1997)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / § 34.15 POLICE DAILY ACTIVITY REPORT; ADOPTED BY REFERENCE.

§ 34.15 POLICE DAILY ACTIVITY REPORT; ADOPTED BY REFERENCE.

The city's police daily activity report is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 2,1997, passed 4-28-1997)

TITLE III: ADMINISTRATION / CHAPTER 34: DEPARTMENTS, BOARDS AND COMMISSIONS / POLICE DEPARTMENT / APPENDIX A: PUBLIC RECORD INSPECTION REQUEST FORM

APPENDIX A: PUBLIC RECORD INSPECTION REQUEST FORM

PUBLIC RECORD INSPECTION REQUEST FORM

I. Applicant information: Name _____

Address _____

Phone _____ Date _____

II. Public records(s) requested (please specify):_____

_____

_____

_____

(continue on back if necessary)

III. The above record(s) are not available at this time, but may be inspected at:

_____ on _____ at_____

(Place) (Date) (Time)

IV. This delay is due to: __ Active use of requested records

__ Records are in storage, and must be located

__ Records re not otherwise available

__ Other _____

V. This request for inspection is denied due to the following reasons:

__The records requested are exempted by law from mandatory disclosure

__The request places an unreasonable burden on the custodian in producing voluminous public records

__Other reasons (specify) _____

_____

_____	_____
OFFICIAL CUSTODIAN	NAME OF PUBLIC AGENCY
_____	_____
COPIES RECEIVED BY	AMOUNT CHARGED

(Ord. 7-1990, passed 6-25-1990)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES

CHAPTER 35: PERSONNEL POLICIES

Section

35.01 Deferred compensation system
35.02 Safety program
35.03 Personal property of employees
35.04 Personnel rules
35.05 Compensation and Classification Plans; adopted by reference
35.06 Code of Ethical Conduct; adopted by reference

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.01 DEFERRED COMPENSATION SYSTEM.

§ 35.01 DEFERRED COMPENSATION SYSTEM.

(A) The City Council hereby adopts the Commonwealth of Kentucky Employees'

Deferred Compensation Plan under the Kentucky Public Employees Deferred Compensation System and extends to all its full-time employees the opportunity to join the plan.

(B) The following rules and regulations shall apply in administration of the plan:

(1) To be eligible, the employee must be a full-time employee after the probationary period;

(2) The employee shall contribute a minimum of 4% of his or her basic salary;

(3) The city shall contribute an amount equal to 5.25% of the employee's basic salary;

(4) Basic salary shall be the salary due to be received for a 40-hour work week as determined by the salary set by city pay ordinances. No allowance shall be made for overtime work or for police incentive pay or bonuses; and

(5) The City Clerk/Treasurer shall administer the program, make payments to the fund as required and keep necessary records.

(Ord. 4-1988, passed 4-25-1988)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.02 SAFETY PROGRAM.

§ 35.02 SAFETY PROGRAM.

(A) For the purpose of providing safe working conditions for city employees, there is established a Safety Committee composed of the following positions:

(1) Public Works Superintendent - Chairperson;

(2) Police Chief;

(3) Chief Water Plant Operator;

(4) Water Distribution Foreman;

(5) Street Department Foreman; and

(6) Two city employee representatives.

(B) The Committee will be responsible for the following:

(1) Hold Committee meetings at least once per month;

(2) Conduct quarterly meetings and training sessions with all city employees;

(3) Establish safety regulations and procedures for performing operations where the employee is in a position where injury would occur;

(4) Establish procedures for accident investigation;

(5) Investigate all accidents and provide a report to the City Council;

(6) Record and investigate all property losses;

(7) Make recommendations to the City Council if disciplinary action against an employee is considered appropriate; and

(8) Keep minutes of meetings.

(Ord. 13-1987, passed 11-16-1987; Ord. 11-1991, passed 9-23-1991)

Statutory reference:

For provisions requiring the Mayor to promulgate regulations and to oversee employment, see KRS 83A.130 and 83A.080(3)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.03 PERSONAL PROPERTY OF EMPLOYEES.

§ 35.03 PERSONAL PROPERTY OF EMPLOYEES.

(A) The City Council requires that any employee of the city file a notice and claim in writing with the City Clerk/Treasurer of the ownership of any personal property regularly used by the employee in the performance of his or her employment when the personal property is regularly left on the premises of the city.

(B) No employee shall regularly leave personal property belonging to the employee and used in the performance of his or her duties for the city on the premises without filing a notice and claim of ownership with the City Clerk/Treasurer.

(C) There shall be a rebuttable presumption of ownership by the city in the absence of the filing of the notice and claim of ownership, that personal property on the premises of the city, used by an employee or employees to carry out job duties attendant the employment, belongs to the city.

(Ord. 9-1976, passed 1-19-1976)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.04 PERSONNEL RULES.

§ 35.04 PERSONNEL RULES.

(A) The city hereby adopts, as if set out fully herein, new personnel rules which are set out in detail in a document which is located with the City Clerk/Treasurer, City Building.

(B) The rules are attached to the original of Ord. 13-1991, passed 10-15-1991, and subsequently amended, located with the City Clerk/Treasurer.

(Ord. 13-1991, passed 10-15-1991; Ord. 4-1993, passed 5-24-1993; Ord. 3,1995, passed 7-3-1995; Ord. 1,1997, passed 3-10-1997; Ord. 6,1997, passed 5-22-1997; Ord. 7, passed 8-10-2000; Ord. 10-2000, passed 12-12-2000; Ord. 2, passed 2-12-2002; Ord. 7,2002, passed 6-11-2002; Ord. 14, passed 6-28-2002; Ord. 15, passed 6-28-2002; Ord. 20, passed 11-26-2002; Ord. 2-2003, passed 4-22-2003; Ord. 8, passed 8-26-2003; Ord. 13,2004, passed 9-20-2004; Ord. 21-2004, passed 1-17-2005; Ord. 11, passed 12-12-2005; Ord. 4, passed 6-25-2008; Ord. 9-2010, passed 6-28-2010; Ord. 5, 2013, passed 6-24-2013; Ord. 10, 2013, passed 11-25-2013; Ord. 11, 2013, passed 12-23-2013; Ord. 12, 2013, passed 1-27-2014)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.05 COMPENSATION AND CLASSIFICATION PLANS; ADOPTED BY REFERENCE.

§ 35.05 COMPENSATION AND CLASSIFICATION PLANS; ADOPTED BY REFERENCE.

(A) Pursuant to KRS 83A.070, the Compensation Plan and Classification Plan as attached to Ord. 10-1993, passed 10-12-1993, is adopted as if fully set out herein.

(B) Salary for those certain city employees under the Compensation Plan and Classification Plan attached hereto is hereby fixed in the amounts as set out in the Compensation Plan and Classification Plan attached to Ord. 10-1993, effective 10-12-1993 and subsequently amended.

(Ord. 10-1993, passed 10-12-1993; Ord. 8-1994, passed 8-8-1994; Ord. 1,1995, passed 7-3-1995; Ord. 9, passed 6-30-1997; Ord. 12-1997, passed 10-13-1997; Ord. 13-1997, passed 10-13-1997; Ord. 1,1998, passed 2-10-1998; Ord. 8,1999, passed 8-24-1999; Ord. 7, passed 8-10-2000; Ord. 3,2001, passed 6-12-2001; Ord. 7-2002, passed 6-11-2002; Ord. 8,2002, passed 6-11-2002; Ord. 14, passed 6- 28-2002; Ord. 15, passed 6-28-2002; Ord. 20-2002, passed

11-26-2002; Ord. 6, passed 6-27-2003; Ord. 7, passed 8-26-2003; Ord. 3,2004, passed 3-15-2004; Ord. 6, passed 5-17-2004; Ord. 7, passed 5-17- 2004; Ord. 8, passed 6-7-2004; Ord. 9, passed 6-7-2004; Ord. 21, passed 1-17-2005; Ord. 5,2005, passed 6-20-2005; 1,2006, passed 3-27-2006; Ord. 3, passed 6-26-2006; Ord. 3,2008, passed 6-25- 2008; Ord. 11, passed 1-12-2009; Ord. 3, passed 6-22-2009; Ord. 4,2009, passed 6-22-2009; 7,2009, passed 12-10-2009; Ord. 11, passed 6-30-2010; Ord. 12, 2010, passed 7-19-2010; Ord. 14, passed 7-19-2010; Ord. 5, passed 6-27-2011; Ord. 7, 2012, passed 6-25-2012; Ord. 2, passed 4-22-2013; Ord. 6, 2013, passed 6-24-2013; Ord. 9, 2013, passed 10-28-2013; Ord. 3, 2014, passed 4-28-2014; Ord. 5, 2014, passed 5-31-2014; Ord. 3-2015, passed 5-18-2015; Ord. 6, 2015, passed 6-29-2015)

TITLE III: ADMINISTRATION / CHAPTER 35: PERSONNEL POLICIES / § 35.06 CODE OF ETHICAL CONDUCT; ADOPTED BY REFERENCE.

§ 35.06 CODE OF ETHICAL CONDUCT; ADOPTED BY REFERENCE.

The city's Code of Ethical Conduct is hereby adopted by reference and incorporated herein as if set out in full. Copies are available through the City Clerk/Treasurer's office.

(Ord. 11,1994, passed 12-12-1994)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION

CHAPTER 36: TAXATION

Section

General Provisions

36.01	County assessment adopted
36.02	Due date; payment
36.03	Delinquency
36.04	Ad valorem taxes on motor vehicles
36.05	Disposition of funds
36.06	Surcharge for funding 911 emergency telephone service

Franchise Tax on Net Deposits in Financial Institutions Located in the City

36.20 General provisions
36.21 Definitions
36.22 Rate of franchise tax
36.23 Administration
36.24 Due date
36.25 Records

Cross-reference:

Occupational license tax, see §§ 118.25 through 118.37

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.01 COUNTY ASSESSMENT ADOPTED.

§ 36.01 COUNTY ASSESSMENT ADOPTED.

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

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

(Ord. 13-1978, passed 12-4-1978)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.02 DUE DATE; PAYMENT.

§ 36.02 DUE DATE; PAYMENT.

All taxes, except ad valorem taxes on motor vehicles, shall become due on or before November 1.

(Ord. 11-1976, passed 2-2-1976)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.03 DELINQUENCY.

§ 36.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent on November 2.

(B) Any taxes not paid by November 1 shall be subject to a penalty of 6% on the taxes due and unpaid. The delinquent taxpayer shall also pay all costs and expenses incidental to any action taken by the city for collection of the delinquent tax bill, and interest shall be added at the rate of 1% per month.

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

(Ord. 11-1976, passed 2-2-1976)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.04 AD VALOREM TAXES ON MOTOR VEHICLES.

§ 36.04 AD VALOREM TAXES ON MOTOR VEHICLES.

(A) All ad valorem taxes on motor vehicles shall be collected by the 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 taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.05 DISPOSITION OF FUNDS.

§ 36.05 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this subchapter shall be paid into the general fund of the city to be used for the payment of proper expenditures as determined by the

City Council.

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / GENERAL PROVISIONS / § 36.06 SURCHARGE FOR FUNDING 911 EMERGENCY TELEPHONE SERVICE.

§ 36.06 SURCHARGE FOR FUNDING 911 EMERGENCY TELEPHONE SERVICE.

(A) There is hereby established a 4% surcharge (fee) on basic monthly telephone costs to be collected from local exchange telephone subscribers in the city, on an individual exchange line basis, limited to a maximum of 25 exchange lines per account.

(B) The provider of the basic monthly telephone service shall collect the surcharge (fee) from subscribers through normal monthly billing.

(C) The provider of the basic monthly telephone service shall pay to the City Treasurer on the twentieth day of each month, the amount of the surcharge (fee) collected in the preceding billing period.

(D) All revenue from the surcharge (fee) shall be used for the specific purpose of funding 911 emergency telephone service.

(E) The City Clerk/Treasurer shall pay all revenue collected from the surcharge (fee) to the Public Service Communication Center (or its successor) within ten days of receipt from the provider of basic telephone services.

(F) All revenue paid to the Public Service Communication Center (or its successor) as a result of the surcharge (fee), shall be credited to the governmental units in accordance with the interlocal agreement for the establishment and operation of 911 emergency telephone services.

(G) In the event the city ceases to participate in the 911 emergency telephone service through inter-local agreement, the surcharge (fee) shall be removed from telephone service immediately.

(Ord. 11-1990, passed 10-23-1990)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY

FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS

LOCATED IN THE CITY

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.20 GENERAL PROVISIONS.

§ 36.20 GENERAL PROVISIONS.

(A) Pursuant to KRS Chapter 136, there is hereby imposed on each "financial institution", as defined in § 36.21, located within the jurisdiction of the city, a franchise tax measured by the deposits in such institutions.

(B) All monies collected pursuant to this subchapter shall be paid into the general fund of the city to be used for the payment of property expenditures as determined by the City Council.

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.21 DEFINITIONS.

§ 36.21 DEFINITIONS.

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

DEPOSITS. All demand and time deposits, excluding deposits of the United States government, Commonwealth and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions and certified and officers' checks.

FINANCIAL INSTITUTION.

(1) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. §§ 21 *et seq.* in effect in December 31, 1995, that meets the requirements of the National Bank Act in effect on December 31, 1995.

(2) Any bank or trust company incorporated or organized under the laws of

any state, except a banker's bank organized under KRS 286.3-135.

(3) Any corporation organized under the provisions of 12 U.S.C. §§ 611 to 631, in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1995, that meets the requirements of 12 U.S.C. §§ 611 to 631, in effect on December 31, 1995.

(4) Any agency or branch of a foreign depository as defined in 12 U.S.C. § 3101, in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1995, that meets the requirements of 12 U.S.C. § 3101 in effect on December 31, 1995.

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.22 RATE OF FRANCHISE TAX.

§ 36.22 RATE OF FRANCHISE TAX.

(A) The rate of the franchise tax imposed on financial institutions shall be 0.025% of the deposits located in the jurisdiction of the city.

(B) The amount and location of deposits in the financial institutions shall be determined by the methods used for filing the summary of deposits report with the Federal Deposit Insurance Corporation.

(C) The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods.

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.23 ADMINISTRATION.

§ 36.23 ADMINISTRATION.

(A) The Kentucky Revenue Cabinet shall certify to the local jurisdiction the amount of deposits within the jurisdiction and amount of the tax due.

(B) The City Clerk/Treasurer shall issue bills to the financial institution by January 1, of each year.

(C) In the transition year of 1996, the tax bills shall be issued to financial institutions no later than May 1, 1997.

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.24 DUE DATE.

§ 36.24 DUE DATE.

(A) The tax bill shall be due February 1 of the next year after it has been issued; thereafter, the bill shall be delinquent and subject to a penalty of 6% and interest of 1% per month after March 1.

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

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 36: TAXATION / FRANCHISE TAX ON NET DEPOSITS IN FINANCIAL INSTITUTIONS LOCATED IN THE CITY / § 36.25 RECORDS.

§ 36.25 RECORDS.

(A) It shall be the duty of the City Clerk/Treasurer to collect and account for the franchise taxes imposed by this subchapter. The City Clerk/Treasurer shall keep records of the amount received from each financial institution and the date of receipt.

(B) The Revenue Cabinet shall be notified of the tax rate imposed upon adoption of this subchapter and of any subsequent rate changes.

(Ord. 10,1996, passed 11-25-1996)

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS

CHAPTER 37: PUBLIC RECORDS

Section

General

37.01 Definitions

Procedures for Requesting Public Records

37.05 Initial request with immediate inspection
37.06 Referral to proper custodian
37.07 Public records not immediately available
37.08 Refusal of unreasonable requests
37.09 Time limitation; denial of inspection
37.10 Concealing or destroying records prohibited
37.11 Access to records relating to particular individual
37.12 Format of copies
37.13 Fees for copies
37.14 Misstatement of purpose prohibited
37.15 Online access to public records
37.16 Public records protected from disclosure
37.17 Notification of the Attorney General

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / GENERAL

GENERAL

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / GENERAL / § 37.01 DEFINITIONS.

§ 37.01 DEFINITIONS.

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

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, defense of litigation, claims settlement by the parties to the action or the attorneys representing the parties.

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

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

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

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

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

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

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

PUBLIC RECORDS. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by the public

agency. ***PUBLIC RECORDS*** shall not include any records owned or maintained by or for the public agency that are not related to functions, activities, programs or operations funded by the public agency nor any records that may be excluded by § 37.16.

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

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

Cross-reference:

Similar definitions under state law, see KRS 61.870

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS

PROCEDURES FOR REQUESTING PUBLIC RECORDS

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

§ 37.05 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/Treasurer during regular office hours, except during legal holidays. The official custodian, or the custodian acting under the authority of the official custodian, may require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records may be presented by hand delivery, mail or via facsimile, if one is available.

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

(C) If the public records are to be inspected at the offices of the city, suitable facilities shall be made available in the office of the City Clerk/Treasurer 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.

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.06 REFERRAL TO PROPER CUSTODIAN.

§ 37.06 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4))

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

§ 37.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage or not otherwise available, the official

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

(KRS 61.872(5))

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.08 REFUSAL OF UNREASONABLE REQUESTS.

§ 37.08 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))

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.09 TIME LIMITATION; DENIAL OF INSPECTION.

§ 37.09 TIME LIMITATION; DENIAL OF INSPECTION.

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

(KRS 61.880)

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

§ 37.10 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.

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

§ 37.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or her or in which he or she is mentioned by name, upon presentation of appropriate identification, subject to the provisions of § 37.16 of these rules and regulations.

(KRS 61.884)

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.12 FORMAT OF COPIES.

§ 37.12 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 § 37.16. 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 the 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 eight and one-half inches by 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and the is 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 non-standardized request.

(KRS 61.874(1) through (3))

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.13 FEES FOR COPIES.

§ 37.13 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 non-standardized format, or to tailor the format to meet the request of an individual or a group, the public agency may, at its discretion, provide the requested format and recover staff costs as well as any actual costs incurred.

(KRS 61.874(3))

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

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

(3) The fee provided for in division (B)(1) above may be based on one or both

of the following:

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

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

(KRS 61.874(4))

Cross-reference:

Fees for online access to public records, see § 37.15

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.14 MISSTATEMENT OF PURPOSE PROHIBITED.

§ 37.14 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 § 37.13;

(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

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.15 ONLINE ACCESS TO PUBLIC RECORDS.

§ 37.15 ONLINE ACCESS TO PUBLIC RECORDS.

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

(B) Fees shall not exceed:

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

(2) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in § 37.13.

(KRS 61.874(6))

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES FOR REQUESTING PUBLIC RECORDS / § 37.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

§ 37.16 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 pre-trial discovery:

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

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

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

competitors of the entity that disclosed the records;

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

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

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

3. In conjunction with the regulation of commercial enterprise, including mineral exploration records, un-patented, 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 Commonwealth, 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 division shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this chapter;

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

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

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

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

(B) No exemption under this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person. In addition, if any public record contains material which is not excepted under this section, the city shall separate the excepted and make the non-excepted material available for examination, subject to the possible applicability of § 37.08.

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

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

(KRS 61.878) Penalty, see § 10.99

TITLE III: ADMINISTRATION / CHAPTER 37: PUBLIC RECORDS / PROCEDURES

FOR REQUESTING PUBLIC RECORDS / § 37.17 NOTIFICATION OF THE ATTORNEY GENERAL.

§ 37.17 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.

TITLE III: ADMINISTRATION / CHAPTER 38: MISCELLANEOUS PROVISIONS

CHAPTER 38: MISCELLANEOUS PROVISIONS

Section

38.01 Service fee for all credit card transactions within city
38.02 Procurement Code

TITLE III: ADMINISTRATION / CHAPTER 38: MISCELLANEOUS PROVISIONS / § 38.01 SERVICE FEE FOR ALL CREDIT CARD TRANSACTIONS WITHIN CITY.

§ 38.01 SERVICE FEE FOR ALL CREDIT CARD TRANSACTIONS WITHIN CITY.

(A) The city shall continue to accept credit card payments from residents for taxes, bills, fees and other costs owed to the city.

(B) The city shall establish a service fee for each credit card transaction sufficient to recoup the processing fees charged to the city for accepting credit card payments. However, the service fee shall not be used for the purpose of income generation, but shall be set at an amount sufficient to cover the costs incurred by the city.

(C) The service fee shall be periodically audited by the City Clerk/Treasurer to ensure that the service fee is sufficient to recoup all processing fees charged to the city. Upon the recommendation of the City Clerk/Treasurer and the approval of the City Council at a scheduled Council meeting, the service fee may be modified from time to time, as necessary.

(D) The City Clerk/Treasurer shall post a notice of the service fee at the counter sufficient to provide notice to the public of this service fee. The notice shall also indicate that the

service fee may be modified from time to time, as necessary.

(Ord. 1,2004, passed 1-27-2004)

TITLE III: ADMINISTRATION / CHAPTER 38: MISCELLANEOUS PROVISIONS / § 38.02 PROCUREMENT CODE.

§ 38.02 PROCUREMENT CODE.

(A) The Procurement Code, as set forth in KRS 45A.343 through 45A.460, is hereby rescinded and not adopted by the city.

(B) All future bids for materials, supplies, equipment and services shall be governed by the provisions of KRS 424.260.

(Ord. 16,2002, passed 8-27-2002)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD

CHAPTER 39: CODE ENFORCEMENT BOARD

Section

39.01	Title
39.02	Definitions
39.03	Jurisdiction
39.04	Powers and responsibilities of the Property Maintenance Code Enforcement Officers
39.05	Appeals
39.06	Members
39.07	General powers of the Board
39.08	Organization of Board; conduct of meetings and Board members; quorum
39.09	Board hearing; notice; final order
39.10	Appeal to District Court; final judgment
39.11	Junked motor vehicles
39.12	Excessive weeds and grass
39.13	Citation fine schedule
39.14	Lien; charges, costs, penalties and fees including administrative fees

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.01 TITLE.

§ 39.01 TITLE.

This chapter shall be known as may be cited as the Code Enforcement Board Ordinance.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.02 DEFINITIONS.

§ 39.02 DEFINITIONS.

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

ABANDONED. Property or any improvements thereon that is unoccupied, not in use, neglected and/or not serviced by public utilities.

CODE OFFICIAL. Code Enforcement Officer.

DEMOLITION. The act of demolishing or razing of a building, structure or part thereof to the ground level.

OFFENSES.

(1) ***1st OFFENSE.*** A citation issued on a specific parcel of property on one occasion within a 12-month period.

(2) ***2nd OFFENSE.*** A citation issued on a specific parcel of property on two occasions within a 12-month period.

(3) ***3rd OFFENSE.*** A citation issued on a specific parcel of property on three or more occasions within a 12-month period.

PROPERTY MAINTENANCE CODE. Consists of all of the provisions set forth herein and any and all other ordinances hereafter adopted by the City Council pursuant to KRS 65.8801 through 65.8839, as may be amended from time to time.

PROPERTY MAINTENANCE CODE ENFORCEMENT BOARD. The administrative

body created and acting under the authority of the KRS 65.8801 through KRS 65.8839.

PROPERTY MAINTENANCE CODE ENFORCEMENT OFFICER. All city citation officers and other positions authorized to enforce the code. At the present time, the only authorized enforcement officers are city full-time police officers.

PUBLIC NUISANCE. Includes, but is not limited to the following:

(1) The physical condition or occupancy of any property regarded as a public nuisance at common law;

(2) Any physical condition or occupancy of any property or appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells or swimming pools, shafts, basements, excavations and unsafe fences or structures;

(3) Any property that has unsanitary sewerage or plumbing facilities;

(4) Any property that is unsafe for human habitation;

(5) Any property that is in imminent danger of becoming a fire or other hazard, or is manifestly unsafe or unsecure, so as to pose an imminent threat or danger to life, limb or property;

(6) Any property from which the plumbing, electrical, heating or other facilities required by this code have been removed or from which utilities have been disconnected, destroyed, removed or rendered ineffective or the required precautions against trespassers have not been provided;

(7) Any property that is unsanitary, littered with rubbish or garbage or has uncontrolled weeds and/or grass growing on it;

(8) Any residence, building, outbuilding or other structure that is in a state of dilapidation, disrepair, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent that it is uninhabitable, in danger of collapse or failure or dangerous to anyone on or near the property;

(9) Any parking on grass areas of the city right-of-way or any residential yard space or otherwise in violation of city codes;

(10) Any vehicle, device or other contrivance, or part thereof, propelled by human or mechanical power, that if operational would be used for transportation of persons on public streets and highways, which upon inspection, are found to be wrecked, dismantled, partially dismantled, inoperative, abandoned, discarded or expired tags; or

(11) Excessive weeds and grass.

REMEDY. The action taken to abate any nuisance, in order to bring the property determined to be in violation, into compliance with the requirements of this Property Maintenance Code.

VENTILATION DAYS. As used in the International Property Maintenance Code 304.14, shall be the period from May 1 to October 31.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.03 JURISDICTION.

§ 39.03 JURISDICTION.

The Property Maintenance Code Enforcement Officer and Property Maintenance Code Enforcement Board shall have jurisdiction over and shall enforce this Property Maintenance Code and all other ordinances hereafter adopted which specifically provide for the enforcement by the Code Enforcement Officer(s) or Board, in the manner set forth herein.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.04 POWERS AND RESPONSIBILITIES OF THE PROPERTY MAINTENANCE CODE ENFORCEMENT OFFICERS.

§ 39.04 POWERS AND RESPONSIBILITIES OF THE PROPERTY MAINTENANCE CODE ENFORCEMENT OFFICERS.

The following provisions shall govern all enforcement powers, responsibilities and procedures administered by the Property Maintenance Code Enforcement Officer(s):

(A) *Notice of violation.* Except as provided in division (B), if a Property Maintenance Code Enforcement Officer believes, based on the Officer's personal observation or investigation, that a person has violated the Property Maintenance Code, the Officer shall issue a notice of violation to the property owner, resident, tenant, occupant or other violator, allowing that person a specified and reasonable number of days to abate the violation. The violator may upon request, be allowed a reasonable extension of time to abate the violation without imposition of any charges, costs, penalties, and fees, in the sole discretion of the Property Maintenance Code Enforcement Officer. If the violator fails to abate the violation within the time prescribed therein,

a new and separate notice of violation may be issued for subsequent and separate violations of the Property Maintenance Code. In the event that the resident, tenant, occupant or other violator is issued a notice of violation, the property owner of record will receive a copy of the notice.

(B) *Notice of violation procedure.* Notices of violation issued by Code Enforcement Officer for violations of the code shall contain the following information:

(1) The address, location or description of the property found to be in violation of the code;

(2) The date and time of inspection;

(3) The address of the property on which the notice is issued;

(4) The date the notice is issued;

(5) The facts constituting the offense;

(6) The section of the code violated;

(7) The name of the Property Maintenance Code Enforcement Officer; and

(8) A statement that a civil fine, charges, costs, penalties, and/or administrative fees will be imposed for the violation if it is not abated in the manner required by the Property Maintenance Code Enforcement Officer.

(C) *Type and delivery of notice.* The notice of violation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. It will be in the form of a door hanger or may be hand-delivered to the property owner, resident, tenant, occupant or other violator or may be served or sent by first class mail addressed to the last known property owner of record as listed in the County Property Valuation Office. If the notice cannot be delivered to the owner, resident, tenant, occupant or other violator in person or notice sent by first class mail is returned by the U.S. Postal Service because the notice is undeliverable, marked return to sender or the owner has left no forwarding address, notice shall also be given by placing it on the door of the most visible entrance to the property with dwellings or structures located thereon, or by posting a sign, at least 8½ inches by 11 inches in dimension in a conspicuous location on the property.

(D) *Issuance of citation.* If the property owner, resident, tenant, occupant or other violator fails or refuses to abate the violation within the time and manner required by the Code Enforcement Officer, the Officer is authorized to issue a citation. The citation shall represent a determination by the Code Enforcement Officer that a violation has been committed and that determination shall be final unless it is appealed by the alleged violator to the Property Maintenance Code Enforcement Board in the manner prescribed herein.

(E) *Citation procedure.* Citations issued by Code Enforcement Officer for violations

of the Code shall contain the following information:

(1) The address, location or description of the property found to be in violation of the code;

(2) The date and time of inspection;

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

(4) The date the citation is issued;

(5) The facts constituting the offense;

(6) The section of the code violated;

(7) The name of the Property Maintenance Code Enforcement Officer;

(8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if the citation is not appealed in the manner prescribed within this chapter;

(9) The maximum fine that may be imposed under this ordinance for the violation in question;

(10) The procedure for the violator to follow in order to pay the fine or to appeal the citation;

(11) A statement that if the violator fails to pay the fine set forth in the citation or appeal the citation within the time allowed, the violator shall be deemed to have waived his or her right to a hearing before the Code Enforcement Board to appeal the citation and the Code Enforcement Officer's determination that the violation occurred shall be final; and

(12) Notice that a lien may be filed against the property on which the violation occurred and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.

(F) *Type and delivery of citation.* The citation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. It shall be sent by first class mail to the resident, tenant, occupant or other violator as well as the last known property owner of record as listed in the County Property Valuation Office. If the citation cannot be delivered by first class mail or is returned by the U.S. Postal Service because the citation is undeliverable, marked return to sender or the owner has left no forwarding address, the citation shall be given by placing it on the door of the most visible entrance to the property with dwellings or structures located thereon, or by posting a sign, at least 8½ inches by 11 inches in dimension in a conspicuous location on the property.

(G) *Abatement of nuisance.* If the violator does not appeal the citation within the time

prescribed, the Code Enforcement Officer issuing the citation shall enter a final order finding and determining that the violation was committed and no appeal was timely filed. The Code Enforcement Officer may thereafter cause the nuisance to be abated by any and all means reasonable and necessary. A copy of the final order shall be served on the property owner, resident, tenant, occupant or other violator found to be in violation of this code.

(H) *Emergency abatement.* Nothing in division (G) shall prohibit the city from taking immediate action to abate any violation of this chapter without prior notice to the property owner, resident, tenant, or other occupant when an Enforcement Officer, upon inspection of the property has reason to believe that a violation presents a serious and imminent threat to any person, the public's health, safety, or welfare, or if in the absence of immediate remedial action, the effects or consequences of a violation will within reasonable probability, cause irreparable or irreversible harm and/or property damage.

(I) *Right of entry.* Enforcement Officer(s) and their duly authorized agents, assistants, employees, or contractors, after first having obtained the consent of the property owner, resident, tenant, or other occupant may enter upon private or public property to conduct inspections. If the property owner, resident, tenant, or other occupant does not give the Enforcement Officer(s) consent to enter upon and inspect the property, an on-site inspection of the property shall not occur until it is authorized by a court of competent jurisdiction.

(J) *Liability.* The Code Enforcement Officer(s) charged with the enforcement of this chapter while acting within the course and scope of their duties under this chapter, shall not thereby be rendered liable personally and are hereby relieved from any and all personal liability for injury's and damage to persons or property. Any suit instituted against any Code Enforcement Officer or employee because of a lawful act performed by that Officer or employee in the discharge of duties imposed under the provisions of this chapter, shall be defended by the city until final adjudication of any proceedings.

(K) *Discretionary modifications.* The Enforcement Officer shall have the discretion to modify a notice of violation, provided the Officer shall first find that special circumstances that makes strict compliance with this chapter impractical and the modification is in compliance with the intent and purpose of this chapter and that such modification does not violate health, life and fire safety requirements. The details of actions granting modifications shall be recorded and entered in the Community Development Department files.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.05 APPEALS.

§ 39.05 APPEALS.

Upon receipt of a citation, the property owner, resident, tenant, occupant or other violator shall respond to it not later than seven days following the issuance or posting on the property, the notice of violation by either paying the fines, charges, costs, penalties and/or fees, including administrative fees assessed therein, or by filing an appeal in writing with the City Clerk, in writing, requesting a hearing before the Property Maintenance Code Enforcement Board. Payment of assessed fines, charges, administrative fees and penalties shall not relieve the property owner, resident, tenant, occupant, or other violator from his or her obligation to bring the property on which the violation occurred into compliance with this code within a reasonable time thereafter, as solely determined by the Property Maintenance Code Enforcement Officer.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.06 MEMBERS.

§ 39.06 MEMBERS.

There is hereby created pursuant to KRS 82.700 through KRS 82.725, a Property Maintenance Code Enforcement Board (hereafter the "Board"), which shall be composed of three members.

(A) *Qualifications.*

(1) Members of the Board shall own property within the city for a period of at least one year prior to appointment to the Board and shall maintain legal ownership interest in at least one parcel of real property within the city throughout the term in office.

(2) Members shall be appointed by the Mayor of the city with the approval of the City Council.

(3) The initial appointments to the three-member Board shall be as follows: three members shall be appointed to a three-year term. All subsequent Board appointments shall be for a term of three years.

(4) If a vacancy on the Board occurs, the Mayor with approval of the City Council, shall within 60 days of the vacancy, appoint a new member or members. If the vacancy is not filled within the prescribed time period, the City Council shall appoint a member to fill the

vacancy.

(5) Members of the Board shall only be removed therefrom by the City Council for misconduct, inefficiency or willful neglect of duty. Prior to removal, the Mayor or member(s) of the City Council requesting same, shall submit in writing to the member in question and the City Council, the reasons for it.

(6) All members of the Code Enforcement Board must, before entering upon the duties of their office, take the oath of office prescribed by § 228 of the Kentucky Constitution.

(7) No member of the Code Enforcement Board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the city.

(B) *Liability.* Members of the Board charged with the enforcement of this chapter, while acting on behalf of the city and within their official duties and capacity, shall not thereby be rendered liable personally, and are hereby relieved individually and collectively from all personal liability for any injury and or damages to persons or property as a result of the discharge of official duties imposed herein. Any suit instituted against any Board member because of an act performed by that Board member in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the city until the final determination of the proceedings.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.07 GENERAL POWERS OF THE BOARD.

§ 39.07 GENERAL POWERS OF THE BOARD.

(A) The Board is authorized and directed to conduct evidentiary hearings, issue decisions and abatement orders and impose fines, charges, costs, penalties, and/or fees, including administrative fees in the final adjudication of appeals brought before it.

(B) To adopt any and all policies, rules and regulations, reasonably required to implement, administer and conduct its business and hearings brought before it.

(C) Authorize Enforcement Officer(s) to file liens against properties found to be in violation of the code to secure the collection of fines, penalties, fees, charges and or cost, including administrative fees.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.08 ORGANIZATION OF BOARD; CONDUCT OF MEETINGS AND BOARD MEMBERS; QUORUM.

§ 39.08 ORGANIZATION OF BOARD; CONDUCT OF MEETINGS AND BOARD MEMBERS; QUORUM.

(A) The Board shall annually elect a chairperson from among its members. The chairperson shall be the presiding officer and a full voting member of the Board.

(B) The Board shall hold regular monthly meetings on a date, and during times to be established by the Board. Regular and special meetings shall be scheduled and held in accordance with requirements of the Kentucky Open Meetings Act. Regular and special meetings may be canceled if there are no appeals or other business to be considered by the Board.

(C) All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 82.700 et seq., KRS 381.770 et seq., Roberts Rules of Order, the Kentucky Open Meetings Act, and the Kentucky Open Records Act.

(D) For the purpose of conducting all business and hearings brought before it, two members of the Board, shall, if present, constitute a quorum.

(E) Minutes, records and/or transcripts of all proceedings and action taken shall be kept by the Board and the vote of each member on any issue decided by them shall be recorded therein.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.09 BOARD HEARING; NOTICE; FINAL ORDER.

§ 39.09 BOARD HEARING; NOTICE; FINAL ORDER.

(A) When an appeal has been properly filed and a hearing has been requested, it will be heard at the next scheduled Code Enforcement Board meeting. Otherwise, the Board may convene for the purpose of conducting any other business brought before it or a majority of the membership of the Board.

(B) Not less than seven days before any requested hearing, the Board shall notify the

appellant of the date, time, and place of the hearing. Notice shall be given by certified mail, return receipt requested at his or her last known address; or by personal delivery.

(C) 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 on an appeal a notice of violation or citation and a determination that a violation was committed shall be entered and become final. The Board shall enter a final order confirming the violation and shall direct the nuisance to be abated and/or impose the fines, charges, costs, penalties, and/or fees, including administrative fees assessed in the citation. If the violator has not abated the nuisance conditions on the notice of violation or citation within the time provided, the city may promptly abate the nuisance and/or issue another violation which may be a new and separate offense in accordance with § 39.04(A). A copy of the final order shall be served upon the violator/appellant.

(D) When a hearing is held under this section, the Board shall elicit testimony from witnesses and allow relative demonstrative evidence. All testimony shall be recorded by audio, video, or stenographic means. The Chairperson or any Board member designated as the Hearing Officer shall have authority to administer the following oath. "Do you solemnly swear and affirm to tell the truth, the whole truth and nothing but the truth?" Testimony shall be taken from the Property Maintenance Code Enforcement Officer, the alleged violator, and any witnesses to the violation offered by the Property Maintenance Code Enforcement Officer or alleged violator and any witnesses with relevant personal knowledge of the violation or citation on appeal. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(E) In making its determination, the Board shall, based solely on the evidence, adduced during the hearing determine by a preponderance of the evidence whether or not a violation has been committed. If at the conclusion of the hearing, the Board determines that a violation has been committed, an order shall be issued upholding the notice of violation or citation and the Board shall authorize the appropriate department to abate the nuisance condition on appeal and impose reasonable and necessary fines, charges, costs, penalties, and/or fees, including administrative fees imposed therein, or a combination of the forgoing remedies. Provided however, the final order of the Board shall provide the violator with reasonable time, not to exceed 30 days, to abate the violation. If the violator does not abate in the manner required and within the time provided in the final order, another notice of violation may be issued in accordance with § 39.04(A), for another violation of the Property Maintenance Code.

(F) Findings of fact, conclusions of law and decisions of the Board shall be reduced to writing and signed and dated by the majority of the Board or a member designated as the Hearing Officer the date the order was entered. A copy of the findings of fact, conclusions of law and decisions of the Board shall be furnished to the appellant named in the citation at his or her last known address.

(G) The Property Maintenance Code Enforcement Officer may abate the violation in order to bring the property into compliance with the Property Maintenance Code if a final order upholding the citation is entered by the Board or any court of proper competent jurisdiction.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.10 APPEAL TO DISTRICT COURT; FINAL JUDGMENT.

§ 39.10 APPEAL TO DISTRICT COURT; FINAL JUDGMENT.

(A) An appeal from any judgment, decision, or determination of the Board shall be made to the County District Court within 30 days of the date of the Board's judgment, decision or determination. The appeal shall be initiated by the filing of a complaint and a copy of the Board's final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) The action before the District Court shall be tried de novo and the burden shall be upon the city to establish that a violation occurred. If the court finds that a violation occurred, the property owner, resident, tenant, occupant or other violator shall be ordered to abate the violation and pay to the city all fines, charges, costs, penalties, and/or fees, including administrative fees occurring as of the date of the judgment. If the District Court finds a violation did not occur, the city shall be ordered to dismiss the notice of violation or citation and the plaintiff/appellant shall be authorized to recover his or her cost. If the property owner, resident, tenant, occupant or other violator does not abate the violation in the time provided, another notice of violation may be issued in accordance with § 39.04(A), for each subsequent and separate violation of the Property Maintenance Code.

(C) If no appeal from a final judgment, decision or order of the Board is filed within the time period set in division(A), the Board's order shall be deemed final and enforceable for all purposes provided herein.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.11 JUNKED MOTOR VEHICLES

§ 39.11 JUNKED MOTOR VEHICLES

(A) *Generally.* Junked motor vehicles shall mean any vehicle, device or other contrivance, or part thereof, propelled by human or mechanical power, that if operational would be used for transportation of persons on public streets and highways, which upon inspection, are found to be in one or more of the following conditions:

(1) Wrecked;

(2) Dismantled;

(3) Partially dismantled;

(4) Inoperative;

(5) Abandoned;

(6) Discarded; or

(7) Expired tags.

(B) *Public nuisance.* The presence of any junked motor vehicle on public property or any private lot, tract, or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city shall be deemed a public nuisance, and shall further be considered rubbish or refuse, and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle on the real property or to suffer, permit or allow a junked motor vehicle to be parked, left or maintained on his own property, provided that this provision shall not apply with regard to:

(1) Any motor vehicle in an enclosed building; or

(2) Any motor vehicle on the property of a business enterprise operated in a lawful manner, when necessary to the operation of such enterprise.

(C) *Liability for damages to removed vehicle.* Neither the owner nor occupant of the property from which any aforesaid junked motor vehicle(s) shall be removed, their servants or agents, or any department of the city, or its agents, shall be liable for any loss or damage to the junked motor vehicle while being removed or as a result of any subsequent sale to other disposition.

(D) *Compliance by removal of vehicle.* The removal of a junked motor vehicle from the property within the number of days required in the notice of violation issued by the Property Maintenance Enforcement Officer, shall be deemed to be in compliance with the provisions of this chapter and no further action shall be taken against the owner of the junked motor vehicle or appliance or the owner or occupant of the property.

(E) *Right of entry.* In the enforcement of this chapter, a Property Maintenance Code

Enforcement Officer, and his or her duly authorized agents, assistants, employees, or contractors with the prior consent of the owner, tenant or occupant, or by order of a court of competent jurisdiction may enter upon private or public property to examine a junked motor vehicle, or obtain information as to the identity of a junked motor vehicle and the owner thereof, and to remove or cause removal of a junked motor vehicle or appliance declared to be a nuisance pursuant to this chapter.

(F) *Article supplemental to other regulations.* The provisions of this chapter are supplemental and in addition to all other regulatory codes, statutes and ordinances heretofore enacted by the city, state or any other legal entity or agency having jurisdiction. The provisions of this chapter shall be deemed cumulative of the provisions and regulations contained in the code of ordinances, save and except that, where the provisions of this chapter and the sections hereunder are in conflict with the provisions elsewhere in this code, then the provisions contained herein shall prevail. Any and all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.12 EXCESSIVE WEEDS AND GRASS.

§ 39.12 EXCESSIVE WEEDS AND GRASS.

(A) *Duty of the property owner.*

(1) 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 on the land through the accumulation of the excessive growth thereon of weeds, like vegetation, or grass.

(2) It shall be the duty of the owner, occupant, or person having control or management of any land within the city and the persons are required to maintain the land so as to prevent the accumulation and to cut or otherwise remove the growth of weeds, like vegetation, or grass so that the public nuisance, health hazard, or source of filth shall not exist.

(B) *Prohibited weed growth; exceptions.*

(1) No owner, occupant or person having control or management of any land within the city shall permit or maintain on any premises or adjacent rights-of-way any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than eight inches; nor any accumulation of dead weeds, grass or brush. "Noxious weeds" shall include Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (charlock, black

mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carrots), bindweed (Convolvutus arvensis), perennial sowthistle (Sonchus arvensis), common ragweed (Ambrosia artemisiifolia), Giant Ragweed (Ambrosia trifida), Hemp dogbane (Aporynum cannabinum), Wild lettuce (Lactura scariola), Common cocklebur (Xanthium pensylvancum), Yellow nutsedge (Cyperus esculentus), Foxtail (Serataria sp.). Pokeberry (Phytolacca americana), Multi-flora rose (Rosa multiflora), Kudzu. Japanese Bamboo and poison ivy (rhus radicans), poison sumac (Rhus toxicondendron), and poison oak.

(2) Exemptions to the requirements contained in division (B)(1) above:

(a) Excepted from the provisions of division (B)(1) above are flower gardens, plots of shrubbery, vegetable gardens, small grain plots, and farm land under cultivation. Exemption under the terms of this subsection cannot be claimed unless the land has been cultivated and cared for in a manner appropriate to such exempt categories.

(b) While owners of undeveloped parcels of land shall be required to remove those noxious weeds as listed in division (B)(1) above, the control of the growth of grass or other rank vegetation to a greater height than ten inches on the average, shall be required only within 100 feet of the property line of developed parcels, within the street, alley and highway rights-of-way adjacent to property and the first 50 feet of property in depth adjacent to the rights-of-way.

(c) Developed parcels in excess of one acre shall be required to meet the conditions of division (B)(2) above, and to control the growth of grass or rank vegetation within the immediate 100 feet in any direction from the walls of the principal building.

(d) The Mayor or his or her designee may grant exemption in certain areas for the control of erosion, urban forestry, and preservation of any rare species of flora or fauna.

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.13 CITATION FINE SCHEDULE.

§ 39.13 CITATION FINE SCHEDULE.

Citations issued by the Property Maintenance Enforcement Officer that are not appealed or which are upheld by the Board or any court of proper jurisdiction, shall be subject to the following schedule of civil penalties for each violation:

Violation	***1st Offense***	***2nd Offense***	***3rd + Offense***

Property maintenance	$75	$150	$250
Junked motor vehicles	$75	$150	$250
Junked appliances	$75	$150	$250
Trash/debris	$75	$150	$250
Other nuisances	$75	$150	$250
Note: Cost incurred by the city to abate nuisances will be added to the fines listed above			

(Ord. 7,2008, passed 2-25-2009)

TITLE III: ADMINISTRATION / CHAPTER 39: CODE ENFORCEMENT BOARD / § 39.14 LIEN; CHARGES, COSTS, PENALTIES AND FEES INCLUDING ADMINISTRATIVE FEES.

§ 39.14 LIEN; CHARGES, COSTS, PENALTIES AND FEES INCLUDING ADMINISTRATIVE FEES.

(A) The city shall have a lien against any property or properties finally determined by the Code Enforcement Officer, the Board or court of competent jurisdiction to be in violation of the Property Maintenance Code to secure the payment and recovery of the reasonable value of labor and materials used to abate the nuisance violation, including fines, charges, costs, penalties, and/or fees, including administrative fees authorized in KRS 82.720. The lien shall be superior to and have priority over, all other liens on the property except state, county, school board and city taxes.

(B) The lien shall be recorded in the office of the County Clerk. The lien shall be noticed to all persons from the time of its recording and shall bear interest, at the statutory rate of 8% per annum thereafter pursuant to KRS 360.010 prior to obtaining judgment upon same and shall bear interest, at the rate of 12% per annum thereafter pursuant to KRS 360.040 after entry of judgment, until paid.

(C) In addition to the remedy prescribed in division (A), the person found to have committed the violation shall be personally responsible for the amount of all fines, charges, costs, penalties, and/or fees, including administrative fees assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the Property

Maintenance Code. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(D) All charges for violations of the Property Maintenance Code levied by the Code Enforcement Board remaining unpaid after they become due shall be charged interest at 8% per year until paid in full. The due date for charges shall be 16 calendar days for the date that the person found to be in violation is so notified by the Board that a fine and charge has been assessed by the Board. Any due date falling on a weekend or holiday shall result in payment being due the next business day.

(E) Charges for any violation may be placed on the next occurring utility bill sent to the violator as a convenience for payment. Should any charge remain outstanding when the violator applies for water service to the city, such service shall be denied until such time as the charges have been paid in full.

(Ord. 7,2008, passed 2-25-2009)

TITLE V: PUBLIC WORKS

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE

51. SEWERS

52. WATER

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE

CHAPTER 50: GARBAGE

Section

50.01 Establishment and mission
50.02 Definitions
50.03 Regulations governing pickups
50.04 Duties of users of city pickup service

50.05 Apartment buildings and apartment complexes
50.06 Rates for city pickup service
50.07 Prohibited practices relating to the handling and disposal of garbage and other waste
50.08 City dumpsters
50.09 Rules relating to private pickup service
50.10 Acceptance of garbage, rubbish and refuse at water plant location

50.99 Penalty

Cross-reference:

Citation fine schedule, see § 39.13

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.01 ESTABLISHMENT AND MISSION.

§ 50.01 ESTABLISHMENT AND MISSION.

A City Sanitation Department is established to begin operation on or about January 1, 1984. The mission of the Sanitation Department is to pick up and dispose of garbage, rubbish and refuse from the residences of the city and those businesses desiring the service and to control sanitation within the city.

(Ord. 3,2002, passed 2-12-2002)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.02 DEFINITIONS.

§ 50.02 DEFINITIONS.

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

BUSINESS. Any building that offers services and/or goods to the public including apartment buildings or apartment complexes having in excess of two apartments.

GARBAGE. Every accumulation of animal, vegetable and other matter that attends or is incidental to the preparation of, consumption, decay or dealing in or storage of meats, fruits, vegetables and all other forms of food.

PROHIBITED MATERIAL. Natural earth, sand, clay, gravel, manure, stones, bricks,

brick bats, plaster, portland cement and building materials, batteries, paints, solvents, scrap metal, tires, refrigerators, air conditioners, water heaters and other household appliances, antifreeze, oil and gasoline and any other material deemed hazardous by governmental regulation.

REFUSE. Papers, cardboard, glass, discarded clothing, ashes, cinders, shells and metal.

RUBBISH. Leaves, grass cuttings, wood chips, shavings and shrub trimmings.

(Ord. 3,2002, passed 2-12-2002)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.03 REGULATIONS GOVERNING PICKUPS.

§ 50.03 REGULATIONS GOVERNING PICKUPS.

(A) (1) Pickup from residences shall be once each week on days to be specified in a schedule to be furnished to each resident. Should a legal holiday observed by the city occur within a calendar week (Monday through Thursday) there will be no pickups on the holiday. Pickups for the balance of the calendar week shall be delayed one day or as otherwise provided by schedule.

(2) In addition to its weekly pick up, the city will also provide pickup service for the downtown area on the first Friday of the month, and for the remainder of the city on the third Friday of the month. Should a legal holiday observed by the city occur on one of these dates, there will be no pickups on the holiday. Pickups for the missed Friday will be rescheduled for either the second or fourth Friday, or as otherwise provided by schedule. Material to be picked up shall be limited to incidental garbage, rubbish and refuse not typically picked up on the regular day. Prohibited material will not be picked up.

(B) Material to be picked up shall be limited to garbage, rubbish and refuse as defined in § 50.02. Disposal of prohibited material as defined in § 50.02 will be at the home owner's expense.

(C) All residences of the city must subscribe to the city pickup service, except for certain apartment buildings approved by the city as set forth in § 50.05.

(D) The garbage pickup from individual residences, apartments with individual water meters and duplexes with single water billing shall be limited to 4 fifty-pound containers per week.

(E) The garbage pickup from each apartment of apartment buildings and complexes

with single water billing, not including duplexes, shall be limited to 3 fifty-pound containers.

(Ord. 3,2002, passed 2-12-2002) Penalty, see § 50.99

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.04 DUTIES OF USERS OF CITY PICKUP SERVICE.

§ 50.04 DUTIES OF USERS OF CITY PICKUP SERVICE.

(A) *Containers for garbage.* It shall be the duty of every tenant, lessee or occupant of any private dwelling, boarding house or other building where meals are prepared or provided; of the owner or owner's agent, of every furnished flat or apartment house; and every other person generating or having garbage, to provide, without expense to the city, appropriate and sufficient watertight containers or receptacles with appropriate bails or handles and tight fitting covers, for the purpose of receiving and holding without leakage or escape of odors, all the garbage which shall ordinarily accumulate on the premises in one week. The receptacles shall have a capacity of not more than 50 gallons.

(B) *Containers for rubbish and refuse.* Containers for rubbish and refuse shall be suitable cardboard boxes, plastic bags or metal or plastic garbage cans. The weight of any container including the contents shall not exceed 50 pounds. Shrub trimmings may be without a container if tied in a neat bundle.

(C) *Wet garbage.* Garbage which contains excess water or fluids shall be drained and wrapped in paper or plastic before being placed in pickup container so that it will not emit odors in warm weather and not freeze and adhere to the container in cold weather.

(D) *Placement of container.* The container shall be placed for pickup at the street curb or beside the alley if pickup is to be on an alley.

(E) *Elderly/handicapped exemption.* If the head of the household is over the age of 65 years and/or physically handicapped, he or she should notify the City Clerk/Treasurer in order to qualify for a reduced rate for this service. In order to qualify for this exemption, the resident will be required to produce, for the inspection of the City Clerk/Treasurer, homestead exemption documentation. In these cases, arrangements will be made for pickup either at the front or rear of the residence. This exemption may not be granted if other non-qualified individuals reside in the same residence.

(Ord. 3,2002, passed 2-12-2002)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.05 APARTMENT

BUILDINGS AND APARTMENT COMPLEXES.

§ 50.05 APARTMENT BUILDINGS AND APARTMENT COMPLEXES.

(A) For apartments having individual water meters, the occupant will be billed for the pickup service.

(B) For apartment buildings that do not have individual water meters and have a minimum of three apartments, the landlord will be billed for the pickup service.

(C) For apartment buildings or apartment complexes having in excess of two apartments, the landlord may either have weekly dumpster pickup service or subscribe to the city pickup service.

(Ord. 3,2002, passed 2-12-2002)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.06 RATES FOR CITY PICKUP SERVICE.

§ 50.06 RATES FOR CITY PICKUP SERVICE.

(A) The rates for city pickup service shall be as follows:

Individual residences (except senior citizens and handicapped) for the first four 50-pound containers if containers are placed at the street or curb	$16.50 per month
Individual residences (except senior citizens and handicapped) additional containers	$10 per occurrence
Senior citizens and handicapped for the first four 50-pound containers	$13.50 per month
Senior citizens and handicapped additional containers	$10 per occurrence
Apartments with individual water meters or duplexes with single water meter if containers are placed at the street or curb	$16.50 per month
Apartment buildings and complexes under single water billing if containers are placed at the street or curb	$16.50 per month per apartment unit

Castlewood Apartment building with single meter. Containers are in the ground.	$22.50 per month per apartment unit
Businesses and churches, other than apartments, fee to be based on average volume of pickup per week. All businesses with oversized cans or items that will not fit in cansrates will be negotiated with individual business or garbage will not be picked up.	$21 base rate

(B) Billing shall be on a monthly basis payable in advance effective with July 1, 2012 billing.

(Ord. 3,2002, passed 2-12-2002; Ord. 1,2007, passed 2-26-2007; Ord. 3, 2012, passed 6-25-2012)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.07 PROHIBITED PRACTICES RELATING TO THE HANDLING AND DISPOSAL OF GARBAGE AND OTHER WASTE.

§ 50.07 PROHIBITED PRACTICES RELATING TO THE HANDLING AND DISPOSAL OF GARBAGE AND OTHER WASTE.

(A) The following practices are hereby prohibited and violators shall, upon conviction, be punishable as provided in the section of this chapter relating to penalties.

(B) Each day any violation shall continue shall be considered a separate offense.

(C) From and after the effective date of this chapter, it shall be unlawful:

(1) To throw or deposit any garbage, rubbish, refuse or prohibited material or to cause the same to be thrown or deposited, upon or in any street, alley, gutter, vacant lot or yard;

(2) To keep, place or deposit garbage, rubbish, refuse or prohibited material on any private grounds or premises whatsoever, except in cans or receptacles as designated in this chapter;

(3) To store or keep garbage, rubbish, refuse or prohibited material where rodents, flies or insects can have access thereto or feed thereon;

(4) To deposit any rubbish or waste matter in or upon any vacant lot, yard,

street, alley, gutter, highway, park or other public place within the city, except building materials and related supplies on site for construction by virtue of any authorized current building permit;

(5) To burn any garbage, refuse, rubbish or prohibited material, except that the materials may be burned in a furnace or private incinerator, or pursuant to a permit issued by and under the supervision of the Fire Chief, nor shall any person collect, remove or dispose of same except as provided in this chapter;

(6) To deposit or cause to be deposited in any manner garbage or rubbish or any other prohibited material into the sewer system of the city; and

(7) To keep or allow to accumulate for more than one week any kind of putrescible garbage or waste material.

(Ord. 3,2002, passed 2-12-2002) Penalty, see § 50.99

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.08 CITY DUMPSTERS.

§ 50.08 CITY DUMPSTERS.

(A) The city may, in its discretion, provide dumpsters for the disposal of garbage, rubbish and refuse by the residents. Prohibited material shall not be disposed or deposited in the dumpsters. The Administration of the city will notify the public of the location of all city dumpsters.

(B) Material to be deposited by residents in the dumpster shall be limited to garbage, rubbish and refuse as defined in § 50.99.

(C) Before the dumpster is picked up, an employee of the city shall inspect the contents to verify that no prohibited or hazardous material is to be sent to the landfill. The dumpster's contents shall also be inspected by the employee for the sanitation contractor that has provided the dumpster to the city.

(Ord. 3,2002, passed 2-12-2002) Penalty, see § 50.99

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.09 RULES RELATING TO PRIVATE PICKUP SERVICE.

§ 50.09 RULES RELATING TO PRIVATE PICKUP SERVICE.

All private pickup service operating within the city must abide by the following

regulations:

(A) Be licensed by the city;

(B) Dispose of picked up material in an approved sanitary landfill;

(C) Use vehicles that have tightly covered containers that will not waste any material along the streets or highways; and

(D) Private pickup service is only allowed for businesses.

(Ord. 3,2002, passed 2-12-2002)

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.10 ACCEPTANCE OF GARBAGE, RUBBISH AND REFUSE AT WATER PLANT LOCATION.

§ 50.10 ACCEPTANCE OF GARBAGE, RUBBISH AND REFUSE AT WATER PLANT LOCATION.

(A) The dumpster will be available for use by city residents who provide their City of Russell water tax bill as proof of residence, and by owners of real estate within the city who provide their tax bill as proof of ownership. Garbage, rubbish and refuse to be placed in the dumpster must be generated by residents or property owners within the city.

(B) The follow are definitions of garbage, refuse and rubbish:

GARBAGE. Every accumulation of animal, vegetable and other matter that attends or is incidental to the preparation of, consumption, decay or dealing in or storage of meets, fruits, vegetables and all other forms of food.

REFUSE. Papers, cardboard, glass, discarded clothing, ashes, cinders, shells and metal.

RUBBISH. Leaves, grass, cuttings, wood chips, shavings and shrub trimmings.

(C) The following items are prohibited and will not be accepted for disposal: natural earth, sand clay, gravel, manure, stones, bricks, brick bats, plaster, Portland cement and building materials, batteries, paints, solvents, scrap metal, tires, refrigerators, air conditioners, water heaters, household appliances, antifreeze, oil, gasoline, fuel tanks and any other material deemed hazardous by governmental regulation.

(D) The dumpster hours will be Monday through Friday from 7:00 a.m. to 4:00 p.m. The site will be closed on all holidays.

(Ord. 4-2015, passed 5-18-2015) Penalty, see § 50.99

TITLE V: PUBLIC WORKS / CHAPTER 50: GARBAGE / § 50.99 PENALTY.

§ 50.99 PENALTY.

(A) Bills will be payable by the twenty-first day of the month in which the bills are issued. A penalty of 10% of the bill will be added to the bill if the bill is not paid by the payment day mentioned above. If the bill is not paid by the first day of the following month, service will be discontinued and the person or business will be cited into District Court pursuant to the terms of division (B) below.

(B) Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than $25 nor more than $300, or by imprisonment not to exceed 30 days, or both the fine and imprisonment, in the discretion of the court or jury trying the case.

(Ord. 3,2002, passed 2-12-2002; Ord. 4-2015, passed 5-18-2015)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS

CHAPTER 51: SEWERS

Section

General Provisions

51.01 Surface water drainage
51.02 Sanitary sewerage rates
51.03 Responsibility for repairing breaks in sewer and water lines

Wastewater Treatment Works; User Charges

51.20 Purpose
51.21 Definitions
51.22 Operation, Maintenance and Replacement Fund
51.23 User charge rates
51.24 Financial records

51.25 Billing

Sewer Use

51.40 General provisions
51.41 Use of public sewers
51.42 Private wastewater disposal
51.43 Building sewers and connections
51.44 Pollutant discharge limits
51.45 Pretreatment program administration
51.46 Fees
51.47 Powers and authority of inspectors
51.48 Enforcement

51.99 Penalty

Cross-reference:

Illicit Discharge and Connection, see Chapter 154

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / GENERAL PROVISIONS / § 51.01 SURFACE WATER DRAINAGE.

§ 51.01 SURFACE WATER DRAINAGE.

(A) It shall be unlawful to deposit water in the sanitary sewer system that has not been metered. It shall be unlawful to have connected to the sanitary sewer system any surface water drainage system.

(B) All surface water drainage systems presently connected to the sanitary sewer system must be disconnected within 30 days from the effective date of this section.

(Ord. 10-1981, passed 9-21-1981) Penalty, see § 50.99

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / GENERAL PROVISIONS / § 51.02 SANITARY SEWERAGE RATES.

§ 51.02 SANITARY SEWERAGE RATES.

(A) In order to provide and maintain an adequate sanitary sewerage collection system and to pay the County Environmental Commission to treat sewerage and to keep the City Sewerage Sinking Fund and Maintenance Fund solvent, it is necessary and the City Council does hereby establish rates of reasonable charges based on volume use of water used.

(B) The following charges shall be made to customers for water consumed on and after July 1, 2014:

Gallons of Water	***Charge***
Up to 1,000	$14.00 minimum
Each additional 1,000	$3.25 per 1,000

(C) The city shall bill its sewer customers monthly on the first day of the month and the customer shall pay the bill and the same shall be due and owing on or before the twenty-first day of the month.

(D) Bills shall be delinquent on the twenty-second day of the month billed and a penalty of 10% shall be added for failure to pay when due. Failure to pay the bill after negligently or willfully allowing same to become delinquent shall authorize the city to terminate water service on the fifth day of the following month without notice.

(E) Where the water supply to the customer has been discontinued for nonpayment of delinquent bills, a charge of $75 will be made for reconnection of water service, but the reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the city have been paid.

(F) Water meters are the property of the city and are not to be tampered with in any manner by the customer or their representative. Violators will be prosecuted to the fullest extent of the law.

(G) All monies derived from the sale of water under this section shall be paid into the Sewer Fund by the city, for the purposes defined and established by existing ordinances.

(Ord. 1,2002, passed 1-22-2002; Ord. 2, 2014, passed 3-24-2014) Penalty, see § 51.99

51.03 RESPONSIBILITY FOR REPAIRING BREAKS IN SEWER AND WATER LINES.

§ 51.03 RESPONSIBILITY FOR REPAIRING BREAKS IN SEWER AND WATER LINES.

(A) The city shall be responsible for the repair, and the associated costs, of any leak or break in a water line or sewer line that occurs in the main line or between the tap or connection and the main line.

(B) The resident or property owner shall be responsible for the repair, and the associated costs, of any leak or break in a water line or sewer line that occurs between the tap or connection and the structure.

(C) This section shall be come effective upon second reading and after publication requirements have been met.

(Ord. 5,2004, passed 4-19-2004)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES

WASTEWATER TREATMENT WORKS; USER CHARGES

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.20 PURPOSE.

§ 51.20 PURPOSE.

It is determined and declared to be necessary and conductive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city treatment works. The proceeds of the charges so derived will be used for the purpose of operating and maintaining the public wastewater treatment works.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.21 DEFINITIONS.

§ 51.21 DEFINITIONS.

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

BOD (Denoting Biochemical Oxygen Demand***).*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter (mg/l).

COMMERCIAL USER. All retail stores, restaurants, office buildings, laundries and other private business and service establishments.

DEBT SERVICE. Charges levied on users of the wastewater treatment works to support the annual debt service obligations of the system.

GOVERNMENTAL USER. Legislative, judicial, administrative and regulatory activities of federal, Commonwealth and local governments.

INDUSTRIAL USER (IU). A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to § 402 of the Clean Water Act (33 U.S.C. § 1342).

INSTITUTIONAL USER. Social, charitable, religious and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.

MAY. The action referred to is permissive.

NORMAL DOMESTIC WASTEWATER. Wastewater that has a BOD concentration of not more than 250 mg/l and a suspended solids concentration of not more than 250 mg/l and any other pollutant, Ammonia (NH-N) of not more than 60 mg/l.

OPERATION AND MAINTENANCE. Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and for which the works were designed and constructed. The term ***OPERATION AND MAINTENANCE*** includes ***REPLACEMENT*** as defined herein.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

RESIDENTIAL USER. Any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

SHALL. The action referred to is mandatory.

SS (SUSPENDED SOLIDS). Solids that either float on the surface of or are in suspension, water, sewage or other liquids and which are removable by laboratory filtering.

TREATMENT WORKS. Any devices and systems for the storage, treatment, recycling and reclamation of municipal wastewater, domestic wastewater or liquid industrial wastes. These included intercepting sewers, outfall sewers, wastewater collection systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment (including land for composting sludge, temporary storage of the compost and land used for the storage of treated wastewater in land treatment systems before land application) or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

USER CHARGER. The total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, replacement and debt service expenses of the wastewater treatment works.

WATER METER. A water volume measuring and recording device, furnished and/or installed by a user and approved by the city.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.22 OPERATION, MAINTENANCE AND REPLACEMENT FUND.

§ 51.22 OPERATION, MAINTENANCE AND REPLACEMENT FUND.

(A) The revenue collected, as a result of the user charges levied, shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund.

(B) Fiscal year-end balances in the Operation, Maintenance and Replacement 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 and Replacement Fund shall be returned to their respective amounts upon appropriate adjustment of the user

charge rates for operation, maintenance and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.23 USER CHARGE RATES.

§ 51.23 USER CHARGE RATES.

(A) The following schedule of user charge rates shall apply to each user of the wastewater treatment works. This schedule includes rates for OM&R and rates for debt service charges, each based on the volume of metered or estimated water consumption.

Proposed Rate Schedule Based On Water Consumption			
Water Used Per Month	***Per 1,000 Gallons of Water Used***		
	O & M	***Debt***	***Total***
0 - 1,000 gallons	$7.75	$1.75	$9.50
1,000 + gallons	$2.00	$0.00	$2.00
No reduction in wastewater service charges, fees or taxes shall be permitted because of the fact that certain wastes discharged to the wastewater works contain less than 250 mg/l of BOD, 250 mg/l of SS or 60 mg/l of other pollutant(s).			

(B) For residential, industrial, institutional and commercial users, monthly 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 collection system, the user charge or that contributor may be based on readings of a wastewater meter(s) or separate water meter(s) installed and maintained at the user's expense.

(C) For those users whose wastewater has a greater strength than normal domestic wastewater, a surcharge, in addition to the normal user charge, will be collected.

(D) Surcharge rates will be established by an ordinance adopted buy the City Council,

with the ordinance published as prescribed by law. Rates will be set based on negotiations concluded with the city's wastewater treatment contractor and the County Environmental Commission.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.24 FINANCIAL RECORDS.

§ 51.24 FINANCIAL RECORDS.

(A) The city shall maintain financial records to accurately account for revenues generated by the treatment system and expenditures for operation and maintenance of the system, including normal replacement costs.

(B) The city shall review not less often than annually the wastewater contribution of users, the total cost of OM&R of the wastewater works, debt service obligations and user charge rates. Based on the review, the city shall revise, when necessary, the schedule of user charge rates to accomplish the following:

(1) Maintain an equitable distribution of OM&R costs among users of the treatment system;

(2) Generate sufficient revenues to offset costs associated with the proper operation and maintenance of the wastewater system and to meet debt service requirements;

(3) Excessive strength and toxicity surcharges shall be reviewed at the time of and in conjunction with the review of user charges. Surcharge rates shall be revised where necessary to reflect current treatment and monitoring costs; and

(4) Each user shall be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the total charge which is attributable to OM&R of the wastewater system.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / WASTEWATER TREATMENT WORKS; USER CHARGES / § 51.25 BILLING.

§ 51.25 BILLING.

(A) All users shall be billed monthly. Billings for any particular month shall be made within ten days after the end of the month. Payments are due within 20 days after the end of the month. Any payment not received within 30 days after the end of the month shall be considered delinquent.

(B) A late payment penalty of 1.5% of the user charge bill will be added to each delinquent bill for each 30 days or portions thereof of delinquency. When any bill is more than 60 days in default, water and/or wastewater service to the premises shall be disconnected until the bill is paid.

(Ord. 3,1997, passed 4-14-1997)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE

SEWER USE

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.40 GENERAL PROVISIONS.

§ 51.40 GENERAL PROVISIONS.

(A) *Purpose and policy.*

(1) This subchapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the entities and enable the entities to comply with all applicable Commonwealth and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 C.F.R. 403). The objectives to this subchapter are:

(a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(d) To provide for equitable distribution of the cost of the municipal

wastewater system; and

(e) To provide for the safety of the GCEC plant employees.

(2) This subchapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users, enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires industrial user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(3) This subchapter shall apply to the entities and to persons outside the entities who are, by contract or agreement with the entities, users of the County Environmental Commission (GCEC). Except as otherwise provided herein, the authorized representatives of the entities and the County Environmental Commission shall administer, implement and enforce the provisions of this subchapter.

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

ACT or ***THE ACT.*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 *et seq.*

APPROVAL AUTHORITY. The Secretary of the Kentucky Natural Resources and Environmental Protection Cabinet and/or any authorized representative thereof.

AUTHORIZED REPRESENTATIVE. An authorized representative of a user may be:

(a) A principal executive officer of at least the level of Vice-President, if the industrial user is a corporation;

(b) A general partner or proprietor if the user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated in this definition if the representative is responsible for the overall operation of the facilities from which the indirect discharge originates; and

(d) An authorized representative of the entities may be any person designated by the entities to act on its behalf.

AVAILABLE. A public sewer located at the property line or point at which connection may be made with the entities sanitary sewage collection facilities.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five days at

20°C expressed in terms of weight and concentration in milligrams per liter (mg/l).

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal, also called ***HOUSE CONNECTION***.

BUILDING SEWER PERMIT. As set forth in § 51.43.

CATEGORICAL STANDARDS; NATIONAL CATEGORICAL PRETREATMENT STANDARDS or ***PRETREATMENT STANDARD.*** Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) and 40 C.F.R. 403 which applies to a specific category of industrial users.

COMBINED SEWER. Any conduit carrying both sanitary sewage and storm water or surface water.

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids and fecal coliform bacteria; plus additional pollutants that the GCEC is designed to treat and, in fact, does treat to the degree required by the GCEC's NPDES/KPDES permit.

COMPOSITE WASTEWATER SAMPLE. A combination of individual samples of water or wastewater taken at selected intervals, or based on quantity of flow for some specified period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be proportioned to the flow at the time of the sampling.

CONTROL AUTHORITY. The term shall refer to the ***APPROVAL AUTHORITY*** defined herein above; the authorized representative of the entities or the authorized representative of the County Environmental Commission or its designee if the entities has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

COUNTY HEALTH DEPARTMENT. The Health Department for the county.

DILUTION STREAM. Any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under 40 C.F.R. Subchapter N.

DIRECT DISCHARGE. The discharge of treated or untreated wastewaters directly to the waters of the Commonwealth of Kentucky.

EASEMENT. An acquired legal right for the specific use of land owned by others.

ENTITY. A contracted user of the treatment facilities of the GCEC, whether a

Cities Sanitation District, private individual, company or corporation.

ENTITY USER CHARGE. The charge levied on all users, including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the GCEC by the GCEC.

ENVIRONMENTAL PROTECTION AGENCY or ***EPA.*** The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or his or her duly authorized representative of the Agency.

EQUIPMENT. All movable, non-fixed items necessary to the wastewater treatment process.

FEDERAL PRETREATMENT STANDARDS. Federal regulations for pretreatment of industrial wastewater under 40 C.F.R. Subchapter N and any applicable regulations, as amended.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

GCEC TREATMENT PLANT. That portion of the GCEC designed to provide treatment to wastewater.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

INCOMPATIBLE POLLUTANT. All pollutants other than ***COMPATIBLE POLLUTANTS*** as defined in this section.

INDIRECT DISCHARGE. The discharge or the introduction of pollutants into GCEC from any non-domestic source regulated under § 307(b), (c) or (d) of the Act (33 U.S.C. § 1317) and including holding tank wastes discharged into the system.

INDUSTRIAL USER. A source of indirect discharge.

INDUSTRIAL WASTES. The wastewaters from industrial or commercial processes as distinct from domestic or sanitary wastes.

INTERCEPTOR. A device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from domestic wastes while permitting domestic sewage or liquid wastes to discharge into the sewer system or drainage system by gravity. ***INTERCEPTOR***, as defined herein, is commonly referred to as a grease, oil or sand trap.

INTERFERENCE. The inhibition or disruption of the GCEC treatment processes or operations or that which contributes to a violation of any requirement of the GCEC's NPDES/KPDES permit. The term includes prevention of sewage sludge use or disposal by the GCEC in accordance with § 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act or more stringent Commonwealth criteria (including those obtained in any Commonwealth sludge management plan prepared pursuant to Title IV or SWDA) applicable to the method of disposal or use employed by the GCEC.

MAXIMUM DAILY CONCENTRATION. The maximum concentration per day of a pollutant based on the analytical results obtained from a 24-hour composite sample.

MAY. The action referred to is permissive.

NATIONAL (OR KENTUCKY) POLLUTANT DISCHARGE ELIMINATION SYSTEM or ***NPDES/KPDES PERMIT.*** A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342), or a permit issued by the Commonwealth of Kentucky under this authority and referred to as ***KPDES***.

NATURAL OUTLET. Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

NEW SOURCE. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a § 307(c) (33 U.S.C. § 1317) categorical pretreatment standard which will be applicable to the source, if the standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a ***NEW SOURCE*** means any source, the construction of which is commenced after the date of promulgation of the standard.

OPERATION AND MAINTENANCE EXPENSES. All annual operation and maintenance expenses including replacement cost related directly to operating and maintaining the sewage works as shown by annual audit.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity of any other legal entity or its legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

pH. The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

POLLUTANT. Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and

agricultural wastes discharged into water.

POLLUTION. The human-made or human-induced alteration of the chemical, physical, biological and/or radiological integrity of water.

PRETREATMENT or ***TREATMENT.*** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing pollutants into GCEC. The reduction or alteration can be obtained by physical, chemical or biological processes, or process change(s), or other means, except as prohibited by 40 C.F.R. 403.6(d).

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on a significant industrial user.

PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of § 307(b) of the Act (33 U.S.C. § 1317) and 40 C.F.R. 403.5.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PUBLIC SEWERS. A common sewer controlled by a governmental agency or public utility. In general, the ***PUBLIC SEWER*** shall include the main sewer in the street and the service branch to the curb or property line, or a main sewer on private property and the service branch to the extent of ownership by public authority.

REPLACEMENT. Expenditure for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

SANITARY SEWER. A sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions.

SEWAGE. The spent water of a community. Domestic or sanitary waste shall mean the liquid or water borne wastes from residences, commercial buildings and institutions and is distinct from industrial sewage. The terms ***SEWAGE*** and ***WASTEWATER*** are used interchangeably.

SEWAGE SYSTEM OR WORKS. All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and GCEC.

SEWER. A pipe or conduit that carries wastewater or drainage water.

SEWER USER CHARGES. A system of charges levied on individual users of the entities who contract with the GCEC treatment plant. These charges are those levied by the entity for the cost of operation and maintenance of its lines and facilities, including replacement of same.

SHALL. The action referred to is mandatory.

SIGNIFICANT INDUSTRIAL USER. Any user of the entities' wastewater disposal system who:

(a) Is subject to a Categorical Pretreatment Standard(s) under 40 C.F.R. 403.6 and 40 C.F.R. Chapter I, Subchapter N;

(b) Has a discharge flow of 25,000 gallons or more per average work day;

(c) Has a flow greater than 5% of the flow in the entities wastewater treatment system;

(d) Has in its wastewaters toxic pollutants as defined pursuant to § 307 of the Act (33 U.S.C. § 1317) or state statutes and rules; or

(e) Is found by the entities, State Approval Authority or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

SIGNIFICANT VIOLATION. A violation that meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical review criteria (trc) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit, daily maximum or longer-term average, that the GCEC determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of GCEC personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the GCECs exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or other order issued hereunder for starting construction, completing construction or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; and

(h) Any other violation or group of violations which the GCEC determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG DISCHARGE. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or non-customary batch discharge and/or any discharge of water or wastewater in which the concentration of any given constituent or the quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flow rate during normal operation and/or adversely affects the GCEC.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, U.S. Bureau of the Budget, 1972.

STATE. The Commonwealth of Kentucky.

STORM DRAIN or ***STORM SEWER.*** A drain or sewer for conveying water, groundwater, surface water or unpolluted water from any source.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUPERINTENDENT. The Superintendent of wastewater facilities, wastewater treatment works and/or of water pollution control for the entities or his or her authorized deputy, agent or representative.

SURCHARGE. A charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains biochemical oxygen demand (BOD), chemical oxygen demand (COD), suspended solids (SS) or ammonia nitrogen (N-NH) in concentrations which exceed limits specified herein for the pollutants or any other pollutant not

common to domestic wastewater.

SUSPENDED SOLIDS (TSS). Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as "nonfilterable residue".

TOXIC POLLUTANT. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of § 307(a) of the Act (33 U.S.C. § 1319(a)) or other Acts.

UNPOLLUTED WATER. Water of quality equal to or better than the treatment works effluent criteria in effects or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

USER. Any person who contributes, causes or permits the contribution of wastewater into the GCEC. See ***PERSON***.

WASTEWATER. The spent water of a community, sanitary or domestic wastes shall mean the liquid and water-carried wastes from residences, commercial buildings and institutions as distinct from industrial wastes.

WASTEWATER CONTRIBUTION PERMIT. As set forth in the administration section of this subchapter.

WASTEWATER FACILITIES. The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS. An arrangement of devices and structures for treating domestic wastewaters and sludges. Sometimes used synonymously as ***WASTE TREATMENT PLANT*** or ***SEWAGE TREATMENT PLANT***.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.

WATERS OF THE COMMONWEALTH. All streams, lakes, ponds, marshes, water courses, water ways, wells, springs, reservoirs, aquifers, irrigation system, drainage system and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the Commonwealth or any portion thereof.

(C) *Abbreviations.* The following abbreviations shall have the designated meanings:

(1) ADMI: American Dye Manufacturers Institute;

(2) BOD: Biochemical Oxygen Demand;

(3) C.F.R.: Code of Federal Regulations;

(4) CWA: Clean Water Act of 1979;

(5) EPA: Environmental Protection Agency;

(6) GCEC: Publicly Owned Treatment Works (County Environmental Commission);

(7) KPDES: Kentucky Pollutant Discharge Elimination System;

(8) l: liter;

(9) mg: milligram;

(10) mg/l: milligram per liter;

(11) NPDES: National Pollutant Discharge Elimination System;

(12) SIC: Standard Industrial Classification;

(13) SWDA: Solid Waste Disposal Act (42 U.S.C. §§ 6901 *et seq.*);

(14) TSS: Total Suspended Solids; and

(15) U.S.C.: United States Code.

(Ord. 7, passed 8-15-1996)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.41 USE OF PUBLIC SEWERS.

§ 51.41 USE OF PUBLIC SEWERS.

(A) *Mandatory sewer connection.*

(1) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the entities and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the entities, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official

notice to do so, provided that the public sewer is within 100 feet of the property line.

(2) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater where public sanitary sewer service is available, as defined in division (A)(1) above, except as provided for in § 51.42. The existence within the entities, wherever the services of the entities sanitary sewage collection, treatment and disposal facilities are available, or may hereafter be made available, of septic tanks, seepage laterals, privies, earth pits, cesspools, sanitary waste vaults, sewage drainage fields, private sewage disposal systems or any other facilities or works for the disposition of sanitary sewage wastes other than the facilities of the entities, is hereby declared to be a menace to the public health, safety and general welfare of the citizens and inhabitants of the entities and is hereby determined and declared to constitute a public nuisance. The existence of facilities as toilets, sinks, wash basins, shower baths, bathtubs, any commercial or industrial machinery or device producing a liquid waste product and the like, in or upon any improved property or premises in the entities where the facilities of the entities' sewage collection, treatment and disposal system are available or may hereafter be made available is similarly declared to be a menace to the public health and general welfare of the entities and their inhabitants, unless the facilities are connected to the entities sewage collection, treatment and disposal system. The GCEC may prescribe the type and manner of connection to the facilities, and shall require that each connection be supervised and inspected by an authorized and qualified agent of the entities' Sewer Department.

(3) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer system in compliance with this subchapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or salvaged and removed within 90 days after date of official notice to do so.

(B) *Unlawful discharge to storm sewers or natural outlets.*

(1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the entities or in any area under the jurisdiction of the entities or into any sewer which connects to the storm sewer system of the entities, any objectionable wastewater or industrial wastes.

(2) It shall be unlawful to discharge to any natural outlet within the entities or in any area under the jurisdiction of the entities, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter. No provision of this subchapter shall be construed to relieve the owner of a discharge to any natural outlet of the responsibility for complying with applicable Commonwealth and federal regulations governing the discharge.

(C) *Compliance with local, Commonwealth and federal laws.* The discharge of any

wastewater into the public sewer system by any person is unlawful except in compliance with the provisions of this subchapter, and any more stringent Commonwealth or federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977 and subsequent amendments, and 40 C.F.R. 403 for pretreatment standards.

(D) *Discharge of unpolluted waters into sewer.*

(1) No person(s) shall discharge or cause to be discharged through any leak, defect or connection any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The GCEC or their representatives shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks or defects to building sewers and require disconnection or repair of any pipes carrying the water to the building sewer. The waters shall not be removed through the dual use of a sanitary drain building sewer and/or building drain or sump or a sump pump to building sanitary sewer. Discharge of the waters by a manual switch-over from sanitary sewer to storm drainage will not be an acceptable method of separation. In case both storm and sanitary sewage is present, separate drainage or pumping system shall be included.

(2) Storm water, groundwater and all other unpolluted drainage may be discharged to the sewers as are used as storm sewers approved by the GCEC. Under no circumstances shall the sanitary sewer be discharged to a storm sewer.

(3) The owner(s) of any building sewers having such connections, leaks or defects shall bear all costs incidental to removal of the sources.

(E) *Substances which interfere.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the GCEC. These general prohibitions apply to all users of the GCEC whether or not the user is subject to Federal Categorical Pretreatment Standards or any other federal, Commonwealth or local pretreatment standards or requirements. A user shall not contribute the following substances to the GCEC:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the GCEC or to the operation of the GCEC. At no time shall a waste stream exhibit a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to: Gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any other substances which have a closed cup flashpoint of 140°F (60°C) or less, and any substance which the entities, GCEC, Commonwealth or EPA has notified the user is a fire hazard or a hazard to the sanitary

sewer system;

(2) Any waters or wastes having a pH lower than 5.0 or higher than 9.0 or having any other corrosive property(s) capable of causing damage or hazard to structures, equipment and personnel of the GCEC;

(3) Any slug load or pollutants, including oxygen demanding pollutants, released at a flow or concentration that will cause interference with the GCEC's operation;

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities (i.e., wood glass, ashes, sand, cinders, unshredded garbage, paper products such as cups, dishes, napkins and milk containers and the like);

(5) Any wastewater having a temperature which will inhibit biological activity in the GCEC treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the GCEC that will result in a treatment plant influent temperature which exceeds 104°F (40°C);

(6) Any pollutant(s) which, either alone or by interaction with other substances, produce toxic gases, vapors and/or perfumes within the GCEC in a quantity that may cause acute worker health and safety problems;

(7) Any substances which may cause the GCEC's effluent or any other product of the GCEC such as residues, sludges or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the GCEC is pursuing a reuse and reclamation program. In no case shall a substance discharged to the GCEC cause the GCEC to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act (33 U.S.C. § 1345); any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or Commonwealth criteria applicable to the sludge management method being used;

(8) Any substance which causes the GCEC to violate its NPDES/KPDES permit, sludge disposal permit or the water quality standards of the receiving stream;

(9) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through at the GCEC; and

(10) Any trucked or hauled pollutants, except at discharge points designated by the GCEC.

(Ord. 7, passed 8-15-1996) Penalty, see § 51.99

§ 51.42 PRIVATE WASTEWATER DISPOSAL.

(A) *Public sewer not available.*

(1) Where a public sanitary sewer is not available under the provisions of § 51.41, the building sewer shall be connected, until the public sewer system is available, to a private wastewater disposal system complying with the provisions of applicable local and Commonwealth regulations.

(2) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the entities. When it becomes necessary, the sludge may be disposed of only as approved by the entities, by operators licensed by the entities for such purposes.

(3) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by applicable local, Commonwealth or federal regulations.

(4) Industries with current NPDES/KPDES permits may discharge at permitted discharge points provided they are in compliance with the conditions of the permit.

(B) *Requirements for installation.*

(1) The type, capacity, location and layout of a private sewage disposal system shall comply with all local or Commonwealth regulations. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the County Health Department after approval of the system by the local and Commonwealth authorities if required. The application for the permit shall be made on a form furnished by the County Health Department which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the County Health Department.

(2) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the local and Commonwealth authorities, if required. These authorities shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the proper authority when the work is ready for final inspection and before any underground portions are covered.

(Ord. 7, passed 8-15-1996)

§ 51.43 BUILDING SEWERS AND CONNECTIONS.

(A) *Permits.*

(1) There shall be two classes of building sewer permits required, for residential and for service to commercial, industrial and other non-domestic establishments. In either case, the owner or his or her agent shall make application on a special form furnished by the entities. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the entity or his or her agent. Details regarding commercial and industrial permits include but are not limited to those required by this subchapter. Permit and inspection fees shall be paid to the entities at the time the application is filed.

(2) Users shall notify the GCEC of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the GCEC a minimum of 30 days prior to the change. The GCEC may deny or condition this new introduction or change based upon the information submitted in the notification.

(B) *Prohibited connections.* No person shall make connections of roof downspouts, basement wall seepage or floor seepage, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this subchapter shall be completely and permanently disconnected within 60 days of the effective date of this subchapter. The owners of any building sewers having such connections, leaks or defects shall bear all costs incidental to removal of the sources. Pipes, sumps and pumps for sources of ground and surface water shall be separate from wastewater facilities. Removal of the sources of water without presence of separate facilities shall be evidence of drainage to the public sanitary sewer.

(C) *Design and installations.*

(1) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway. The sewer from the front building may be extended to the rear building and the

whole considered as one building sewer, but the entities do not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.

(2) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the entity, to meet all requirements of this subchapter. Permit and inspection fees for new buildings using existing building sewers shall be the same as for new building sewers. If additional sewer customers are added to the old building sewers, additional sewer tap fees shall be charged accordingly even though no new sewer tap is actually made into the entities system.

(3) Extension of customer service lines from any point on the customer's side of the tap for delivery of waste from any location other than that of the customer in whose name the tap is registered shall not be permitted.

(4) The building sewer shall be cast iron soil pipe, ASTM A-74, latest revision, PVC (polyvinyl-chloride) sewer pipe, ASTM D-3034, latest revision, unglazed clay sewer pipe, ASTM C-261, latest revision, vitrified clay sewer pipe, ASTM C-700, latest revision or ductile iron pipe, AWWA specification C-151 cement lined, and shall meet requirements of State Plumbing Code. Joints shall be as set out hereinafter. Any part of the building sewer that is located within five feet of a water service pipe shall be constructed with cast iron soil pipe or ductile iron pipe, unless the building sewer is at least one foot deeper in the ground than the water service line. In the latter case, vitrified clay pipe may be used. Cast iron soil pipe or ductile iron pipe may be required by the entities where the building sewer is exposed to damage or stoppage by tree roots. Cast iron soil pipe or ductile iron pipe shall be used in filled or unstable ground, in areas where the cover over the building sewer is less than three feet, or in areas where the sewer is subject to vehicular or other external loads.

(5) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the local and State Building and Plumbing Codes and other applicable rules and regulations of the entities.

(6) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the entities for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Fees for connection shall be as established by the entities.

(7) The owner shall ensure that all excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactorily to the entities.

(8) In all buildings in which any sanitary facility drain is too low to permit

gravity flow to the public sewer, sanitary sewage carried by the drain shall be lifted by an approved means and discharged to the same building sewer. Drain pipe and sump for collection of the sanitary drainage shall be above basement floor or in a separately watertight or drained sump or channel.

(9) The building sewer shall be connected into the public sewer at the easement or property line. Where no property located service branch is available, an authorized agent of the entities shall cut a neat hole into the main line of the public sewer and a suitable wye or tee saddle installed to receive the building sewer. The invert of the building sewer at such point of connection with a saddle shall be in the upper quadrant to the main line of the public sewer. A neat workmanlike connection, not extending past the inner surface of the public sewer, shall be made and the saddle made secure and watertight by encasement in epoxy cement specially prepared for this purpose. A wye and H bend fitting shall be installed at the property line between the public sewer and the building sewer. This fitting shall serve the purpose of a cleanout and for applying the smoke test during inspection of the line. After testing, a cast iron or ductile iron riser will be inserted in this fitting and brought flush with the ground surface. A stopper or plug, outfitted with a type joint applicable to the pipe used, shall seal this riser against the intrusions of ground or surface water.

(10) All building sanitary sewer lines will be installed so as to meet or exceed the most current revision of the State Building Code.

(11) All persons working on entities sewers with a cleaning rod must use an approved type rod in cleaning sewer connections to entities sewers.

(D) *Inspection.*

(1) The applicant for the building sewer permit shall notify the entities when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of the GCEC or its representative. The connections shall be made gastight and watertight and verified by proper testing.

(2) All building sewers shall be smoke tested through the wye branch at the public sewer connection, with the public sewer tightly plugged off, after connections at both ends are made and after all pipe is properly bedded and backfilled at least to the top of pipe and if backfill is completed, within two weeks after completion of backfill. At time of test, any openings into the building drain inside the building shall be water trapped or plugged. Any leakage of smoke from building sewer or building drain and plumbing shall be located at test and repaired to stand repetition of smoke test without leakage. When smoke testing is completed, the temporary flow line plug shall be removed and a permanent watertight plug shall be placed in branch of test wye-branch and carefully backfilled by hand and tamped to at least six inches above the top of the branch.

(Ord. 7, passed 8-15-1996) Penalty, see § 51.99

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.44 POLLUTANT DISCHARGE LIMITS.

§ 51.44 POLLUTANT DISCHARGE LIMITS.

(A) *General conditions.* The following described substances, materials, waters or waste shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance. The entity may set additional limitations or limitations more stringent than those established in the regulations below if in its opinion the more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the entity shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant and other pertinent factors.

(B) *Restricted discharges.*

(1) Wastewater containing more than 20 milligrams per liter of petroleum oil, non-biodegradable cutting oils or products of mineral oil origin;

(2) Wastewater from industrial plants, commercial business or other non-domestic connections containing floatable oils, fat or grease, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C - 65°C);

(3) Any garbage that has not been properly shredded from residential dwellings. Garbage grinders shall not be connected to sanitary sewers from schools, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interactions with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the GCEC or to exceed the limitations set forth in a Federal Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act (33 U.S.C. § 1317(a));

(5) Any radioactive wastes or isotopes of the half-life or concentration as may

exceed limits established by the GCEC in compliance with applicable Commonwealth and/or federal regulations;

(6) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes;

(7) Any wastewater with objectionable color which cannot be removed to an acceptable level within the operation of the wastewater treatment process unless otherwise specifically noted in the Industrial User Permit (IUP);

(8) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to the degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving stream of the GCEC;

(9) (a) Any water or waste which has characteristics based on a 24-hour composite sample, grab or a shorter period composite sample if more representative, which exceed the following normal maximum domestic wastewater parameter concentrations:

Parameter	***Daily Maximum Allowable Concentration Without Surcharge***
BOD	200 mg/l
NH3-N	25 mg/l
TSS	200 mg/l

(b) Discharges greater than these concentrations may be subject to penalties contained in the Enforcement Response Plan for the entities in addition to surcharge.

(10) The entities have received authority through U.S. EPA and state statutes to enforce the requirements of 40 C.F.R. Subchapter N and 40 C.F.R. 403. All users shall comply with the requirements of those regulations as well as with all articles of this subchapter;

(11) Any waste or wastewater classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without, at least, a 60-day prior notification of the discharge to the GCEC. This notification must include the name of the waste, EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The GCEC may deny or condition this discharge at any time; and

(12) The following limitations are established for characteristics of any

wastewaters to be discharged into the municipal sewer system:

Parameter	***Maximum Daily Concentration***
Arsenic total	0.76 mg/l
Cadmium total	0.02 mg/l
Chromium total	2.77 mg/l
Copper total	0.21 mg/l
Cyanide total	0.08 mg/l
Lead total	0.40 mg/l
Mercury total	0.007 mg/l
Nickel total	3.980 mg/l
Oil and grease total	100 mg/l
PCB's (optional)	0.0059 mg/l
pH	6 to 9
Phenols total (optional)	50.000 mg/l
Silver total	0.040 mg/l
TTO (optional)	_____ mg/l
Zinc total	0.860 mg/l

(C) *Dilution of wastewater discharge.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or for any other pollutant-specific limitation developed by the entities or the Commonwealth of Kentucky.

(D) *Grease, oil and sand interceptors.* Grease, oil and sand interceptors shall be provided when, in the opinion of the GCEC, they are necessary for the proper handling of liquid wastes containing floatable oils and/or greases in excessive amounts, or any flammable wastes,

sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the GCEC and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal. The entities shall require reporting of the information for their review. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms. Interceptors shall also comply with applicable regulations of the County Health Department.

(E) *Special non-industrial pretreatment requirements.* All schools, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of foods shall provide an interceptor for the collection of grease and liquid wastes containing oils and/or greases. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal. The entities and GCEC shall require reporting of the information for their review. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by current licensed waste disposal firms.

(F) *Special industrial pretreatment requirements.*

(1) Pursuant to the requirements imposed on publicly owned wastewater treatment works by the Federal Water Pollution Control Act Amendments of 1972 and later amendments, all pretreatment standards promulgated by the U.S. EPA under 40 C.F.R. Subchapter N and 40 C.F.R. 403 for new and existing industrial discharges to public sewer systems are hereby made a part of this subchapter. Any industrial waste discharge which violates these EPA Pretreatment Standards shall be in violation of this subchapter.

(2) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(3) Any person who transports septic tank content, seepage pit or cesspool contents, liquid industrial waste or other batch liquid waste and wishes to discharge the waste to the public sewer system shall first obtain permission for the discharge from the GCEC. All persons receiving the permission shall abide by all applicable provisions of this subchapter and any other special provisions that may be established by the GCEC as necessary for the proper operation and maintenance of the sewerage system. Waste haulers who have been granted permission to discharge to the public sewer system shall pay fees for the discharge in accordance with a fee schedule established by the GCEC and approved by the entities. It shall be illegal to discharge any batch liquid waste into any manhole or other part of the public sewer system, or any building sewer or other facility that discharges to the public sewer system, except at points

of discharge designated by the GCEC for such purposes. Any liquid waste hauler illegally discharging to the public sewer system shall be subject to immediate revocation of discharge privileges (if granted) and further subject to the penalties and enforcement actions prescribed in § 51.99(B). Nothing in this subchapter shall relieve waste haulers of the responsibility for compliance with the County Health Department, Commonwealth or federal regulations.

(G) *Protection from accidental and slug discharges.*

(1) (a) Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this subchapter. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Once every two years the GCEC will determine whether each significant industrial user needs to develop a plan to control slug discharges. If the GCEC decides that a slug control plan is needed, the plan shall contain the following:

1. Description of discharge practices;

2. Description of stored chemicals;

3. Procedures for notifying the GCEC; and

4. Prevention procedures for spills.

(b) In the case of all possible or actual accidental and/or slug discharges, it is the responsibility of the user to immediately telephone and notify the GCEC of the incident. The notification shall include the location of discharge, type of waste, concentration and volume and corrective actions taken.

(2) Within five days following an accidental and/or slug discharge, the user shall submit to the GCEC a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the GCEC, fish kills or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties or other liability which may be imposed by this section, the Enforcement Response Plan or other applicable law or regulation.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer the dangerous discharges to occur are advised of the emergency notification procedures.

(H) *Commonwealth requirements.* Commonwealth requirements and limitations on discharges shall apply in any case where they are more stringent than federal regulations and

limitations or those in this subchapter.

(I) *Entities right of revision.* The entities reserve the right to establish, by a majority vote of its commissioners, more stringent limitations or requirements on discharges to the GCEC at the discretion of the entity or if deemed necessary to comply with the objectives presented in this subchapter.

(J) *Federal Categorical Pretreatment Standards.* Upon the promulgation of Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter for sources in that subcategory, shall immediately supersede the limitations imposed under this subchapter. The entities and GCEC shall notify all affected users of the applicable reporting requirements under 40 C.F.R. 403.12.

(Ord. 7, passed 8-15-1996) Penalty, see § 51.99

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.45 PRETREATMENT PROGRAM ADMINISTRATION.

§ 51.45 PRETREATMENT PROGRAM ADMINISTRATION.

(A) *Wastewater discharges.* It shall be unlawful to discharge to any natural outlet within the entities, or in any area under the jurisdiction of the entities and/or to the GCEC any wastewater except as authorized by the GCEC in accordance with the provisions of this subchapter. Any agency and/or industries outside the jurisdiction of the entities that wish to contribute wastewaters to the GCEC must first sign (through an authorized representative) an inter-jurisdictional agreement whereby the agency and/or industrial user agrees to be regulated by all provisions of this subchapter, Commonwealth and federal regulations. An industrial user discharge permit may then be issued by the GCEC in accordance with division (B) below.

(B) *Industrial user discharge permits.*

(1) *General.* All significant industrial users proposing to connect to or contribute to the GCEC shall obtain an industrial user discharge permit before connecting to or contributing to the GCEC. All existing significant industrial users connected to or contributing to the GCEC shall apply for an industrial user discharge permit within 30 days of the effective date of this subchapter.

(2) *Permit application.* Users required to obtain an industrial user discharge permit shall complete and file with the entities an application in the form prescribed by the entities. Existing users shall apply for an industrial user discharge permit within 30 days of the effective date of this subchapter and proposed new users shall apply at least 90 days prior to

connecting to or contributing to the GCEC. In support of the application, the user shall submit in units and terms appropriate for evaluation the following information, in addition to any other information the GCEC may desire:

(a) Name, address and location of facility, and owner(s) if different from that given;

(b) SIC number(s) according to the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics as determined by an analytical laboratory acceptable to the entities; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act (33 U.S.C. § 1314) and contained in 40 C.F.R. 136, as amended and 40 C.F.R. 261;

(d) Time and duration of contribution;

(e) Daily average and maximum wastewater flow rates, including daily, monthly and seasonal variations if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any entities, Commonwealth or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional pretreatment is required for the user to meet applicable pretreatment standards;

(i) If additional pretreatment will be required to meet the pretreatment standards; the shortest schedule by which the user will provide additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards. The following conditions shall apply to this schedule:

1. The schedule must be acceptable to the entities and GCEC;

2. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards; and

3. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the GCEC including,

as a minimum, whether or not it complied with the increment of progress to be met on the date, and if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established.

(j) Each product produced by type, amount, process and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number of employees and hours of operation of plant and proposed or actual hours of operation of the pretreatment system;

(m) A copy of the industry's written environmental control program, comparable document or policy; and

(n) Any other information as may be deemed by the entities and GCEC to be necessary to evaluate the permit application.

(3) *Issuance of industrial user discharge permit.* The GCEC shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the GCEC may issue an industrial user discharge permit subject to the terms and conditions provided herein.

(C) *Permit modifications.* Within nine months of the promulgation of a Federal Categorical Pretreatment Standard, the industrial user discharge permit of any user subject to that standard shall be revised to require compliance with the standard within the time frame prescribed by such standard. Where a user subject to Federal Categorical Pretreatment Standards has not previously submitted an application for an industrial user discharge permit as required, the user shall apply for the permit within 90 days of the date of promulgation of the applicable Federal Categorical Pretreatment Standard. In addition, the user with an existing industrial user discharge permit shall submit to the GCEC within 90 days of the date of promulgation of an applicable Federal Categorical Pretreatment Standard the information required by this subchapter.

(D) *Permit conditions.*

(1) Industrial user discharge permits shall be expressly subject to all provisions of this subchapter and all other applicable regulations, user charges and fees established by the entities and the GCEC. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the public sewer system;

(b) Limits on the average and maximum wastewater constituents and

characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;

(d) Requirements for installation and maintenance of inspection and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling to be performed, types and standards of analysis and reporting schedules;

(f) Compliance schedule(s);

(g) Requirements for maintaining and retaining all records relating to wastewater discharge as specified by the entities and the GCEC for a minimum of three years, and afford the entities and the GCEC access thereto;

(h) Requirements for notification of the entities and the GCEC of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(i) Requirements for notification of slug discharges;

(j) Requirements for the user to reimburse the entities and the GCEC for all expenses related to monitoring, sampling and testing performed at the direction of the GCEC and deemed necessary by the entities and the GCEC to verify that the user is in compliance with the permit; and

(k) Any other conditions as deemed appropriate by and/or the entities and the GCEC to ensure compliance with this subchapter.

(2) Where an effluent from an industrial process is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the GCEC. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the Combined Waste Stream Formula and/or Flow-Weighted Average Formula given in 40 C.F.R. 403.6(e). Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the GCEC may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent concentration for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 C.F.R. 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical

industrial user must notify the GCEC 30 days in advance of any change in production levels that might effect the flow or other data used to calculate the effluent limits in the discharge permit.

(E) *Permit duration.* Industrial user discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit re-issuance a minimum of 120 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the entities and the GCEC during the term of the permit as limitations or requirements identified § 51.44 are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time frame for compliance.

(F) *Permit transfer.* Industrial user discharge permits are issued to a specific user for a specific operation. An industrial user discharge permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation without, at a minimum, a 30-day prior notification of the change to the GCEC and provision of a copy of the existing permit to the new owner. The GCEC may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this subchapter.

(G) *Reporting requirements for permittees.*

(1) Within 90 days following the date for final compliance with applicable pretreatment standards, in the case of a new user following commencement of the introduction of wastewater into the GCEC, any user subject to Federal Categorical Pretreatment Standards and requirements shall submit to the GCEC a report indicating the nature and concentration of all pollutants in the discharge from the regulated process or processes which are limited by categorical pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by the categorical standards and requirements. The report shall state whether the applicable Categorical Pretreatment Standards and requirements are being met on a consistent basis and, if not, what additional pretreatment equipment and time schedules are necessary to bring the user into compliance with the applicable categorical standard or requirement. This statement shall be signed by an authorized representative of the user.

(2) Periodic compliance reports:

(a) All significant industrial users shall submit to the GCEC during the months of June and December, unless required more frequently by a pretreatment standard, or the industrial user discharge permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards or the industrial user discharge permit. In addition, this report shall include a record of all daily flows which during the reporting period exceed the average daily flow. At the discretion of the GCEC and in consideration of the

factors as local high or low flow rates, holidays, budget cycles and the like, the GCEC may agree to alter the months during which the above reports are to be submitted.

(b) All analyses shall be performed by a laboratory acceptable to the entities and the GCEC. Analytical procedures shall be in accordance with procedures established by the U.S. EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R. 136 and amendments thereto or with any other test procedures approved by the U.S. EPA. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA.

(c) Where 40 C.F.R. 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U.S. EPA.

(d) All industrial users shall retain all pretreatment records for a minimum of three years, as required by 40 C.F.R. 403.12(o)(2).

(3) (a) A Baseline Monitoring Report (BMR) must be submitted to the GCEC by all categorical industrial users at least 90 days prior to initiation of discharge to the sanitary sewer. The BMR must contain, at a minimum, the following:

1. Production data including a process description, SIC code number, raw materials used, chemicals used and final product(s) produced;

2. Name of facility contact person;

3. Wastewater characteristics such as total plant flow, types of discharges, average and maximum flows from each process;

4. Nature and concentration of pollutants discharged to the public sewer system that are regulated by this subchapter, Commonwealth and/or federal pretreatment standards and sample type and location; and

5. Information concerning any pretreatment equipment used to treat the facility's discharge.

(b) All new sources of industrial discharge must be in compliance with all provisions of this subchapter prior to commencement of discharge.

(H) *Permit violations.* All significant industrial users must notify the GCEC within 24 hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in exceedance. Within 30 days of first becoming aware of a permit violation, the significant industrial user must resample for the parameter(s) violated and submit this sample analysis to the Superintendents, unless the GCEC

on behalf of the entities and the GCEC, conducts monitoring of this parameter within that 30-day period.

(I) *Monitoring requirements.*

(1) The entities and the GCEC shall require significant industrial users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the entities and the GCEC may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public right-of-way. The GCEC and entities shall review and approve the location, plans and specifications for the monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows. There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the entities and the GCEC's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following approval of the location plans and specifications.

(2) All sampling analyses done in accordance with approved U.S. EPA procedures by the significant industrial user during a reporting period shall be submitted to the GCEC, regardless of whether or not that analysis was required by the user's discharge permit.

(3) The significant industrial user must receive the approval of the GCEC before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(J) *Inspection and sampling.* The GCEC shall inspect the facilities of any user to ascertain whether the purpose of this subchapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the entities, the GCEC, or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, copying and examination of records or in the performance of their duties. "Reasonable times" shall include any time during which the user is discharging to the public sewer system and/or operating any manufacturing process. The entities, the GCEC, Approval Authority and U.S. EPA shall have the right to set up on the user's property the devices as are necessary to conduct sampling, inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry onto his or her premises, the user shall make the necessary arrangements with his or her security guards so that, upon presentation of suitable identification, personnel from the entities, the GCEC, Approval Authority and U.S. EPA will be

permitted to enter, without delay, for the purpose of performing their specific duties.

(K) *Pretreatment.*

(1) All significant industrial users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all applicable Federal Categorical Pretreatment Standards within the time limits as specified by the Federal Pretreatment Regulations. The entities and the GCEC may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any significant industrial user that is not meeting discharge limits established in the user's industrial user discharge permit. Any facilities required to pre-treat wastewater to a level acceptable to the entities and the GCEC shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the GCEC for review, and shall be acceptable to the GCEC before construction of the facility. The review of the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the entities and GCEC under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the entities and the GCEC prior to the user's initiation of the change.

(2) The entities are required by federal regulations to keep the public informed of all cases of significant violations. To accomplish this, the entities shall annually publish in a newspaper of local circulation a list of the users which were in significant noncompliance with any pretreatment requirements or standards. ***SIGNIFICANT NONCOMPLIANCE*** is any significant violation that meets one or more of the following conditions:

(a) Results in the exercise of emergency authority by the GCEC;

(b) Remains uncorrected 45 days after notice of noncompliance is given;

(c) Involves failure to report noncompliance accurately; and/or

(d) Wastewater violations:

1. *Chronic violations.* Sixty-six percent or more of all measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the monthly average limit for the same pollutant parameter;

2. *Technical Review Criteria (TRC) violations.* Thirty-three percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease and 1.2 for all

other pollutants except pH);

3. *Violations endangering health.* Any violation of a pretreatment effluent limit that the GCEC believe has caused alone or in combination with other discharges, interference or pass-through or has endangered the health of the GCEC personnel or the public;

4. *Discharge endangering health.* Any discharge causing imminent endangerment to human health or to the environment or resulting in the GCEC use of their emergency authority to halt or prevent such a discharge;

5. *Violations.* Violations of compliance schedule milestones, failure to comply with schedule milestones for starting or completing construction or attaining final compliance by 90 days or more after the schedule date;

6. *Required reports.* Failure to provide required reports within 30 days of the due date; and

7. *Notifications and violations.* Any violation or group of violations which the GCEC determine will adversely effect the operation or implementation of the local pretreatment program. The public notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to the pretreatment program of the entities shall be made available to officials of the U.S. EPA or Approval Authority upon request. All records shall be maintained for a minimum of three years in accordance with 40 C.F.R. 403.12(o)(2).

(L) *Confidential information.* Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests in writing and is able to demonstrate to the satisfaction of the entities that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to all governmental agencies for uses related to this subchapter, the NPDES/KPDES permit, sludge disposal system permit and/or the pretreatment program upon request of the agency. Such portions of a report shall be available for use by the Commonwealth or any Commonwealth agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information and shall be available to the public without restriction.

(Ord. 7, passed 8-15-1996) Penalty, see § 51.99

§ 51.46 FEES.

(A) This section provides for the recovery of costs from users of the GCEC for the implementation and conduct of the pretreatment program established herein. The applicable charges or fees shall be set forth in the entities and the GCEC's schedule of charges and fees.

(B) The entities and GCEC may adopt charges and fees which may include the following:

(1) Fees for reimbursement of costs of setting up and operating the entities and the GCEC's pretreatment program;

(2) Fees for monitoring, inspections and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit application;

(5) Fees for filing appeals;

(6) Fees for consistent removal by the GCEC of excessive strength conventional pollutants;

(7) Other fees as the entities and the GCEC may deem necessary to carry out the requirements contained in this subchapter; and

(8) Fees for the connection of a discharger (residential or other). These fees relate solely to the matters covered by this subchapter and are separate from all other fees chargeable by the entities and the GCEC.

(C) Charges shall be comprised of a system of excessive strength surcharges and a system of charges for debt services, operation and maintenance costs including normal replacement costs.

(Ord. 7, passed 8-15-1996)

§ 51.47 POWERS AND AUTHORITY OF INSPECTORS.

(A) *Right to enter premises.* The Superintendents and other duly promulgated employees and representatives of the entities, the GCEC and authorized representatives of applicable federal and Commonwealth regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to, inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this subchapter.

(B) *Right to obtain information regarding discharge.* Duly authorized employees and representatives of the entities and the GCEC are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(C) *Access to easement.* Duly authorized employees and representatives of the entities and the GCEC bearing proper credentials and identification shall be permitted to enter all private properties through which the entities and the GCEC holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(D) *Safety.* While performing the necessary work on private properties referred to in division (A) above, all duly authorized employees of the entities and the GCEC shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the entities and the GCEC employee. The entities and the GCEC shall secure the company against loss or damage to its property by entities and GCEC employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this subchapter.

(Ord. 7, passed 8-15-1996)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.48 ENFORCEMENT.

§ 51.48 ENFORCEMENT.

(A) *General.* The entities and the GCEC or their designee, to ensure compliance with this subchapter, and as permitted through 40 C.F.R. Subchapter N, 401 through 471 and 401 KAR 5:055, § 9 may take the following enforcement steps against users in noncompliance with this subchapter. The remedies available to the GCEC include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the Superintendents of the GCEC or his or her designee. All violations of requirements of this subchapter must be reviewed and responded to by the GCEC or its representative. In general, the GCEC shall notify the industrial user when a violation occurs. For all violations, the GCEC shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the GCEC response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the Entities' Pretreatment Program Enforcement Response Plan.

(B) *Enforcement actions.*

(1) *Informal notice.* These actions include statements made to the industrial user during sampling and/or inspection visits, telephone calls to the appropriate company official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(2) *Formal notice.* These actions include the following.

(a) *Notice of violation.* Any person found to be violating any provision of this subchapter, wastewater discharge permit or any order issued hereunder shall be served by the Superintendents of the entities and/or the GCEC with a written notice stating the nature of the violation. The offender must permanently cease all violations.

(b) *Administrative orders/fines.* Any person who, after receiving a notice of violation, shall continue to discharge in violation of this subchapter or other pretreatment standards or requirements or is determined to be a chronic or persistent violator, shall be ordered to appear before the GCEC. At the appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the GCEC, impact on human health, user's economic benefit from the

violation, past history of the user and good-faith efforts made by the user. The fine shall be a non-arbitrary but an appropriate amount. Users desiring to dispute the fines shall file with the GCEC a request for the entities to reconsider the fine within ten days of being notified of the fine. The entities shall convene a hearing on the matter within 15 days of receiving such a request from the user. The administrative order may take any of the following four forms.

1. *Consent order.* The GCEC is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. The orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

2. *Compliance order.* When the GCEC find that an industrial user has violated or continues to violate this subchapter or permit or order issued hereunder, he or she may issue an order to the industrial user responsible for the violation directing that following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

3. *Cease and desist order.* When the GCEC find that an industrial user has violated or continues to violate this subchapter or any permit or order issued hereunder, the GCEC may issue an order to cease and desist all violations to the user and direct those persons in noncompliance to:

a. Comply forthwith; and

b. Take appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

4. *Show cause hearing.* The GCEC may issue to any user who causes or contributes to violations of this subchapter, discharge permit or order issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the GCEC regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the Superintendents why more severe enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be

pursued. The entities and/or the GCEC themselves may conduct the hearing and take evidence or may designate a representative to:

a. Issue in the name of the entities and the GCEC notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

b. Take the evidence;

c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the entities and the GCEC for action thereon. At any hearing held pursuant to this subchapter, testimony taken must be under oath and recorded stenographically; and

d. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the entities and the GCEC have reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued.

(3) *Performance bonds.* The GCEC may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this subchapter or any order or previous permit issued hereunder unless the user first files with it a satisfactory bond, payable to the GCEC, in a sum not to exceed a value determined by the GCEC to be necessary to achieve consistent compliance.

(4) *Liability insurance.* The GCEC may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this subchapter or any order or previous permit issued hereunder, unless the industrial user first submits proof that he or she has obtained financial assurances sufficient to restore or repair GCEC damage cause by its discharge.

(Ord. 7, passed 8-15-1996)

TITLE V: PUBLIC WORKS / CHAPTER 51: SEWERS / SEWER USE / § 51.99 PENALTY.

§ 51.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Sewer use.*

(1) *Income from fines.* Monies generated from fines due to infiltrations such as from downspouts are to be received by the entities, and monies generated from fines due to industrial and/or domestic pollution are to be received by the GCEC.

(2) *Written notice.* Any user found to be violating any provision of §§ 51.40 through 51.48, a discharge permit or order issued hereunder shall be served by the GCEC or its representative with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in § 51.48, the notice may be of several forms. Also as contained in § 51.48, penalties of various forms may be levied against users for violations of §§ 51.40 through 51.48. The penalties shall range from publication of violators to fines up to $1,000 per day per violation.

(3) *Continued violation.* Any user who shall violate any provision of §§ 51.40 through 51.48, a discharge permit or other order issued hereunder shall be guilty of a violation of §§ 51.40 through 51.48 and shall be liable to the GCEC for a civil penalty of up to $1,000 per violation for each day on which the violation occurs. Each day in which the violation occurs shall be deemed a separate offense.

(4) *Revocation of permit.* Any user violating any of the provisions of §§ 51.40 through 51.48, discharge permit or other order issued hereunder shall be subject to termination of its authority to discharge sewage into the public sewer system. The termination shall be immediate if necessary for the protection of the GCEC. The user may also have water service terminated. Any user who violates any condition(s) of §§ 51.40 through 51.48, discharge permit, order or applicable Commonwealth or federal regulations is subject to having his or her industrial user discharge permit revoked in accordance with the procedures of §§ 51.40 through 51.48. Violations resulting in immediate permit revocation shall include, but not be limited to the following:

(a) Failure of a user to factually report the wastewater constituents and characteristics of its discharge;

(b) Failure of the user to report significant changes in operations, processes, wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection and sampling; and

(d) Violation(s) of any condition of the industrial user discharge permit.

(5) *Liability.* Any user violating any of the provisions of §§ 51.40 through 51.48, discharge permit or other orders issued hereunder shall become liable to the entities and/or GCEC for any expense, loss or damage occasioned by the entities and/or GCEC by reason

of the violation. This civil liability is as provided by Commonwealth and federal regulations.

(6) *Misrepresentation and/or falsifying of documents.* Any user who knowingly and/or negligently makes any false statements, representations or certification of any application, record, report, plan or other document filed or required pursuant to §§ 51.40 through 51.48 or industrial user discharge permit or who falsifies, tampers with or knowingly and/or negligently renders inaccurate any monitoring device or method required under §§ 51.40 through 51.48, shall be punished by a fine up to $1,000 or by imprisonment for not more than 12 months or by both.

(7) *Destruction of GCEC and legal action.* No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the GCEC. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(8) *Judicial action.* If any person(s) discharges sewage, industrial wastes or other wastes into the entities and the GCEC's wastewater disposal system contrary to the provisions of §§ 51.40 through 51.48, discharge permit, any order of the GCEC or the entities, or federal or Commonwealth pretreatment requirements, the entities and the GCEC may commence an action for appropriate legal and/or equitable relief in the appropriate court of this jurisdiction. In addition to the penalties provided herein, the entities and the GCEC may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person(s) found to have violated §§ 51.40 through 51.48 or the orders, rules, regulations and permits issued hereunder.

(9) *Termination of service.* The GCEC may suspend the wastewater treatment service and/or wastewater discharge permit of any user whenever the suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of the public, the GCEC or the environment. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the GCEC shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the GCEC, its receiving stream or endangerment to any individuals. Any industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the GCEC.

(10) *Criminal prosecution.* Any industrial user who willfully or negligently violates any provisions of §§ 51.40 through 51.48, any orders or permits issued hereunder, or any other pretreatment requirements shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000 per violation per day, or imprisonment for not more

than one year or both.

(Ord. 7, passed 8-15-1996)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER

CHAPTER 52: WATER

Section

52.01	Water meter reader
52.02	Water taps and services outside the city
52.03	Water furnished to new subdivisions
52.04	Water shortages
52.05	Additional meters for sprinkler systems and pools
52.06	Fire hydrant use
52.07	Rates
52.08	Security for payment of charges
52.09	Responsibility for repairing breaks in sewer and water lines
52.10	Water tap fees for residences within city limits

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.01 WATER METER READER.

§ 52.01 WATER METER READER.

(A) Pursuant to KRS 83A.080, the position of water meter reader is established.

(B) The water meter reader shall report to the Water Clerk and shall abide by his or her instructions for scheduling and performance of work.

(C) The duties of the water meter reader shall be as follows:

(1) Read all water meters in the city water system quarterly;

(2) Make checkback readings as directed;

(3) Remove and replace faulty meters;

(4) Make turn-ons and turn-offs of water customers' water supply;

(5) Coordinate the repairs and purchase of water meters with the Distribution Supervisor;

(6) Assist water customers in locating water leaks on the customer side of the meter; and

(7) Such other duties as may be assigned by the Mayor or City Administrator to include unloading lime, snow removal and other emergency work.

(D) The water meter reader shall furnish his or her own transportation as required for performing his or her duties.

(Ord. 11-1981, passed 11-9-1981)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.02 WATER TAPS AND SERVICES OUTSIDE THE CITY.

§ 52.02 WATER TAPS AND SERVICES OUTSIDE THE CITY.

Any and all taps and services for water to be furnished by the city shall be made only upon application therefor and deposit, in cash with the City Clerk/Treasurer, of an amount to cover the estimated cost thereof, and after the actual cost thereof has been ascertained, and if it shall be less than the deposit, the difference shall be returned to the applicant; if more, the applicant shall be billed for the excess.

(Ord. 8-1965, passed 7-12-1965)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.03 WATER FURNISHED TO NEW SUBDIVISIONS.

§ 52.03 WATER FURNISHED TO NEW SUBDIVISIONS.

(A) Whenever any person, firm or corporation shall make application to the city that it shall furnish water service to any lot, subdivision or other real estate in the city or wherever the city is authorized to furnish water, such person, firm or corporation shall pay the cost of materials and labor in installing same. The application shall be submitted to the City Council which shall in every case designate the size and material to be used in building the line and the grade or depth and location of the line, together with location of fire plugs, if necessary. Upon payment of cost the line shall be laid by the applicant or by the City Water Department at the

expense of the applicant or owner.

(B) Upon completion of the water line, the same shall become a part of the water system of the city and subject to usual control of the city in its water system together with right-of-way to enter to maintain and operate the water line.

(Ord. 4-1973, passed 5-14-1973)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.04 WATER SHORTAGES.

§ 52.04 WATER SHORTAGES.

(A) The Mayor of the city is authorized to designate and declare the existence of a critical water shortage and to notify or cause to be notified the water users of the city of the existence of the critical shortage by radio, television, newspaper or any other method.

(B) Water users of the city shall conserve water during the existence of a critical water shortage in accordance with the directories of the Mayor.

(C) The city shall, during emergency conditions as declared by the Mayor, be authorized to allocate to water users outside the city water in such amounts as to substantially equalize water consumption in areas outside the city with water consumption within the city in order to encourage public officials in areas outside the city to have water users within their jurisdiction to conserve water.

(D) Any person who violates the directories of the Mayor during the existence of a critical water shortage shall be deemed guilty of a misdemeanor and shall be fined as set forth in § 10.99.

(Ord. 36-1977, passed 8-15-1977) Penalty, see § 10.99

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.05 ADDITIONAL METERS FOR SPRINKLER SYSTEMS AND POOLS.

§ 52.05 ADDITIONAL METERS FOR SPRINKLER SYSTEMS AND POOLS.

Due to an increase in requests for additional water meters for sprinkler systems and pools, the following policy is hereby established.

(A) Plans and specifications shall be submitted to the city for review and approval

before the installation of additional meters.

(B) All installations shall be as directed by the city regarding the use of backflow prevention, cross-connections, chemical mix units and any other items that may cause infiltration of a questionable water source.

(C) All costs of installation including the meter shall be the responsibility of the property owner and any future maintenance except for water meter replacement shall be the responsibility of the property owner.

(D) Due to the additional cost of reading and billing, this type installation shall be subject to a minimum billing of 6,000 gallons per quarter and shall be billed for each quarter.

(E) Service may only be disconnected at the request of the customer when the ownership of the property changes or after the service has been in for one year. If service is discontinued for reasons other than ownership, the service shall not be reinstated for a period of one year.

(Ord. 9-1988, passed 8-22-1988)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.06 FIRE HYDRANT USE.

§ 52.06 FIRE HYDRANT USE.

(A) No individual, partnership, corporation, governmental body, fire district or other agency shall use any fire hydrant owned by the city without notifying the city within five business days after the use of the hydrant.

(B) There shall be a usage fee of $1,000 per use charged to the individual, partnership, corporation, governmental body, fire district or other agency using any fire hydrant owned by the city.

(C) Payment of the usage fee shall be made within 30 days after billed by the city.

(D) The usage fee money shall be escrowed by the City Treasurer and the money shall be disbursed as authorized by the City Council.

(E) The City Council authorizes a meeting with any individual, partnership, corporation, governmental body, fire district or other agency using any fire hydrant owned by the city to be held after the use of the hydrant for the purpose of determining whether or not the use fee may be waived.

(F) The use of a fire hydrant without the permission of the city or its agent or without

providing notice of the usage within five business days after its use shall be considered a criminal offense of theft by unlawful taking.

(Ord. 1-1989, passed 1-23-1989) Penalty, see § 10.99

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.07 RATES.

§ 52.07 RATES.

(A) In order to provide a safe and adequate supply of potable water to the customers and users of water distributed by the city water works, and to keep the Water Sinking Fund and Maintenance Fund solvent, it is necessary and the City Council does hereby establish a schedule of reasonable charges from the water by volume use.

(B) The following charges shall be made to customers for water consumed on and after July 1, 2014:

Gallons of Water	***City of Russell***	***City of Bellefonte Residents and Other Users Except City of Flatwoods, City of Raceland and Bulk Users***
Up to 1,000	$18.00 minimum	$18.50 Minimum
Next 1,000	$2.75 per 1,000	$3.055 per 1,000
Next 8,000	$2.60 per 1,000	$2.95 per 1,000
Next 15,000	$2.50 per 1,000	$2.85 per 1,000
Next 75,000	$2.20 per 1,000	$2.20 per 1,000
Over 100,000	$1.80 per 1,000	$2.00 per 1,000

Minimum monthly bill:

(1) For the City of Russell shall be $18.00 minimum;

(2) For the City of Bellefonte residents and other users except the City of Flatwoods, City of Raceland and bulk users, shall be $18.50 minimum; and

(3) Monthly water rates for the City of Raceland, City of Flatwoods and bulk

users shall be:

$2.00 per thousand with contract
$2.25 per thousand exceeds contract amount
$2.50 per thousand no contract

(C) All monies derived from the sale of water under this section shall be paid into the Water Fund by the city for the purposes defined and established by existing ordinances.

(D) The city shall bill its water customers monthly on the first day of the month and the customer shall pay the bill and the same shall be due and owing on or before the twenty-first day of the month. The bill shall be delinquent on the twenty-second day of the month billed and a penalty of 10% shall be added for failure pay when due. Failure to pay the bill after negligently or willfully allowing same to become delinquent shall authorize the city to terminate water service on the fifth day of the following month. Where the water supply to the customer has been discontinued for nonpayment of delinquent bills, a charge of $75 will be made for reconnection of water service, but the reconnection will not be made until after all delinquent bills (including, but not limited to the separate sprinkler bills) and other charges, if any, owed by the customer to the city have been paid. Water meters are the property of the city and are not to be tampered with in any manner by the customer or his or her representative. Violators will be prosecuted to the fullest extent of the law.

(Ord. 2-1985, passed 1-10-1985; Ord. 2-1989, passed 3-27-1989; Ord. 5-1989, passed 4-24-1989; Ord. 13-1992, passed 9-14-1992; Ord. 18-1992, passed 9-22-1992; Ord. 5,2008, passed 7-28-2008; Ord. 2, 2011, passed 5-31-2011; Ord. 1, 2014, passed 3-24-2014)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.08 SECURITY FOR PAYMENT OF CHARGES.

§ 52.08 SECURITY FOR PAYMENT OF CHARGES.

(A) Commercial and individual purchasers of water from the water works, owned and operated by the city, who are tenants and not the owners of record of the premises for which water is purchased, shall secure the payment of the charges for water so purchased by the written guarantee that the water charges will be paid, signed by the owner of the premises or by making a cash deposit of $150 ($125 deposit/$25 service fee) with the Clerk of the Water Works before the service shall be furnished. Further, if the owner requests the water service to be turned on for

a short period of time, the owner shall have an open account which must be paid in full prior to the new renter being provided water service.

(B) In the event that a present water service shall be cut off for delinquency, water service will not be renewed until the provisions of division (A) above are complied with.

(Ord. 11-1978, passed 9-18-1978; Ord. 2, 2011, passed 5-31-2011; Ord. 1, 2014, passed 3-24-2014)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.09 RESPONSIBILITY FOR REPAIRING BREAKS IN SEWER AND WATER LINES.

§ 52.09 RESPONSIBILITY FOR REPAIRING BREAKS IN SEWER AND WATER LINES.

For the city's policies on the responsibility for repairing breaks in sewer and water lines, see the provisions set forth in § 51.03.

(Ord. 5,2004, passed 4-19-2004)

TITLE V: PUBLIC WORKS / CHAPTER 52: WATER / § 52.10 WATER TAP FEES FOR RESIDENCES WITHIN CITY LIMITS.

§ 52.10 WATER TAP FEES FOR RESIDENCES WITHIN CITY LIMITS.

(A) This section is passed for the purpose of setting the rates charged by the city for water tap fees.

(B) Rates for water tap fees shall be as follows:

(1) For individual residences and businesses wherein the residence's water line taps into a three-fourths inch water line, it shall be $500; and

(2) Individual residences and businesses wherein the residence's water line taps into a one-inch water line, it shall be $575.

(C) The property owner shall also be responsible for any additional expenses incurred as a result of a road bore or other miscellaneous expense, in excess of the usual costs of such a project, that is incurred by the city, including, but not limited to, material, rental equipment, special taps and overtime.

(D) The individual residences and/or businesses that are within a geographical area in which a grant has been received to construct a related project, shall be responsible for the tap fee established by the requirements and conditions of the grant. This section shall not supersede or abrogate any obligation imposed upon affected property owners within the city limits.

(Ord. 5,2000, passed 7-11-2000)

TITLE VII: TRAFFIC CODE

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC RULES

71. PARKING REGULATIONS

72. TRAFFIC SCHEDULES

73. PARKING SCHEDULES

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES

CHAPTER 70: TRAFFIC RULES

Section

70.01	Speed limits
70.02	Driving across street curb prohibited
70.03	Truck routes
70.04	Certain vehicles prohibited on side streets and alleys
70.05	Vehicle weight limits
70.99	Penalty

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.01 SPEED LIMITS.

§ 70.01 SPEED LIMITS.

(A) Pursuant to KRS 189.390(2), no operator of a vehicle shall drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(B) The Commonwealth traffic laws regulating the speed of vehicles shall be applicable upon all streets and alleys within the city, except as declared and determined by the City Council, as permitted in division (E) below and as set forth in Chapter 72, Schedule II, that certain speed regulations shall be applicable on specified streets and alleys, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in any ordinance when the signs are in place giving notice thereof.

(C) On numbered U.S. and Kentucky highways passing through the city, except in school zones, the speed limit for operation of motor vehicles is fixed, in accordance with Commonwealth law, at a maximum of 55 mph and the lesser speed as may be from time to time posted by or under supervision of the Kentucky Highway Department or the Kentucky Department of Safety, and no person shall operate a motor vehicle at the place in excess of such speed.

(D) In all school zones and on all streets in the city other than those mentioned in division (C) above, the speed limit for the operation of motor vehicles is fixed at 20 mph or the lesser speed as may be fixed from time to time as provided in division (E) below, and no person shall operate a motor vehicle at the place in excess of such speed.

(E) The Police Department or the Street Department, at the direction of the City Council entered on record on the minutes of a regular meeting of the City Council, may from time to time mark or post upon the streets of the city safety zones, no parking areas, cross walks, appropriate speed limits, slow signs, stop signs and other zones, marks and signs for the regulation of traffic and safety of operators of motor vehicles and pedestrians, all persons operating motor vehicles and all pedestrians shall respect and observe the zones, areas, walks and signs.

(F) It is hereby determined that the speed permitted by Commonwealth law in alleys is greater than is reasonable or safe under the conditions found to exist in alleys within the city and is hereby declared that the maximum speed limit on every alley within the city shall be 5 mph, which speed shall be effective upon every alley on an individual basis when signs are erected upon every alley giving notice of the maximum speed limit so declared thereat.

(Ord. 6-1957, passed 11-4-1957; Ord. 20-1979, passed 10-15-1979; Ord. 6-1984, passed 6-18-1984; Ord. 3,2003, passed 6-27-2003) Penalty, see § 70.99

Statutory reference:

Provisions requiring City Council to enact all codes, rules and regulations for the public health, safety and welfare, see KRS 83A.130(12) and 83A.060(6)

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.02 DRIVING ACROSS STREET CURB PROHIBITED.

§ 70.02 DRIVING ACROSS STREET CURB PROHIBITED.

No person shall drive a motor vehicle across a street curb except at a place regularly provided therefor and except that in emergencies a motor vehicle may be driven across a street curb after having obtained specific permission of the Police Chief and after making reasonable provision to prevent injury to the curb in driving across same.

(Ord. 16-1959, passed 5-4-1959) Penalty, see § 70.99

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.03 TRUCK ROUTES.

§ 70.03 TRUCK ROUTES.

All trucks in excess of one-half ton in capacity shall follow the truck routes through the city except when it is necessary to use other streets to make deliveries or collections.

(Ord. 5-1964, passed 5-11-1964) Penalty, see § 70.99

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.04 CERTAIN VEHICLES PROHIBITED ON SIDE STREETS AND ALLEYS.

§ 70.04 CERTAIN VEHICLES PROHIBITED ON SIDE STREETS AND ALLEYS.

It shall be unlawful and prohibited for any person, firm or corporation to operate or drive into, over or on any side street or alley of the city any vehicle or truck, or any vehicle or truck with any attachment thereto, including trailer, the length of which is more than 45 feet from bumper or front part thereof to tail or extreme rear thereof.

(Ord. 9-1965, passed 12-20-1965) Penalty, see § 70.99

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.05 VEHICLE WEIGHT LIMITS.

§ 70.05 VEHICLE WEIGHT LIMITS.

(A) No person shall operate on the highways, streets and roadways lying within the boundaries of the municipality any motor vehicle, truck, trailers semi-trailer or the like, which weighs more than 18,000 pounds.

(B) This section shall not apply to fire apparatus belonging to the municipality and used by the Fire Department in the discharge of its functions, nor to motor vehicles operating on highways or streets wherein the laws of the Commonwealth authorize weight limits greater than permitted herein.

(C) The City Engineer, Mayor or his or her duly authorized agent, upon an application in writing by the owner or person having charge thereof, may grant permission for the movement of vehicles, objects or structures limited by division (A) above, over the highways within the city. The permission shall be in writing and the City Engineer, Mayor or his or her duly authorized agent may grant it subject to the conditions and restrictions as in his or her judgment are necessary for the preservation and protection of the highways.

(Ord. 5-1975, passed 7-15-1975) Penalty, see § 70.99

Statutory reference:

Statutory maximum weight limits in a municipality, see KRS 189.221(4)

TITLE VII: TRAFFIC CODE / CHAPTER 70: TRAFFIC RULES / § 70.99 PENALTY.

§ 70.99 PENALTY.

(A) *General.* Whoever violates any provision of this Traffic Code for which no specific penalty is otherwise provided shall be deemed guilty of a misdemeanor and fined not more than $500 for each offense or violation.

(B) *Speed limits.* Any person violating any section or provision of § 70.01 shall be guilty of a violation and shall be fined not less than $1 and not to exceed $100 for each offense.

(Ord. 3,2003, passed 6-27-2003)

Statutory reference:

Authority to establish speed limits, see KRS 189.390(4)

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS

CHAPTER 71: PARKING REGULATIONS

Section

71.01	Commonwealth law adopted
71.02	Parking in certain locations prohibited
71.03	Parking between street curb and sidewalk or on a sidewalk
71.04	Parking in alleys prohibited
71.05	Parking of certain vehicles on city streets prohibited
71.06	Reserved spaces for use of handicapped persons
71.07	Parking for certain length of time prohibited
71.08	Working on automobiles on city streets prohibited
71.09	Registration plates or tags required
71.10	Towing of illegally parked vehicles
71.99	Penalty

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.01 COMMONWEALTH LAW ADOPTED.

§ 71.01 COMMONWEALTH LAW ADOPTED.

The city hereby adopts the "Local Government Parking Citation Enforcement Act" and the Act is contained in KRS 82.600 through 82.640, and the statutes are made a part of this section by reference as fully to all intents and purposes as if copied at length herein.

(Ord. 9-1986, passed 10-28-1986)

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.02 PARKING IN CERTAIN LOCATIONS PROHIBITED.

§ 71.02 PARKING IN CERTAIN LOCATIONS PROHIBITED.

(A) No person shall stop a vehicle leaving it standing, cause it to stop or to be left standing on the main traveled portion of the highway within any street in the city excepting those instances specifically enumerated in KRS 189.450(1), which are hereby specifically incorporated.

(B) No person shall stop a vehicle leaving it standing, cause it to stop or to be left standing next to a curb marked yellow within the city or where parking is otherwise specifically prohibited by a sign.

(C) No person shall stop a vehicle leaving it standing, cause it to stop or to be left standing where the motor vehicle is situated such that in pulling away from the position it will be moving immediately into the wrong lane of traffic or stated otherwise, this motor vehicle being parked in the wrong direction.

(D) No person shall stop a vehicle, leaving it standing, cause it to stop or to be left standing in any area designated fire zone, on a sidewalk or in a manner which impedes and obstructs vehicular traffic through any alleyway in the city.

(Ord. 24-1976, passed 10-4-1976) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.03 PARKING BETWEEN STREET CURB AND SIDEWALK OR ON A SIDEWALK.

§ 71.03 PARKING BETWEEN STREET CURB AND SIDEWALK OR ON A SIDEWALK.

No person shall park a motor vehicle in the city between the street curb and the sidewalk, and no person shall park a motor vehicle wholly or in part on the sidewalk in the city.

(Ord. 16-1959, passed 5-4-1959) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.04 PARKING IN ALLEYS PROHIBITED.

§ 71.04 PARKING IN ALLEYS PROHIBITED.

No parking of a motor vehicle, or other vehicles, shall be permitted in any alley of the city, except as provided in Chapter 73, Schedule I; provided, however, that temporary parking may be permitted under police supervision for the sole purpose of loading and unloading the motor vehicle, or other vehicles only.

(Ord. 6-1953, passed 12-7-1953) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.05 PARKING OF CERTAIN VEHICLES ON CITY STREETS PROHIBITED.

§ 71.05 PARKING OF CERTAIN VEHICLES ON CITY STREETS PROHIBITED.

No person, firm or corporation shall park, or cause to be parked, any truck, delivery vehicle or trailer in excess of three-quarter tons on the public streets or ways of the city at any time, except for the purpose of making or receiving delivery from the adjacent property, and only during the time the delivery and receiving of the delivery actually occurs.

(Ord. 8-1956, passed 12-3-1956) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.06 RESERVED SPACES FOR USE OF HANDICAPPED PERSONS.

§ 71.06 RESERVED SPACES FOR USE OF HANDICAPPED PERSONS.

(A) The City Administrator is authorized and directed to select and properly identify an adequate number of reserved parking spaces for use by handicapped persons within the city, and to cause signs to be placed as notice that the area is reserved for parking by the handicapped.

(B) When the signs provided herein are authorized and placed, it shall be unlawful for any vehicle, other than a vehicle which is officially identified by license plate, other official identification or distinguishing insignia, as a vehicle driven by a handicapped person, to stop, stand or park within a reserved parking space.

(C) For the purpose of this section, a ***HANDICAPPED*** person means any person who has a permanent disability rendering it impossible, difficult or burdensome for the person to walk and whose vehicle bears officially issued identification as a vehicle driven by a handicapped person.

(D) Reserved spaces for use by handicapped persons shall be designated in close proximity to public facilities and other locations determined by the City Administrator to be

appropriate.

(E) The Police Chief is hereby authorized and directed to take appropriate steps to enforce the provisions of this section.

(Ord. 13-1982, passed 12-6-1982)

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.07 PARKING FOR CERTAIN LENGTH OF TIME PROHIBITED.

§ 71.07 PARKING FOR CERTAIN LENGTH OF TIME PROHIBITED.

No vehicle shall sit on city streets without being moved for longer than 72 continuous hours.

(Ord. 8-1978, passed 6-19-1978) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.08 WORKING ON AUTOMOBILES ON CITY STREETS PROHIBITED.

§ 71.08 WORKING ON AUTOMOBILES ON CITY STREETS PROHIBITED.

Persons shall not be allowed to work on automobiles on city streets except for emergency situations such as the changing of flat tires or temporary breakdowns which occur while traveling through the city streets.

(Ord. 8-1978, passed 6-19-1978) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.09 REGISTRATION PLATES OR TAGS REQUIRED.

§ 71.09 REGISTRATION PLATES OR TAGS REQUIRED.

It shall be unlawful to park any motor vehicle on any street or public way of the city at any time when the vehicle does not carry or display proper, lawful and current registration plates or tags showing registration and license number.

(Ord. 6-1953, passed 12-7-1953) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.10 TOWING OF ILLEGALLY PARKED VEHICLES.

§ 71.10 TOWING OF ILLEGALLY PARKED VEHICLES.

(A) In order to expedite traffic control and fire safety, any vehicle unlawfully or illegally parked within the city, as defined and prohibited by existing ordinances and such other ordinances as may be passed from time to time, may be removed by the city, its agents or contractors, at the cost of the owner or operator thereof.

(B) Nothing in this section shall prohibit or interfere with the collection of the fines as are imposed by ordinances regulating parking within the city.

(C) Except in emergency cases, the order for removing the vehicle shall be first approved by the Mayor or two members of the Street Committee of the City Council.

(D) All monies derived from the enforcement of this section shall be paid into the general fund of the city for the purpose of defraying the cost of general government.

(Ord. 28-1960, passed 1-11-1960)

Statutory reference:

Quorum of the City Council, see KRS 83A.060(6)

Restricting Council actions to legislative functions, see KRS 83A.130(11)

TITLE VII: TRAFFIC CODE / CHAPTER 71: PARKING REGULATIONS / § 71.99 PENALTY.

§ 71.99 PENALTY.

(A) *Parking ordinances/violations.* The city has previously enacted parking ordinances and imposed penalties for the violation of the ordinances. By this section the city elects to enforce parking ordinances as civil violations pursuant to the procedures set forth in KRS 82.600 through 82.640.

(B) *Schedule of penalties.* The city hereby adopts the following schedule of penalties in the form of cash fines for the following parking violations:

Violations	***Fines***

Violations	***Fines***
Blocking alleyway or driveway	$5
Blocking fire hydrant	$25
Fire lane	$25
Handicapped	$25
No parking area	$5
On sidewalk	$5
Parking between sidewalk and street	$10
Parking on traveled portion of highway	$15
Violation of any other parking ordinance	$10
Violation of 168-hour parking ordinance	$10
Violation of ordinance concerning parking on south side of Highway 23	$10
Violation of two-hour parking ordinance - not to be enforced on Sundays or legal holidays	$10

(C) *Maximum amounts for towing and storage.* The maximum expense for a towing bill shall not exceed the amount of $35, and the maximum expense for storage charge per day shall not exceed the amount of $5.

(D) *Reserved spaces for use of handicapped persons.* Any person who does not qualify as a ***HANDICAPPED*** person under the definition applied by this section who abuses the parking privilege granted by this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty which the person may otherwise incur or have imposed by law, shall be fined not less than $25 nor more than $100.

(Ord. 13-1982, passed 12-6-1982; Ord. 9-1986, passed 10-28-1986; Ord. 4-1987, passed 5-18-1987)

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. One-way streets and alleys
II. Speed limits
III. Loading zones

TITLE VII: TRAFFIC CODE / CHAPTER 72: TRAFFIC SCHEDULES / SCHEDULE I. ONE-WAY STREETS AND ALLEYS.

SCHEDULE I. ONE-WAY STREETS AND ALLEYS.

Traffic shall proceed only in the direction indicated in the following locations.

Street/Alley	***Location***	***Direction***	***Ord. No.***	***Date***
Boggess Alley	From Clinton Street to South Street	East	5-1956	9-4-1956
City parking lot, Bellefonte Street	From Bellefonte Street to Cedar Alley	North	9-1989	6-12-1989
Division Street	From Ferry Street to Grove Street	-	2-1962	3-12-1962
Etna Street	From its intersection with Willow Alley at the Ironton Russell Bridge junction to its junction with Poplar Alley	East	5-1964	8-11-1964
Etna Street	From Main Street to Amanda Street	East	20-1959	9-8-1959
Main Street	From U.S. 23 to Railroad Street	East	8-1978	6-19-1978
Poplar Alley	From its junction with Etna Street to its junction with Bellefonte Street	South	8-1964	8-11-1964
Railroad Street	-	North	8-1978	6-19-1978

Street/Alley	*Location*	*Direction*	*Ord. No.*	*Date*
Willow Alley	From Riverside Drive to Etna Street	-	10-1988	8-22-1988

Penalty, see § 70.99

TITLE VII: TRAFFIC CODE / CHAPTER 72: TRAFFIC SCHEDULES / SCHEDULE II. SPEED LIMITS.

SCHEDULE II. SPEED LIMITS.

(A) *Schedule.* It shall be unlawful to operate a vehicle at a speed greater than that indicated in the following locations.

Street	*Location*	*Speed Limit*	*Ord. No.*	*Date*
Amherst Drive	-	20 mph	15-1990	11-26-1990
Berkshire Subdivision	-	20 mph	3	8-1-2005
Boyd Street	From Main Street to Houston Street (school zone)	8 mph	21-1959	9-8-1959
Country Club Drive	That portion maintained by the city	20 mph	15-1990	11-26-1990
Ferry Street	From the intersection of Ferry Street and Belfront Street in a northerly direction to the Ohio River	20 mph	4-1992	5-26-1992
Greenup Mall Shopping Center	-	10 mph	6-1984	6-18-1984

(B) *Berkshire Subdivision.*

(1) The Street Department of the city shall post appropriate signs designating this speed limit on the affected streets of the Berkshire Subdivision.

(2) Any person violating the posted speed limit shall be guilty of a violation and shall be fined in accordance with Kentucky Commonwealth law regarding violation of speed limits for each offense.

(Ord. 3, passed 8-1-2005) Penalty, see § 70.99

TITLE VII: TRAFFIC CODE / CHAPTER 72: TRAFFIC SCHEDULES / SCHEDULE III. LOADING ZONES.

SCHEDULE III. LOADING ZONES.

Loading zones shall be as set out in this schedule:

Location	***Ord. No.***	***Date Passed***
312 Ferry Street	19-1990	1-14-1991
314 Ferry Street	19-1990	1-14-1991

TITLE VII: TRAFFIC CODE / CHAPTER 73: PARKING SCHEDULES

CHAPTER 73: PARKING SCHEDULES

Schedule

I. Parking prohibited
II. Parking time limited

TITLE VII: TRAFFIC CODE / CHAPTER 73: PARKING SCHEDULES / SCHEDULE I. PARKING PROHIBITED.

SCHEDULE I. PARKING PROHIBITED.

Parking is prohibited in the following locations.

Street	***Location***	***Side***	***Ord. No.***	***Date***
Amanda Street	Between Bellefonte Street and Front Street	Left-hand side looking toward the Ohio River	8-1946	7-1-1946
Bellefonte Street	Between Willow Alley and Poplar Alley	Northeast side	2-1993	5-10-1993
Boyd Street	Between Ferry Street and Main Street	Left-hand side, looking east	8-1946	7-1-1946
Boyd Street	Between Houston Street and Hazel Alley	East	8-1978	6-19-1978
Clinton Street	Between Bellefonte Street and Front Street	Right-hand side looking toward the Ohio River	8-1946	7-1-1946
Cundiff Street	Between Ferry Street and South Street	Left-hand side looking east	8-1946	7-1-1946
Division Street	From Ferry Street to Grove Street	Both	2-1962	3-12-1962
Etna Street	Between Ferry Street and South Street	Left-hand side, looking from Ferry Street to South Street	8-1946	7-1-1946
Etna Street	From Ferry Street to Willow Alley	East	8-1978	6-19-1978
Ferry Street	Between Bellefonte Street and Front Street	Left-hand side looking toward the Ohio River	8-1946	7-1-1946
Houston Street	From High Alley to Bellefonte	Both, except the	8-1978	6-19-1978

Street	*Location*	*Side*	*Ord. No.*	*Date*
Houston Street	From High Alley to Bellefonte Street	Both, except the loading zone for the Modern Dairy	6-1978	6-19-1978
Kenwood Boulevard	-	West and areas opposite driveways painted with a yellow line	2-1963	5-13-1963
Poplar Alley	Between Bellefonte and Etna Streets	West (parallel parking permitted on the east side)	6-1953	12-7-1953
South Street	On the dead end from Etna Street to Bellefonte Street	-	5-1956	9-4-1956
U.S. 23	Beginning at a point 100 feet north of Russell Heights Road to a point 75 feet south of Russell Heights Road	South	15-1970	10-27-1970
Willow Alley	Between Bellefonte and Etna Streets	West (parallel parking permitted on the east side)	6-1953	12-7-1953

(Ord. 14,1997, passed 10-13-1997) Penalty, see § 71.99

TITLE VII: TRAFFIC CODE / CHAPTER 73: PARKING SCHEDULES / SCHEDULE II. PARKING TIME LIMITED.

SCHEDULE II. PARKING TIME LIMITED.

(A) Parking shall be limited to two hours in the following locations. A person must

move his or her vehicle at least 300 feet after the vehicle has been parked two hours to keep from being in violation of the two-hour parking limitation.

Street	***Location***	***Ord. No.***	***Date***
Bellefonte Street	From Ferry Street to the traffic signal at Willow Alley	8-1978	6-19-1978
Ferry Street	From the railroad underpass to Cedar Alley	8-1978	6-19-1978

(B) Parking shall be limited to 15 minutes in the following locations.

Street or Location	***Ord. No.***	***Date***
One parking space immediately in front of the City Building to be used by persons having business in the City Building	8-1978	6- -1978

Penalty, see § 71.99

TITLE IX: GENERAL REGULATIONS

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. FIRE PREVENTION

92. NUISANCES

93. STREETS AND SIDEWALKS

94. TREES

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Keeping poultry or livestock
90.02 Slaughter houses

Dogs

90.10 Definitions
90.11 License required
90.12 Restraint; sanitation
90.13 Impoundment and violation notice
90.14 Dog catcher

Cats

90.20 Definitions
90.21 License required
90.22 Restraint
90.23 Sanitation
90.24 Impoundment and violation notice
90.25 Miscellaneous

90.99 Penalty

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / GENERAL PROVISIONS / § 90.01 KEEPING POULTRY OR LIVESTOCK.

§ 90.01 KEEPING POULTRY OR LIVESTOCK.

(A) No person, firm or corporation shall keep, harbor, raise or maintain poultry, either wild or domesticated, within the city limits.

(B) This section shall not apply to property which, in the aggregate, exceeds ten acres and whose use is devoted to agricultural pursuits.

(Ord. 9-1973, passed 12-10-1973) Penalty, see § 90.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / GENERAL PROVISIONS / § 90.02 SLAUGHTER HOUSES.

§ 90.02 SLAUGHTER HOUSES.

It shall be unlawful for any person, firm or corporation to maintain or establish a slaughter house, or to slaughter animals, within the corporate limits of the city.

(Ord. 9-1960, passed 3-14-1960) Penalty, see § 90.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS

DOGS

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS / § 90.10 DEFINITIONS.

§ 90.10 DEFINITIONS.

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

OWNER. Any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

PUBLIC NUISANCE. Any animal or animals which:

(1) Molests passersby or passing vehicles;

(2) Attacks other animals;

(3) Trespasses on school grounds;

(4) Is repeatedly at large;

(5) Damages private or public property;

(6) Barks, whines or howls in an excessive, continuous or untimely fashion; and/or

(7) Defecates on public or private property.

RESTRAINT. Any animal secured by a leash or lead, or within the real property limits of its owner.

(Ord. 41-1977, passed 11-21-1977; Ord. 2,1999, passed 5-14-1999)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS / § 90.11 LICENSE REQUIRED.

§ 90.11 LICENSE REQUIRED.

(A) Any person owning, keeping or harboring or having custody of any dog over three months of age within the city limits must obtain a license.

(B) In order to purchase a city license, each dog owner must show a current Commonwealth tag, a rabies certificate issued by a licensed veterinarian or anti-rabies clinic and pay a fee of $6.

(C) Licenses for the keeping of dogs shall be for a period of one year.

(D) A license must be purchased within 30 days after obtaining a dog over three months of age.

(E) Dogs must wear license tags on collars at all times when off the premises of the owners.

(F) No person may use any license for any animal other than the animal for which it was issued.

(Ord. 41-1977, passed 11-21-1977; Ord. 2,1999, passed 5-14-1999; Ord. 7, passed 8-1-2005) Penalty, see § 90.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS / § 90.12

RESTRAINT; SANITATION.

§ 90.12 RESTRAINT; SANITATION.

(A) *Restraint.*

(1) All dogs shall be kept under restraint.

(2) No owner shall fail to exercise proper care and control of his or her animal to prevent it from becoming a public nuisance.

(3) Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the female dog cannot come into contact with another animal except for planned breeding.

(4) Every vicious animal, as determined by proper authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(B) *Sanitation.* No owner shall fail to properly curb or clean up after his or her dog which has defecated on private or public property to prevent it from becoming a public nuisance.

(Ord. 41-1977, passed 11-21-1977; Ord. 2,1999, passed 5-14-1999) Penalty, see § 90.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS / § 90.13 IMPOUNDMENT AND VIOLATION NOTICE.

§ 90.13 IMPOUNDMENT AND VIOLATION NOTICE.

(A) Unrestrained dogs and nuisance dogs shall be taken by the Animal Control Officer and impounded in an animal shelter and there confined in a humane manner.

(B) Impounded dogs shall be kept for not less than seven working days.

(C) If by a license tag or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall immediately, upon impoundment, notify the owners by telephone or mail.

(D) Any owner reclaiming an impounded dog shall pay a fee of $2 for each day the animal has been impounded.

(E) Any animal not reclaimed by its owner within seven working days shall become

the property of the local government authority or humane society and shall be placed for adoption in a suitable home or humanely euthanized.

(Ord. 41-1977, passed 11-21-1977; Ord. 2,1999, passed 5-14-1999)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / DOGS / § 90.14 DOG CATCHER.

§ 90.14 DOG CATCHER.

The dog catcher's duties shall be to enforce the leash requirement of § 90.12. Upon the receipt of order from a city police officer, the dog catcher, in the company of a city police officer, will capture an animal and deposit it with the County Pound.

(Ord. 8-1988, passed 8-8-1988)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS

CATS

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.20 DEFINITIONS.

§ 90.20 DEFINITIONS.

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

OFFENSE. A cat running loose on other residents' property or city property, and being captured by an Animal Control Officer.

OWNER. Any person, partnership or corporation owning, keeping or harboring one or more cats. A cat shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

PUBLIC NUISANCE. Any cat which:

(1) Attacks other animals.

(2) Trespasses on school grounds.

(3) Is repeatedly at large on non-owners property.

(4) Damages private or public property.

(5) Makes excessive noise.

(6) Defecates on public or private property of others.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.21 LICENSE REQUIRED.

§ 90.21 LICENSE REQUIRED.

(A) Any person owning, keeping or harboring or having custody of any cat over three months of age with the city limits must obtain a license.

(B) In order to purchase a city license, each cat owner must show a current state tag, a rabies certificate issued by a licensed veterinarian or anti-rabies clinic and pay a fee of $6 per cat.

(C) Licenses for the keeping of cats shall be for a period of one year from the date of purchase of said license.

(D) A license must be purchased within 30 days after obtaining a cat over three months of age.

(E) Cats should have license tags on collars, or have a microchip pet identification system implanted at all time when off the premises of owners.

(F) Persons who fail to obtain a license as required within the time period specified in this section will be subject to a fine of $50 for the first offense per cat, and a fine of $100 for each offense thereafter per cat.

(G) No person may use any license for any other cat other than the cat for which it was issued.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.22

RESTRAINT.

§ 90.22 RESTRAINT.

(A) No owner shall fail to exercise proper care and control of his or her cat to prevent it from becoming a public nuisance.

(B) Every female cat in heat shall be confined in a building or secure enclosure in such a manner that such female cat cannot come into contact with another cat except for planned breeding.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.23 SANITATION.

§ 90.23 SANITATION.

(A) No owner shall fail to properly curb or clean up after their cat which has defecated on private or public property to prevent it from becoming a public nuisance.

(B) Persons who fail to properly curb or clean up after their cat as required in this section will be subject to a fine of $50 for the first offense per cat, and a fine of $100 for each offense thereafter per cat.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.24 IMPOUNDMENT AND VIOLATION NOTICE.

§ 90.24 IMPOUNDMENT AND VIOLATION NOTICE.

(A) Nuisance cats shall be taken by the animal control officer and impounded in an animal shelter and there confined in a humane manner.

(B) Impounded cats shall be kept for not less than seven working days.

(C) If by a license, chip or other means the owner of an impounded cat can be identified, the animal control officer shall immediately, upon impoundment, notify the owner by

telephone or mail.

(D) Any owner reclaiming an impounded cat shall pay a fee of $3, plus the shelter fee, for each day the cat has been impounded.

(E) Any cat not reclaimed by its owner within seven working days, shall become the property of the local government authority or humane society and shall be placed for adoption in a suitable home or humanely euthanasied.

(F) In addition to, or in lieu of, impounding an animal found at large, the animal control officer may issue to the known owner of such cat a notice of ordinance violation. Such notice shall impose upon the owner a fine of $50 for the first offense per cat, and a fine of $100 for each offense thereafter per cat.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.25 MISCELLANEOUS.

§ 90.25 MISCELLANEOUS.

(A) There shall be no commercial cat kennels within the boundary of the city.

(B) No household shall be allowed to own more than three cats per household.

(C) Persons having commercial cat kennels within the boundary of the city shall have 30 days from the enactment of this subchapter to close said kennel.

(D) Licensed veterinarian clinics are exempt from this subchapter.

(E) Any person receiving a notice of violation of this subchapter may be cited to the Greenup District Court and shall incur Court costs in addition to the fines set out herein.

(Ord. 13-2010, passed 8-23-2010; Ord. 16-2010, passed 11-29-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 90: ANIMALS / CATS / § 90.99 PENALTY.

§ 90.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific

penalty is prescribed shall be subject to § 10.99.

(B) *License required.* Persons who fail to obtain a license as required within the time period specified in § 90.11 will be subjected to a fine not more than $250.

(C) *Restraint; sanitation.* Persons who fail to properly curb or clean up after their dog as required in § 90.12(B), will be subjected to a fine not more than $250.

(D) *Impoundment and violation notice.* In addition to, or in lieu of impounding an animal found at large, the Animal Control Officer may issue to the known owner of the animal a notice of ordinance violation. The notice shall impose upon the owner a fine not exceeding $250.

(Ord. 2,1999, passed 5-14-1999)

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION

CHAPTER 91: FIRE PREVENTION

Section

91.01	Fire Prevention Code adopted; enforcement; permits and fees; appeals
91.02	Fireworks sales
91.03	Burning of leaves
91.04	Open burning
91.99	Penalty

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION / § 91.01 FIRE PREVENTION CODE ADOPTED; ENFORCEMENT; PERMITS AND FEES; APPEALS.

§ 91.01 FIRE PREVENTION CODE ADOPTED; ENFORCEMENT; PERMITS AND FEES; APPEALS.

(A) *Code adopted by reference.* The Kentucky Standards of Safety (Fire Prevention Code) as promulgated in 815 KAR 10:060 by the Commissioner of the Department of Housing, Buildings and Construction on the advice and recommendation of the State Fire Marshal, is hereby adopted in full as an ordinance of this city. Copies of the Code Book are available through the Department of Housing, Buildings and Construction, 1047 U.S. 127 South,

Frankfort, Kentucky, 40601.

(B) *Designated Enforcement Officer.* The City Fire Chief or his or her written designee shall be designated as the local enforcement agent for the standards of safety as appointed by the city.

(C) *Permits and fees.* The requirements for permits and required fees shall be set and adopted at a later time.

(D) *Appeal process.* All final decisions of the Fire Chief or his or her written designee shall be appealable to the City Council and the appeal shall be in writing and shall be made within 30 days of receipt of the written decision received from the Fire Chief or his or her written designee and the notice of the appeal shall be given to the City Clerk/Treasurer at the City Building.

(Ord. 1-1991, passed 1-28-1991)

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION / § 91.02 FIREWORKS SALES.

§ 91.02 FIREWORKS SALES.

(A) The city hereby adopts and makes a part of this section by reference KRS 227.700 through and including KRS 227.990.

(B) The sale of fireworks must be conducted in accordance with the city's zoning ordinance and sales must be made within permanent structures as is defined within the zoning ordinance.

(Ord. 1-1986, passed 5-5-1986) Penalty, see § 91.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION / § 91.03 BURNING OF LEAVES.

§ 91.03 BURNING OF LEAVES.

(A) (1) There shall be no burning within the city limits of the city, except as set forth herein.

(2) The burning of leaves and brush shall be permitted semi-annually during the last two weeks of May and the last two weeks of November, subject to the provisions set

forth herein below.

(3) In order to facilitate heavy construction projects that may be necessary within the city limits, not to include residential construction, the construction company may request a permit from the city to burn leaves and brush, only if necessary to initially clear the property.

(4) The City Council, in its discretion, may authorize additional periods of burning if the circumstances warrant additional time in which to burn. Residents shall be notified through publication of any additional period.

(5) Leaves and brush that are not burned, as herein provided, may be disposed of by either bundling, boxing and/or bagging for pickup, or processing in a chipper/shredder.

(B) (1) Leaves and brush shall only be burned between the hours of 4:00 p.m. to 9:00 p.m. during the last two weeks of May. Leaves and brush shall only be burned between the hours of 4:00 p.m. to 7:00 p.m. during the first last two weeks of November. This burning shall only be permitted in areas more than 150 feet of any woodland or brush land.

(2) In areas located in or within 150 feet of any woodland or brush land, burning shall only be permitted in accordance with the provisions of KRS Chapter 149.

(C) *Fire pits.*

(1) You cannot burn leaves and brush in pits.

(2) Do not use gasoline or kerosene to start fires in any fire pit. Keep all flammable liquids away from the fire pit.

(3) This unit is designed to burn charcoal and untreated wood only.

(4) Do not use under or on combustible structures/surfaces including wooden decks.

(5) Do not burn charcoal over 1.6 pounds or over three pounds of untreated wood at one time.

(6) The fire pit should not be used on a combustible surface (including wood decks), and should be placed no closer than 24 inches from walls during use.

(D) An adult must be present at all times while a fire is burning and the adult must have a means of extinguishing the fire immediately available at the site (i.e., water hose).

(E) The fire shall not be left unattended and there shall be no smoldering allowed.

(F) Burning shall be further restricted if the Commonwealth of Kentucky issues an

emergency prohibiting burning.

(Ord. 6-1993, passed 7-1-1993; Ord. 11,1999, passed - -1999; Ord. 1, 2011, passed 5-31-2011) Penalty, see § 91.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION / § 91.04 OPEN BURNING.

§ 91.04 OPEN BURNING.

(A) All open burning of any materials is hereby prohibited within the boundaries of the city. ***OPEN BURNING*** means the burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

(B) From and after the effective date of this section, it shall be unlawful to openly burn any garbage or refuse, waste paper, boxes, rubbish, debris, brush, grass, weeds, leaves, cuttings from trees, lawns and gardens, except that the material may be burned in a furnace or private incinerator.

(Ord. 7,1995, passed 12-11-1995) Penalty, see § 91.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 91: FIRE PREVENTION / § 91.99 PENALTY.

§ 91.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Burning of leaves.* Violation of § 91.03 shall be a misdemeanor and each separate day of the violation shall be a separate offense. The fine for the violation of § 91.03 shall be up to $250 and court costs.

(Ord. 11,1999, passed - -1999; Am. Ord. 1, 2011, passed 5-31-2011)

TITLE IX: GENERAL REGULATIONS / CHAPTER 92: NUISANCES

CHAPTER 92: NUISANCES

Section

92.01 Lots to be kept nuisance-free
92.02 Weeds and vegetation to be cut
92.03 City pickup of grass trimmings; placing debris in streets

Cross-reference:

Citation fine schedule, see § 39.13

Excessive weeds and grass, see § 39.12

Garbage regulations, see Chapter 50

Junked motor vehicles, see § 39.11

TITLE IX: GENERAL REGULATIONS / CHAPTER 92: NUISANCES / § 92.01 LOTS TO BE KEPT NUISANCE-FREE.

§ 92.01 LOTS TO BE KEPT NUISANCE-FREE.

The owners of lots within the city shall remove weeds, brush, junk and other debris from the same and maintain the same in a safe, clean, sightly and sanitary condition so as not to create a nuisance.

(Ord. 5-1978, passed 4-17-1978) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 92: NUISANCES / § 92.02 WEEDS AND VEGETATION TO BE CUT.

§ 92.02 WEEDS AND VEGETATION TO BE CUT.

(A) The owners of lots within the city shall remove weeds, brush, junk and other debris from the same and maintain the same in a safe, clean, sightly and sanitary condition so as not to create a nuisance.

(B) It shall be unlawful for any person, firm or corporation to suffer or permit weeds and like vegetation to grow and mature upon their privately owned property within the city, and it shall be the duty of all property owners within the city, and they shall be required, to cause the weeds and like vegetation that may grow upon their properties to be cut and removed at least once each month during the season between May 1 and September 30 in each year.

(Ord. 12-1976, passed 5-3-1976; Ord. 5-1978, passed 4-17-1978) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 92: NUISANCES / § 92.03 CITY PICKUP OF GRASS TRIMMINGS; PLACING DEBRIS IN STREETS.

§ 92.03 CITY PICKUP OF GRASS TRIMMINGS; PLACING DEBRIS IN STREETS.

(A) The city will pick up grass trimmings, leaves and hedge trimmings provided the same have been bagged, boxed or basketed and placed on the front of the property line in accordance with garbage collection practices indicated in Chapter 50.

(B) It shall be illegal to sweep or place debris, grass, leaves or hedge trimmings into the gutters, ditches, on the street right-of-way or in the streets.

(Ord. 33-1977, passed 5-2-1977) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 93: STREETS AND SIDEWALKS

CHAPTER 93: STREETS AND SIDEWALKS

Section

93.01	Sidewalk repair policy
93.02	Driveway entrance, drainage ditch and culvert standards
93.03	Transport vehicles to be enclosed
93.04	Prohibiting political signs and all other privately owned signs on right-of-ways

TITLE IX: GENERAL REGULATIONS / CHAPTER 93: STREETS AND SIDEWALKS / § 93.01 SIDEWALK REPAIR POLICY.

§ 93.01 SIDEWALK REPAIR POLICY.

(A) This section is to establish the policy as to the repair of sidewalks within the city.

(B) Each year a certain amount of money shall be budgeted for the repair of sidewalks and a priority list shall be established for the repairs by the City Council, and the sidewalks listed on the priority list shall be repaired at the expense of the city until the budgeted amount of funds have been expended.

(C) Sidewalks that are not on a priority list shall be repaired totally at the discretion of the City Council as funds are available when requested by a property owner of the property owner agrees to pay 50% of the cost of material and labor in advance after receiving an estimate by the city.

(Ord. 2-1988, passed 3-14-1988)

TITLE IX: GENERAL REGULATIONS / CHAPTER 93: STREETS AND SIDEWALKS / § 93.02 DRIVEWAY ENTRANCE, DRAINAGE DITCH AND CULVERT STANDARDS.

§ 93.02 DRIVEWAY ENTRANCE, DRAINAGE DITCH AND CULVERT STANDARDS.

(A) No drainage ditch or culvert in the public right-of-way will be filled or tile (pipe) placed in culvert or ditch including driveway entrance without first obtaining approval from the city.

(B) Driveway entrances will be constructed to prevent water runoff from running onto the street pavement.

(C) Culvert pipe or tile buried in side drains parallel to streets shall be backfilled so as not to permit runoff over the drain onto the street pavement.

(D) With approval, all culvert pipe will be a minimum of 12-inch diameter with final decision on size dependent on the location and taking into consideration the volume of anticipated water flow. Final decision will lie with the city.

(E) All drainage ditches filled in the manner prescribed will have an opening or catch basin to collect surface water and for cleanout purposes, with a catch basin or opening for each 50 feet or part thereof with a minimum of at least one catch basin or opening for each lot with filled ditches.

(F) Any proposed filling of drainage ditch will first (before placing tile or pipe) be

inspected by the city to determine proper size and location of pipe (tile) and catch basins, and inspected again before filling of ditch.

(G) Any present filled drainage ditch or culvert that has been filled in a manner not conforming to the above standards and causing damage to streets or public rights-of-way will be corrected by adjoining property owner to above specifications.

(H) After notification to the owner by the city of the nonconforming situation, the owner will have 60 days to correct the situation according to above standards or the ditch line will be opened by the city and the property owner may be billed for cost of the work.

(Ord. 9-1979, passed 6-4-1979) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS / CHAPTER 93: STREETS AND SIDEWALKS / § 93.03 TRANSPORT VEHICLES TO BE ENCLOSED.

§ 93.03 TRANSPORT VEHICLES TO BE ENCLOSED.

(A) Any motor vehicle operated within the corporate limits of the city to transport garbage, swill, cans, bottles, glass crockery, trees or parts thereof, brush, coal, slag, silt, sand, gravel, coke, rock, trash, litter, debris or refuse of any kind whatsoever shall be fully enclosed or covered by a tarpaulin or other suitable material so as to prevent the materials being transported from being deposited in the course of transporting, upon the streets, sidewalks, passways or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property, or in or upon any public park or other public property.

(B) ***MOTOR VEHICLE***, for the purpose of this section, means every self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with the vehicles.

(Ord. 19-1976, passed - -1976)

TITLE IX: GENERAL REGULATIONS / CHAPTER 93: STREETS AND SIDEWALKS / § 93.04 PROHIBITING POLITICAL SIGNS AND ALL OTHER PRIVATELY OWNED SIGNS ON RIGHT-OF-WAYS.

§ 93.04 PROHIBITING POLITICAL SIGNS AND ALL OTHER PRIVATELY OWNED SIGNS ON RIGHT-OF-WAYS.

(A) No political signs or privately owned signs shall be placed on city right-of-ways.

(B) City employees are authorized to remove any sign so found on city right-of-ways, and store same for ten days from the date of removal.

(C) The owner of any sign may recover said removed sign for a fee of $10 for each removed sign.

(Ord. 6-2010, passed 5-17-2010)

TITLE IX: GENERAL REGULATIONS / CHAPTER 94: TREES

CHAPTER 94: TREES

Section

94.01 Policy on cutting and trimming trees situated in city rights-of-way

TITLE IX: GENERAL REGULATIONS / CHAPTER 94: TREES / § 94.01 POLICY ON CUTTING AND TRIMMING TREES SITUATED IN CITY RIGHTS-OF-WAY.

§ 94.01 POLICY ON CUTTING AND TRIMMING TREES SITUATED IN CITY RIGHTS-OF-WAY.

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

RIGHT-OF-WAY. An easement whereby the city retains only the right to a reasonable and usual use thereof, such as making repairs to the roadway or the operation of utilities, with the owner of the soil retaining rights and benefits of ownership consistent with the easement.

TREE. A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and characteristically, a single trunk rather than several stems.

(B) (1) The city shall not be responsible for the trimming, cutting or maintenance of a tree that is situated on a city right-of-way, subject to the exception that the city may trim and/or cut down a tree, if necessary, that is situated on the portion of the right-of-way between the street and the sidewalk. The property owner should submit any request to the City Council in

writing, specifying the exact location of the tree.

(2) The trimming, cutting or maintenance of any other tree that is situated on a city right-of-way shall be the responsibility of the property owner. The property owner is responsible for maintaining any such trees in a manner that protects the health and property of the general public from foreseeable injury.

(Ord. 8,1997, passed 6-23-1997)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ADVERTISING

111. AMUSEMENTS

112. BUDGET SERVICE COMPANIES

113. FLEA MARKETS

114. GARAGE SALES

115. PARKING LOTS FOR HIRE

116. PEDDLERS AND SOLICITORS

117. SCRAP YARDS

118. OCCUPATIONAL LICENSES

119. ALCOHOLIC BEVERAGES

CHAPTER 110: ADVERTISING

Section

110.01 Posting advertising

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: ADVERTISING / § 110.01 POSTING ADVERTISING.

§ 110.01 POSTING ADVERTISING.

It shall be unlawful to tack, post or attach any bill, poster, placard or advertising matter on any telephone or telegraph post or other structure belonging to the city or located upon the public streets, thoroughfares or alleys in the city.

(Ord. passed 7-3-1933) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS

CHAPTER 111: AMUSEMENTS

Section

Amusement Machines

111.01 Application of regulations
111.02 Locations where machines permitted or prohibited
111.03 Supervision required
111.04 License required; fee

Pool Rooms

111.10 Public pool rooms prohibited

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / AMUSEMENT MACHINES

AMUSEMENT MACHINES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / AMUSEMENT MACHINES / § 111.01 APPLICATION OF REGULATIONS.

§ 111.01 APPLICATION OF REGULATIONS.

This subchapter shall be a regulation upon any business within the city, whether operated by an individual, firm, corporation, copartnership, association or other legal entity.

(Ord. 3-1988, passed 3-28-1988)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / AMUSEMENT MACHINES / § 111.02 LOCATIONS WHERE MACHINES PERMITTED OR PROHIBITED.

§ 111.02 LOCATIONS WHERE MACHINES PERMITTED OR PROHIBITED.

(A) No amusement machines shall be operated by businesses if the business building is 50 feet or less in a straight line from a school building or a church building and right-of-way property shall be included in the 50-foot distance.

(B) Any business building located from 50 feet to 750 feet in a straight line from a school building or a church building may have as a secondary business up to two amusement machines.

(C) Beyond 750 feet in a straight line from a school building or a church building, a business may have as its primary or secondary business the operation of amusement machines with no limit as to the number of machines that the business may operate at each location.

(Ord. 3-1988, passed 3-28-1988) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / AMUSEMENT MACHINES / § 111.03 SUPERVISION REQUIRED.

§ 111.03 SUPERVISION REQUIRED.

At all locations where amusement machines are located there shall be proper supervision by the business providing the amusement machines.

(Ord. 3-1988, passed 3-28-1988) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / AMUSEMENT MACHINES / § 111.04 LICENSE REQUIRED; FEE.

§ 111.04 LICENSE REQUIRED; FEE.

(A) Each amusement machine located at a business must have a license displayed on the machine and the license can be transferred to a replacement machine located at that same business address.

(B) The cost of purchasing a license for each amusement machine shall be $10 per machine and the license shall be valid for 365 days from the date of purchase, and there shall be no refund at any kind of any of the license fee paid to the city. The license fee shall be collected by the City Clerk/Treasurer and shall be paid into the general fund of the city for the purpose of administering and regulating this subchapter.

(Ord. 3-1988, passed 3-28-1988)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / POOL ROOMS

POOL ROOMS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: AMUSEMENTS / POOL ROOMS / § 111.10 PUBLIC POOL ROOMS PROHIBITED.

§ 111.10 PUBLIC POOL ROOMS PROHIBITED.

No license shall be issued by the city for the operation of a public pool room within the corporate limits of the city, and the operation of a public pool room in the city is expressly prohibited.

(Ord. 23-1976, passed 9-7-1976) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: BUDGET SERVICE COMPANIES

CHAPTER 112: BUDGET SERVICE COMPANIES

Section

112.01 Definitions
112.02 Operation unlawful

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: BUDGET SERVICE COMPANIES / § 112.01 DEFINITIONS.

§ 112.01 DEFINITIONS.

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

BUDGET SERVICE COMPANY.

(1) Any person doing business as a budget counseling, credit counseling, debt management or debt pooling service, or holding himself or herself out by words of similar import as providing services to debtors in the management of their debts and contracting with the debtor for a fee to receive from the debtor and disburse to his or her creditors any money or thing of value.

(2) This term shall not be deemed to include the following when engaged in the regular course of their respective businesses and professions:

(a) Attorneys at law;

(b) Banks, fiduciaries, financing and lending institutions as duly authorized and admitted to transact business in the Commonwealth of Kentucky and performing credit and financial adjusting service in the regular course of their principal business;

(c) Title insurers and abstract companies while doing an escrow business;

(d) Judicial officers and others acting pursuant to court orders;

(e) Nonprofit organizations giving debt management services;

(f) Employers for their employees; and

(g) Associations for their members.

PERSON. Individuals, partnerships, associations and corporations.

(Ord. 5-1967, passed 12-12-1967)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: BUDGET SERVICE COMPANIES / § 112.02 OPERATION UNLAWFUL.

§ 112.02 OPERATION UNLAWFUL.

It shall be unlawful for any person to operate a budget service company in the city.

(Ord. 5-1967, passed 12-12-1967) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: FLEA MARKETS

CHAPTER 113: FLEA MARKETS

Section

113.01	Application of regulations
113.02	Records to be maintained
113.03	License and fee

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: FLEA MARKETS / § 113.01 APPLICATION OF REGULATIONS.

§ 113.01 APPLICATION OF REGULATIONS.

Any individual, corporation, partnership or other entity which operates a business, commonly referred to as a "flea market", which leases, rents or otherwise provides space for more than one individual, partnership, corporation or entity for the purpose of selling wares, goods or items of any nature to the general public shall be covered by the provisions of this chapter. This chapter is not intended to affect church or bazaar type sales conducted by religious or nonprofit organizations which are not conducted on a continuous basis.

(Ord. 16-1987, passed 1-4-1988)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: FLEA MARKETS / § 113.02 RECORDS TO BE MAINTAINED.

§ 113.02 RECORDS TO BE MAINTAINED.

The operator, owner or lessor of the flea market shall maintain accurate records relating to the operation of the flea market in the method and on forms established by the License Administrator of the city regarding vendors operating on space within the flea market. These records shall include, but not be limited to, license receipts (as hereafter provided), space rented, dates and times of operation, amounts of sales for each date in operation and sufficient identifying information on the individual vendors. This information shall be available to the License Administrator, police or city representative on request on the premises of the flea market, and the operator shall be required to file a monthly report with the License Administrator on forms provided by the city. The License Administrator shall provide the operator with license receipts (in triplicate) for issuance to the vendors as hereafter provided.

(Ord. 16-1987, passed 1-4-1988) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: FLEA MARKETS / § 113.03 LICENSE AND FEE.

§ 113.03 LICENSE AND FEE.

(A) The individual vendor shall pay to the operator $1 per day or $3 per week (Monday through Sunday), $9 per calendar month and $25 per calendar year, for the privilege of operating the vendor's business during the period the license is obtained. Any payments made by the vendor to the operator shall be remitted by the operator on a monthly basis to the city. The vendor shall provide to the city or to the operator whatever information is required by the city. Additionally, the operator will provide the vendor with a license receipt which shall be posted on a current basis at the vendor's space at all times the vendor is in operation in the city.

(B) In order to begin operation of the vendor's business, a license receipt must first be obtained from the operator or directly from the License Administrator which is the City Clerk/Treasurer.

(C) The operator shall be required to file with the city a yearly return relating to vendors operating at a flea market. This return shall be in a form required by the city and shall be

filed by February 15 of the following calendar year.

(D) The license fees contained in this chapter shall be the fee required by vendor for the privilege of operating a business within the city. The basis for this type of license fee is that a flea market vendor is by nature, transient and temporary and primarily deals in used wares and goods.

(Ord. 16-1987, passed 1-4-1988; Ord. 4-1989, passed 4-10-1989) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES

CHAPTER 114: GARAGE SALES

Section

114.01	Purpose
114.02	License required; information to be filed
114.03	Sales limited to two per year
114.04	Exemptions
114.05	Fee

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES / § 114.01 PURPOSE.

§ 114.01 PURPOSE.

The city hereby regulates garage, yard, casual and moving sales which are defined but not limited to all sales entitled: "Garage sale", "yard sale", "attic sale", "rummage sale", "porch sale", "moving sale" or any similar occasional casual sale of tangible personal property which is advertised by any means or displayed in any manner whereby the public at large is or can be made aware of the sale, except those sales which are held in commercially zoned property by businesses which have business licenses within the city. The goods to be sold include any goods, warehouse merchandise or other property capable of being the object of a sale regulated by this chapter.

(Ord. 15-1987, passed 12-7-1987).

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES / § 114.02

LICENSE REQUIRED; INFORMATION TO BE FILED.

§ 114.02 LICENSE REQUIRED; INFORMATION TO BE FILED.

(A) It shall be unlawful for any person to conduct a casual sale in the city without first filing with the City Clerk/Treasurer the information specified in division (B) below and obtaining from the City Clerk/Treasurer a license to do so, to be known as a casual sale license.

(B) The information required to be filed with the City Clerk/Treasurer shall be as follows:

(1) The name of the person, firm, group, corporation, association or organization conducting the sale and the date or dates of the sale;

(2) The name of owner of the property on which the sale is to be conducted, and the consent of the owner if the applicant is other than the owner;

(3) The location at which the sale is to be conducted;

(4) The number of days the sale is to be conducted;

(5) The date and nature of any past sale conducted;

(6) The relationship or connection the applicant may have had with any other person, firm, group or organization conducting any prior sale, and the date or dates of those sales;

(7) Whether or not the applicant has been issued any other vendor's license by any local, Commonwealth or federal agency; and

(8) A sworn statement or affirmation by the person signing the application for a license that the information therein given is full and true and known to him or her to be so.

(Ord. 15-1987, passed 12-7-1987) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES / § 114.03 SALES LIMITED TO TWO PER YEAR.

§ 114.03 SALES LIMITED TO TWO PER YEAR.

The license shall be issued to any one person or for any one location only two times within a 12-month period. No license shall be issued for more than two consecutive calendar

days for each sale. Each license issued under this chapter must be prominently displayed on the premises upon which the sale is conducted, throughout the entire period of the licensed sale.

(Ord. 15-1987, passed 12-7-1987) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES / § 114.04 EXEMPTIONS.

§ 114.04 EXEMPTIONS.

(A) The provisions of this chapter shall not apply to or affect the following persons or sales:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction;

(2) Persons acting in accordance with their powers and duties as public officials; and

(3) Any persons selling or advertising for sale any item or items of personal property which is specifically named or described in an advertisement and which separate items do not exceed five in number.

(B) Upon tendering to the City Clerk/Treasurer the information required in this chapter and a determination by the City Clerk/Treasurer that the purpose of the casual sale is to raise funds for an organization of a charitable or civic nature, the City Clerk/Treasurer may suspend the fee requirements.

(Ord. 15-1987, passed 12-7-1987)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: GARAGE SALES / § 114.05 FEE.

§ 114.05 FEE.

The fee for each two-day sale shall be $2.

(Ord. 15-1987, passed 12-7-1987)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: PARKING LOTS FOR HIRE

CHAPTER 115: PARKING LOTS FOR HIRE

Section

115.01	Tax assessed on parking lots for hire
115.02	Payment of tax
115.03	Issuance of license
115.04	Unlawful operation

Editor's note:

Case law which may render these sections unconstitutional, see White Towers LTD v. Winchester, (1986) and Erlanger v. KSL Realty Corp., (1986)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: PARKING LOTS FOR HIRE / § 115.01 TAX ASSESSED ON PARKING LOTS FOR HIRE.

§ 115.01 TAX ASSESSED ON PARKING LOTS FOR HIRE.

There is hereby assessed and fixed an occupational license tax on the business of owning, operating or managing off-street parking lots for hire in the city of the following annual rate:

(A) On lots with capacity one to ten cars: $25;

(B) On lots with capacity 11 to 25 cars: $50; and

(C) On lots with capacity 26 to 100 cars: $75.

(Ord. 7-1957, passed 11-4-1957)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: PARKING LOTS FOR HIRE / § 115.02 PAYMENT OF TAX.

§ 115.02 PAYMENT OF TAX.

(A) Only one annual license on each lot is assessed and shall be an obligation of the owner, operator and manager, but payments by either owner, operator or manager shall discharge

the entire tax for that particular year.

(B) Occupation license tax herein fixed shall be paid annually in advance; provided, however, as to new lots, and lots in operation as of the enactment of this chapter, the license tax may be apportioned for the unexpired part of the year to the succeeding January 1.

(Ord. 7-1957, passed 11-4-1957)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: PARKING LOTS FOR HIRE / § 115.03 ISSUANCE OF LICENSE.

§ 115.03 ISSUANCE OF LICENSE.

The City Clerk/Treasurer shall issue a license imposed by this chapter and the license shall show the location and capacity of the parking lot.

(Ord. 7-1957, passed 11-4-1957)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: PARKING LOTS FOR HIRE / § 115.04 UNLAWFUL OPERATION.

§ 115.04 UNLAWFUL OPERATION.

The operation of a parking lot for hire, without a license and after notice that the license tax is due, shall be unlawful.

(Ord. 7-1957, passed 11-4-1957) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: PEDDLERS AND SOLICITORS

CHAPTER 116: PEDDLERS AND SOLICITORS

Section

116.01 Peddler's license required; amount of tax
116.02 Solicitation of donations

116.03 Begging

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: PEDDLERS AND SOLICITORS / § 116.01 PEDDLER'S LICENSE REQUIRED; AMOUNT OF TAX.

§ 116.01 PEDDLER'S LICENSE REQUIRED; AMOUNT OF TAX.

(A) It shall be unlawful for any itinerant person, firm or corporation to vend, sell or dispose of any goods, wares, merchandise, clocks, jewelry, gold, silver or plated wares, drugs, costume perfumery, tinware, ice cream, garden products or other things by selling from house to house, or upon the streets of the city, without first having obtained a license so to do, as hereinafter provided; but, this section shall not be held or construed to apply to the sale in the city by a farmer or gardener or other persons of the products of his or her own labor or farm.

(B) It shall be unlawful for any person, firm or corporation under color of a bona fide merchant to take up a temporary residence within the corporate limits of the city, for the purpose of disposing of his or her goods, wares and merchandise of whatever kind, either at auction or retail or to establish a temporary store of any kind within the city, without first obtaining a license so to do.

(C) The annual license tax provided by divisions (A) and (B) above shall be $35, payable in advance to the City Clerk/Treasurer who shall thereupon issue his or her receipt therefor which shall constitute the license during the period covered by the license and all licenses shall expire on May 1 of each year.

(Ord. 202, passed 5-2-1921) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: PEDDLERS AND SOLICITORS / § 116.02 SOLICITATION OF DONATIONS.

§ 116.02 SOLICITATION OF DONATIONS.

It shall be unlawful to solicit or collect money, by means of buckets or other receptacles, for charity or other purposes on any of the streets or highways of the city.

(Ord. 2-1973, passed 4-17-1973) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: PEDDLERS AND SOLICITORS / § 116.03 BEGGING.

§ 116.03 BEGGING.

(A) It shall be unlawful for any person, except as provided in division (B) below, to beg or solicit alms upon the streets, sidewalks or other public places of the city.

(B) Lawful representatives of lawfully organized charitable organizations shall be exempt from the provisions of this section after obtaining a permit from the Mayor. Such a permit may be obtained by the organizations which give attention to needy citizens.

(Ord. 2-1934, passed - -1934) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: SCRAP YARDS

CHAPTER 117: SCRAP YARDS

Section

117.01 Scrap yards prohibited

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: SCRAP YARDS / § 117.01 SCRAP YARDS PROHIBITED.

§ 117.01 SCRAP YARDS PROHIBITED.

The establishment of any scrap yard within the corporate limits of the city for the purpose of receiving or storing scrap metals, paper, rags or other used materials is prohibited.

(Ord. 10-1958, passed 8-4-1958) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES

CHAPTER 118: OCCUPATIONAL LICENSES

Section

Fees

118.01 Definitions
118.02 Levy of license fee; general
118.03 Employees
118.04 Net business profit
118.05 Exemptions
118.06 Returns and payment of tax; general
118.07 Extension of time for filing returns
118.08 Enforcing officers; powers and duties
118.09 Exclusion of levies prohibited by law
118.10 Information confidential; offense; fine
118.11 Revenue to be deposited in general fund

Taxes

118.25 Definitions
118.26 Occupational license application required
118.27 Occupational license tax payment required
118.28 Apportionment
118.29 Employers to withhold
118.30 Returns required
118.31 Extensions
118.32 Refunds
118.33 Federal audit provisions
118.34 Administrative provisions
118.35 Information to remain confidential
118.36 Use of occupational license tax
118.37 Payment of estimated tax quarterly

118.99 Penalty

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES

FEES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.01 DEFINITIONS.

§ 118.01 DEFINITIONS.

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

CORPORATION. A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Kentucky or any other state, territory or foreign country or dependents.

EMPLOYEE. Any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter, and shall include temporary, provisional, casual or part-time employment.

EMPLOYER. An individual, partnership, association, corporation, governmental body or unit or administration or agency, or any other entity, who as that employer has one or more persons on a salary, wage, commission or other compensation basis, regardless of whether the employer is engaged in business or is excluded by the terms of that definition.

NET PROFIT. The net income from the operation of a business or enterprise after provision for all costs or expenses incurred in the conduct thereof and shall be the same as reported for federal income tax purposes, excluding items exempted under this subchapter but without deduction of taxes based on income or the license fee imposed under this section or any operating loss carry-over or carry-back.

NONPROFIT ORGANIZATIONS. Trade association, union, Chamber of Commerce, Board of Trade or corporation or association organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the prevention of cruelty to children or animals, or clubs or fraternal organizations operated exclusively for social, literary, educational or fraternal purposes, where no part of the earnings, income or receipts of units, groups or associations inures to the benefit of any private shareholder or individual.

NONRESIDENT. An individual, partnership, fiduciary, association, corporation or other entity domiciled outside the corporate limits of the city.

RESIDENT. An individual, partnership, association, corporation or other entity domiciled or having a business situs within the corporate limits of the city.

SALES. Net sales of merchandise, services or of both, computed by whatever method of accounting is authorized for federal income tax purposes.

SALES WITHIN THE CITY. Sales of merchandise delivered to a customer within the city or services performed within the city for a customer.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.02 LEVY OF LICENSE FEE; GENERAL.

§ 118.02 LEVY OF LICENSE FEE; GENERAL.

There is hereby levied and imposed an annual license fee upon all persons, associations, corporations or other entities engaged in any occupation, trade, profession or other activity in the city for the privilege of engaging in the occupation, trade, profession or other activity, which license fee shall be measured by and be equal to 0.875% of all salaries, wages, commissions and other compensation, earned by every person in the city for work done or services performed or rendered in the city regardless of where payment is made or received; and of the net profits of all businesses, professions or occupations from activities conducted in the city.

(Ord. 2,2000, passed 6-13-2000; Ord. 6,2009, passed 10-28-2009; Ord. 8,2009, passed 12-10-2009)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.03 EMPLOYEES.

§ 118.03 EMPLOYEES.

(A) *Employees in general.* The license fee is imposed on both residents and nonresidents of the city at the rate of 0.875% of all salaries, wages, commissions and other compensation earned for work done or services performed or rendered in the city. The following are subject to the license fee:

(1) Salaries, wages, commissions, bonuses, incentive payments and other compensation received by an individual, whether directly or indirectly through an agent and whether in cash or in property, for services rendered:

(a) As an officer, director, agent or employee, or both, of a corporation (including a corporation of the first or nonprofit class), joint stock association or joint stock company;

(b) As an officer, agent or employee (as distinguished from a partner or member) of a partnership, limited partnership or any other form of unincorporated enterprise owned by one or more persons;

(c) As an agent employee (as distinguished from the proprietor) of a business, trade or profession, conducted by an individual owner;

(d) As an officer, agent or employee (whether elected or appointed, enlisted or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit thereof; and

(e) As an officer, agent or employee of any other entity.

(2) Salaries, wages, bonuses, incentive payments and other compensation received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered:

(a) Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production of piece-work rates; and

(b) Whether paid by an individual, partnership, association, corporation (including a corporation of the first or nonprofit class), governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section, unit or any other entity.

(3) Commissions received by an employee, whether directly or through an agent, and whether in cash or in property, for services rendered, regardless of how computed or by whom paid. If the commissions are included in the net earnings of a trade, business or profession regularly carried on by the individual and, therefor, subject to license fees under § 118.04, they shall not again be separately taxed;

(4) Fees and other earned income, unless the fees are properly included as part of the net profits of a trade, business, profession or enterprise regularly carried on by the individual and the net profits are subject to tax under § 118.04. Fees paid to a director or officer of a corporation are subject to withholding under this section as in the case of any other employee; and

(5) Other compensation will be treated as follows.

(a) *Subject to the license fee*.

1. *Tips received by waiters and others.* Tips received are subject to the license fee and will be reported in the same manner as regular earnings;

2. *Vacation, holiday and/or sick benefits.* Payments made to employees by an employer as vacation, holiday and/or sick payments are subject;

3. *Separation payments.* Payments made to employees by an employer at the time of a voluntary or involuntary separation (dismissal) of the employee from

the service of the employer, are to be regarded as subject to the license fee;

4. *Employee contributions to qualified federal tax deferral plans.* Compensation beyond that which an employee has elected to defer payment of federal income tax;

5. *Property and services received as compensation.* The fair market value of property or services received as compensation by an employee and paid by the employer, including board and lodging and similar items where such board and lodging is considered part of the compensation paid and is not afforded for the convenience of the employer; and

6. *Other Income.* All other income paid by an employer and received by an employee for the performance of any activity subject to the license fee, not expressly exempt (see below) unless the income is to be reported and a net profit license fee paid thereon under the provisions of these regulations.

(b) *Not subject to the license fee.*

1. *Retirement payments.* Periodical payments commonly recognized as old-age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of employment, are not subject to the license fee;

2. *Disability and unemployment compensation.* Payments made to employees by an employer under a disability or accident plan are not subject to the license fee. Unemployment compensation payments by the Commonwealth or any other agency are not subject;

3. *Death benefits.* Death benefits payable by an employer to the beneficiary of an employee or to the employee's estate, whether payable in a single sum or otherwise, are not subject to the license fee;

4. *Benefits arising under the Workers' Compensation Act.* Amounts received by employees under the Workers' Compensation Act as compensation for a disability sustained during the course of employment, together with any amount of damages received by suit or agreement on account of the disability, are not subject to the license fee;

5. *Allowances and reimbursement for expenses.* Reasonable sums allowed and paid by employers to employees for expenses necessarily and actually incurred by the employee in the direct performance of his or her services;

6. *Strike benefits.* Strike pay benefits paid from a fund which is established and/or replenished, in whole or in part, from the employee's wages;

7. *Kentucky National Guard.* Compensation paid members of

the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

8. *Fringe benefits not taxable for federal income tax purposes.* Noncash fringe benefits which, pursuant to § 132 of the Internal Revenue Code, qualify as:

a. Not additional cost services;

b. Qualified employee discounts;

c. Working condition fringes; and

d. De minimus fringes and are, therefore, not taxable for federal income tax purposes.

9. *Employer contribution.* Employer contributions to qualified plans not arising from employee election;

10. *Employer payments for employee benefits.* Employer's payments for employee's life insurance premiums not treated as wages for federal income tax purposes, employer's payments for employee's health insurance benefits;

11. *Amounts received from qualified and non-qualified plans.* Amounts paid from retirement plans;

12. *Student grants.* Stipends, honorariums, grants and other payments made to students to the extent that the payments are conditioned only upon the recipient's pursuit of studies and/or participation in athletic or other intercollegiate competition, and scholarships and other noncash fringe benefits received by duly registered students from the school, college or university in which they are enrolled; and

13. *Payments to nonresident military personnel.* Payments to nonresident military personnel exempt from Commonwealth and location taxation under the Soldiers and Sailors Federal Relief Act.

(c) *Applicability of the foregoing to employees whose compensation is not wholly subject.* In the case of individuals whose compensation is earned for services performed both within and without the city and who receive subject payments as set forth in the foregoing rules and regulations, they are subject to the license fee in the same proportion that services performed within the city bear to their total employment time.

(B) *Withholding of license fee.*

(1) It is the duty of each employer who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct, at the time of the payment of

the compensation, the license fee on the salary, wage, bonus, incentive payment, commission or other compensation due by the employer to the employee. The license fee shall be deducted by the employer from all compensation paid to employees for activities in the city. However, the mere fact that the license fee is not withheld will not relieve the employee of the responsibility of filing a return and paying the fee on the compensation received. A nonresident employer, either maintaining in the city an office, business address or doing business therein, or who is otherwise subject to service of legal process, is subject to the withholding provisions of this subchapter.

(2) Where an individual receives compensation for personal services rendered or performed partly within and partly outside the city, the withholding agent shall deduct and withhold that portion of the compensation which is earned within the city in accordance with the following rules of apportionment.

(a) If the individual is a traveling salesperson, agent or other employee, whose compensation on the basis of commissions depends directly on the volume of business transacted by the individual, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the city bears to the volume of business transacted by the employee both within and outside of the city. There shall be no proration of compensation for employees headquartered within the city where travel is only incidentally connected with the occupation.

(b) The deducting and withholding of personal service compensation of all other employees, including officers of corporations, shall attach to the portion of the personal service compensation of the employee which the total number of hours employed within the city bears to the total number of hours employed both within and outside the city.

(c) If it is impossible to apportion the earnings as provided above because of the peculiar nature of the services of the employee, or of the usual basis of compensation, apportionment shall be made in accordance with the facts, and the fee deducted and withheld accordingly. With respect to each employee or group of employees similarly or identically circumstanced, the employer shall furnish the certified public accountant a detailed statement of facts.

(d) The occasional entry into the city of an employee, who performs the duties for which the employee is employed entirely outside the city, but enters the city for the purposes of reporting, receiving instructions, accounting and the like, incidental to the employee's duties outside the city, shall not be deemed to take the employee out of the class of those rendering their services entirely outside the city.

(C) *Returns of license fee withheld and payment.*

(1) The return and payment required to be made on account of deductions by employers from salaries, wages and other compensation of employees shall be made on the last

day of the month following the end of the calendar quarter.

(2) (a) If the last day of the month following the end of the calendar quarter falls on a Saturday, Sunday or legal holiday, the return and payment shall be made on the next regularly scheduled working day. If the envelope bearing the return(s) is postmarked on or before the due date, late filing penalties will not apply. The employer shall report for the quarterly periods ending March 31, June 30, September 30 and December 31 of each year the wages from which license fees have been so withheld, and shall make the payment required to be made on account of the employee withholding of occupational license fees on or before the time required for the filing of the quarterly returns.

(b) Notwithstanding the provisions of division (A) above, each employer who employs persons within the city for which the aggregate city, occupational license fees required to be withheld from all employee wages for any one of the preceding four quarters shall have exceeded the sum of $3,000 shall remit the occupational license fees required to be withheld from employees monthly on or before the last day of the month following the month in which the wages shall have been paid by the employer, or (in the case of deferred compensation subject to the license fees imposed hereunder) on the last day of the month following the month in which the compensation is deemed to have been earned by the employee.

(3) The returns required to be filed under this subchapter shall be made on forms furnished by or obtainable from the City Building and/or the certified public accountant.

(4) On or before January 31 of each year, each employer shall file with the Certified Public Accountant on the form prescribed by the certified public accountant, an annual information return listing each employee from whom the license fee has been withheld, showing the employee's name, federal ID number (Social Security number), total annual compensation, total annual compensation subject to the license fee and the amount of license fee withheld from each employee during the preceding calendar year.

(5) The annual information return shall include a copy of form W-2 for each employee.

(6) The gross compensation to be reported for each employee should be for the full 12 calendar months of the year, or the portion thereof as the employee reported on was employed.

(7) The failure of any employer, either residing within or outside of the city, to collect the license fee and to make the return shall not relieve the employee from the payment of the fee in compliance with these regulations respecting the making of returns and the payment of license fees.

(8) Every employer is deemed to be a trustee of the city in collecting and holding the license fee required under this section to be withheld, and the funds so collected by

the withholding are deemed to be trust funds. Every employer required to deduct and withhold the license fee at the source is liable directly to the city for the payment of the fee whether actually collected by the employer or not.

(9) Every employer is required to submit a copy of Form 1096 and the respective Form 1099s to reflect monies paid to contract labor, subcontractors and the like.

(Ord. 2,2000, passed 6-13-2000; Ord. 6,2009, passed 10-28-2009; Ord. 8,2009, passed 12-10-2009)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.04 NET BUSINESS PROFIT.

§ 118.04 NET BUSINESS PROFIT.

(A) *General.* In the case of an individual, partnership, association, corporation, fiduciary or other entity engaged in the conduct, operation or prosecution of any business, profession or other enterprise, there is imposed an annual license fee being the greater of $100 or 0.875% of the net profits of the business, profession or other enterprise, if and to the extent conducted in or derived from activity in the city, whichever is greater. In determining the proportion or amount of the subject net profits of a business entity doing business within and without the city, the business entity shall use and apply a business allocation percentage formula computed on the basis of business receipts within and without the city and payrolls within and without the city. ***BUSINESS RECEIPTS*** means the sum total of gross receipts from sales plus gross credit or charges for work done and performed or services rendered. ***PAYROLLS*** means the total wages, salaries and other personal service compensation.

(1) *Determination of fee.* After determining the business allocation percentage, the license fee shall be determined by applying that percentage to the entire net profits of the license payer whatever derived, thus arriving at the subject net profit, and computing 0.875% of the resultant subject net profit.

(2) *Fee adjustment.* In case it shall appear to the Certified Public Accountant that any agreement, understanding or arrangement exists between the license payer and any other person whereby the activity, business, income or capital of the license payer is improperly or inaccurately reflected, the Certified Public Accountant may adjust items of income, deductions and capital in computing any allocation percentage, provided any income directly traceable thereto is also excluded from entire net income, so as equitably to determine the license fee.

(3) *Explanation of business receipts factor.* The percentage of the license payer's business receipts within the city is determined by ascertaining the taxpayer's business

receipts within the city during the period covered by the report and dividing the sum of the business receipts by the license payer's total business receipts within and without the city during the period. Receipts from the following are allocable to the city:

(a) Sales of the licensee's tangible personal property delivered to the buyer within the corporate limits of the city;

(b) Work done and performed or services rendered in the city;

(c) Rentals from property situated in the city where the rental of the property is a business activity;

(d) All other business receipts earned in the city. All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the license payer's entire net income) must be taken into account; and

(e) Business allocation factor equals "receipts inside city" divided by "total receipts":

$$\text{FACTOR} = \frac{\text{RECEIPTS INSIDE CITY}}{\text{TOTAL RECEIPTS}}$$

(4) *Compensation for work done and performed or services rendered.*

(a) The term ***COMPENSATION*** may include not only payment in cash or property but also the gross credits to or charges by the licensee, under its normal and usual accounting practices, for the performance of work or services. For example, a plant, factory or other establishment in the city which processes material or manufactures parts for other plants or factories owned by the licensee, and which may receive credit for the performance of the services only by bookkeeping entries, may be chargeable under this subchapter with the gross amount of the entries in applying the formula discussed hereunder. Furthermore, the bookkeeping entries may be considered in lieu of cash or property payment in determining the net profits of any license payer under this section, even though the business allocation percentage formula may not be used by or be applicable to the licensee. However, whenever the gross credits or charges are included in computing the net profits of any licensee who pays a license fee thereon under this subchapter, the same licensee shall not be twice subject in the same fee period by the separate imposition of a fee upon the gross credits or charges.

(b) Compensation and other receipts from work done or services performed within the city are allocable to the city and subject under this subchapter. All amounts so received credited or charged by a licensee in payment for the work or services are so allocable, irrespective of whether done or performed by employees or agents of the licensee, by subcontractors or by any other persons. It is immaterial where the amounts were payable or

where they were received. Commissions or fees received by the licensee are allocated to the city if the services for which the commissions were paid were performed by the city. If the license payer's services for which commissions or fees were paid were performed for the license payer by sales persons or other agents or employees attached to or working out of the city place of business of the licensee, the licensee's services will be deemed to have been performed in the city. Where a lump sum is received by the licensee in payment for services within and without the city, the amount attributable to services within the city is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, the services within and without the city, or by some other reasonable method approved by the Certified Public Accountant. Full details must be submitted with the licensee's report.

(c) All business receipts earned by the city licensee within the city are allocable to the city. Business receipts are not considered to have been earned by the licensee in the city solely by reason of the fact that they were payable in or actually received in the city. Receipts for sales of capital assets (property not held by the licensee for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the licensee as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the city if the real property was situated in the city. Receipts from sales of intangibles included in business capital, held by the licensee as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the city if the sales were made in the city or through a regular place of business of the licensee in the city.

(5) *Payroll factor.*

(a) The percentage of the license payer's payroll allocable to the city is determined by dividing the wages, salaries and other personal service compensation of the licensee's employees within the city during the period covered by the report by the total amount of compensation of all the licensee's employees during the period. Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the licensee.

(b) Employees within the city include all employees regularly connected with a place of business maintained by the licensee in the city. Wherever it appears that the licensee's payroll was paid to employees attached to places of business outside the city who performed services within the city, the payroll factor is to be computed by deriving the percentage which the licensee's payroll paid in the city bears to his or her total payroll. In any such case, where an employee performed services both within and without the city, the amount treated as compensation for services performed within the city shall be deemed to be:

1. In the case of an employee whose compensation depends directly on the volume of business secured by that employee, such as a salesperson on a commission basis and the amount received by that employee for the business attributable to the

employee's efforts within the city;

2. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of the employee's services within the city bears to the value of all the employee's services;

3. In the case of an employee compensated on a time basis, the proportion of the total amount received by the employee which the working time employed in the city bears to the total working time; and

4. The accounting method used to compute net profits subject to the license fee shall be the same as the method used to compute net income for federal income tax purposes, excluding all taxes based on net income, license fees imposed under this subchapter and the net operating loss carry-forward or carry-back used to reduce net income for the current year.

(B) *New business license fee.*

(1) Every person conducting a business, as defined in this section, shall obtain a license from the city before commencement of the business, the fee for which shall be $50. A business that commences after July 1 of its initial year shall pay a pro-rata fee of $25 for its initial license.

(2) This fee will be credited in full to the account of the license payer and applied against the annual net business profit fee.

(3) Every entity conducting business within the city must file with the city a statement of estimated net profits to be earned during the accounting year prior to issuance of the license. Upon the filing, the entity shall pay one-fourth of any license fees estimated to be due. Thereafter, at the end of each month succeeding each calendar quarter, each licensee shall pay to the city one-fourth of the estimated license fees due.

(C) *Temporary vendors.*

(1) Every person conducting business on a temporary basis will be subject to a license fee in the amount of $25 for a period not to exceed five days.

(2) Vendors who propose to operate beyond the five-day limit shall be subject to the minimum annual fee as required in division (B) above.

(3) Vendors desiring to acquire a temporary license to sell from temporary structures, carts, tables, sheds or vehicles on private property, city right-of-way or streets are required to obtain approval prior to the commencement of business from the City Council.

(4) The city business license application will serve as a request for approval

and will be forwarded to the Mayor to present to the City Council.

(5) Applications may be obtained from the City Building.

(6) Food and lunch vendors, ice cream trucks, approved vehicles that regularly sell food goods from their vehicles which have been duly licensed to operated within the city and have Commonwealth Health Department approval shall not be considered temporary vendors and shall comply with the provisions in this division. Lemonade and refreshment stands operated by neighborhood children are exempted from this section.

(Ord. 2,2000, passed 6-13-2000; Ord. 6,2009, passed 10-28-2009; Ord. 8,2009, passed 12-10-2009)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.05 EXEMPTIONS.

§ 118.05 EXEMPTIONS.

(A) No license under this subchapter shall be required of domestic workers employed at private homes.

(B) A sale of used goods conducted or participated in by the resident of the residential property on which the sale takes place shall not be considered a business for purposes of this subchapter unless those sales are conducted for more than four consecutive days or for more than two times a year.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.06 RETURNS AND PAYMENT OF TAX; GENERAL.

§ 118.06 RETURNS AND PAYMENT OF TAX; GENERAL.

(A) Every person whose earnings of net profits are subject to the license fee imposed by this subchapter shall, on or before the last day of the fourth month following the close of each accounting year, file an annual return with the Certified Public Accountant.

(B) Where the entire earnings for the year are paid by one and the same employer and the license fee has in each instance been withheld or deducted by the employer from the gross amount of compensation without adjustment for expenses, it shall not be necessary for the

employee to file a return for the year unless required or requested to do so by the Certified Public Accountant.

(C) If the return is made for a fiscal year or for any period other than a calendar year, the return shall be made on the last day of the fourth month following the end of the fiscal year period.

(D) The person making the return shall, at the time of filing thereof, pay to the city the amount of the fee shown to be due by the return.

(E) Where any portion of the license fee otherwise due shall have been deducted at the source and shall have been paid to the city by the person making the deduction, a credit equal to the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the return.

(F) If a licensee shall terminate any business or employment for which the license fee has not withheld, during the calendar or fiscal year, the proper return shall be filed and the tax paid on the last day of the fourth month after the termination of the business or employment.

(G) If the due date of a return falls on a Saturday, Sunday or legal holiday, the return shall be filed on the next regularly scheduled work day. If the envelope bearing the return is postmarked on or before the due date, late filing penalties will not apply.

(H) An executed copy of the licensee's federal income tax return or any other pertinent information as required by the Finance Director shall be filed with the annual return.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.07 EXTENSION OF TIME FOR FILING RETURNS.

§ 118.07 EXTENSION OF TIME FOR FILING RETURNS.

(A) An extension of time for filing a license fee return may be granted if the licensee notifies the Certified Public Accountant in writing by the due date for filing the return. The period shall not exceed the time period granted for filing an entity's federal income tax return. If an extension of time for filing the federal tax return is approved by the Internal Revenue Service, it shall also constitute an extension of time for filing a license fee return if the License Fee Division is notified in writing on or before the due date of the return. Copies of all extensions for filing a federal tax return must be attached to the license fee return when it is filed with the city.

(B) The licensee shall remit any license fees due including the estimated fee with the

written request for an extension of time for filing.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.08 ENFORCING OFFICERS; POWERS AND DUTIES.

§ 118.08 ENFORCING OFFICERS; POWERS AND DUTIES.

(A) The Certified Public Accountant is hereby charged with the enforcement of the provisions of this subchapter; and the Certified Public Accountant is hereby empowered to prescribe, adopt, promulgate and enforce rules, regulations and forms relating to any matter or thing pertaining to the administration and enforcement of the provisions of this subchapter, including, but not limited to, provisions for the reexamination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the rules and regulations promulgated by the Certified Public Accountant shall be binding upon the licensee and the employers; provided, however, that any application for refund of overpayment shall be refunded if a claim for refund is made within three years from the date on which the payment was due and paid, shall be made by the taxpayer under oath on a form prescribed by the Director and the information contained therein or submitted therewith shall be verified by the taxpayer's employers. No refund shall be made to any licensee or person until the taxpayer has complied with all provisions of the subchapter and has furnished all required information. Refunds may be withheld from an employee until the employer has filed all required forms and provided all required information. Overpayments will first be applied to previous occupational license fee delinquencies prior to any other disposition.

(B) The Certified Public Accountant or any agent or employee designated in writing by the city is hereby authorized to examine the books, papers and records of any employer or supposed employer or of any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this subchapter. Each employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Certified Public Accountant or the Certified Public Accountant's duly authorized agent or employee the means, facilities and opportunity for the examination and investigation as are hereby authorized. The Certified Public Accountant is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned; and to this end the Certified Public Accountant may compel the production of books, papers, records and the attendance of all persons, whether as parties or witnesses, whom the Certified Public Accountant believes to have knowledge of the wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in this

Commonwealth is permitted to so order.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.09 EXCLUSION OF LEVIES PROHIBITED BY LAW.

§ 118.09 EXCLUSION OF LEVIES PROHIBITED BY LAW.

It is not the intention of the city or of this subchapter to impose and require an occupational license fee prohibited by law.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.10 INFORMATION CONFIDENTIAL; OFFENSE; FINE.

§ 118.10 INFORMATION CONFIDENTIAL; OFFENSE; FINE.

Any information or materials filed with the Certified Public Accountant pursuant to this subchapter or received as a result of any returns, investigations, hearings or verifications required or authorized by this subchapter shall be and remain strictly confidential. Any person or agent divulging such information to any unauthorized party shall be guilty of a Class B misdemeanor and subject to fines and imprisonment as set out in KRS 532.090(2) and KRS 534.040(2)(b). However, such persons may disclose to the State Commissioner of Revenue or his or her duly authorized agent all such information and right to inspect any of the books and records of the city if the State Commissioner of Revenue grants to the city the reciprocal right to obtain information from the files and records of the State Department of Revenue and maintains the privileged character of the information so furnished to him or her.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / FEES / § 118.11 REVENUE TO BE DEPOSITED IN GENERAL FUND.

§ 118.11 REVENUE TO BE DEPOSITED IN GENERAL FUND.

All revenue derived under this section shall be deposited in the general fund.

(Ord. 2,2000, passed 6-13-2000)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES

TAXES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.25 DEFINITIONS.

§ 118.25 DEFINITIONS.

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

BUSINESS. Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. ***BUSINESS*** shall not include the usual activities of board 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, inures 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;

COMPENSATION. Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408,414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

CONCLUSION OF THE FEDERAL AUDIT. The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

EMPLOYEE. Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

EMPLOYER. The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term ***EMPLOYER*** means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term ***EMPLOYER*** means such person.

FINAL DETERMINATION OF THE FEDERAL AUDIT. The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

FISCAL YEAR. An accounting period of 12 months ending on the last day of any month other than December.

GROSS RECEIPTS. All revenues or proceeds derived from the sale, lease, or rental of goods or services, or property by a business entity reduced by the following:

(1) Sales and excise taxes paid; and

(2) Returns and allowances.

INTERNAL REVENUE CODE. The Internal Revenue Code in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate.

PERSON. Every natural person, whether a resident or non-resident of the city. 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.

RETURN or ***REPORT*.** Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the city.

***SALES REVENUE*.** Receipts from the sale, lease, or rental of goods, services, or property.

***TAX DISTRICT*.** Any city of the first to fifth class, county, urban county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes.

***TAXABLE GROSS RECEIPTS*.** In case of a business entity having payroll or sales revenues both within and without the city means gross receipts as defined in section, and as apportioned under § 118.28.

***TAXABLE GROSS RECEIPTS*.** In case of a business entity having payroll or sales revenues only within the city means gross receipts as defined in this section.

***TAXABLE YEAR*.** The calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.26 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

§ 118.26 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

Every person and business entity engaged in any business in the city shall be required to apply for and obtain an occupational license from the city before the commencement of business or in the event of a change of business status. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes that render the information supplied to the city in the license application inaccurate.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES

§ 118.27 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in division (B) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an occupational license tax for the privilege of engaging in such activities within the city.

(1) The occupational license tax shall be measured by .75% of all wages and compensation paid or payable in the city for work done or services performed or rendered in the city by every resident and nonresident who is an employee;

(2) The occupational license tax shall be measured by .75% of the gross receipts from business conducted in the city by a resident or nonresident business entity.

(B) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, combined trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public service corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their gross receipts derived from the non-public service activities apportioned to the city;

(5) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from the manufacturing or trafficking in alcoholic beverages;

(6) Life insurance companies incorporated under the laws of and doing

business in the Commonwealth of Kentucky;

(7) Any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 through 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor; or

(8) Any company providing multi-channel video programming services or communications services as defined in KRS 136.602. If only a portion of an entity's business is providing multi-channel video programming services or communications services including products or services that are related to and provided in support of the multi-channel video programming services or communications services, this exclusion applies only to that portion of the business that provides multi-channel video programming services or communications services including products or services that are related to and provided in support of the multi-channel video programming services or communications services.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.28 APPORTIONMENT.

§ 118.28 APPORTIONMENT.

(A) Except as provided in division (D) of this section, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the gross receipts by the sales factor as set forth in division (C) of this section.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sales, lease, or rental of tangible personal property is in the city if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is the total time spent performing that income- producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of gross receipts.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the city. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable. In order for the city to verify the accuracy of a taxpayer's reported percentages under this division, the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this subchapter. The occupational license tax imposed in this subchapter is assessed against income before it is "passed through" these entities to the owners.

(G) If any business entity dissolves, ceases to operate, or withdraws from the city

during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the city.

(H) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this subchapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.29 EMPLOYERS TO WITHHOLD.

§ 118.29 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 118.27 of this subchapter. Amounts withheld shall be paid to the city in accordance with this section.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(C) Every employer who fails to withhold or pay to the city any sums required by this subchapter to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the occupational license tax withheld where

compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this division unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this ordinance at the time that the taxes imposed by this subchapter become or became due.

(I) Not withstanding divisions (G) and (H) of this section, every employee receiving compensation in the city subject to the tax imposed under § 118.27 of this subchapter shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this subchapter from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.30 RETURNS REQUIRED.

§ 118.30 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to a occupational license tax governed by the provisions of this subchapter shall keep records, render under oath statements, make returns, and comply with rules as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability the business entity.

(D) The city may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) Every business entity making payments of $600 or more to persons other than employees for services performed within the city are responsible for maintaining the records of those payments and for completing IRS Form 1099 on or before February 28 of the year following the close of the calendar year in which such compensation was paid.

(G) Persons or business entities not required to remit a Form 1099 remain liable to the city to remit equivalent information for any compensation made to persons or business entities that are not employees.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.31 EXTENSIONS.

§ 118.31 EXTENSIONS.

(A) The city may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the

city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.32 REFUNDS.

§ 118.32 REFUNDS.

(A) Where there has been an overpayment of tax under § 118.29 of this subchapter, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or credit is received by the city from the employer within two years from the date the overpayment was made.

(B) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.

(C) Where there has been an overpayment of net profits tax upon business levied under § 118.27 of this subchapter, a refund or credit shall be made to any person or business entity to the extent of overpayment only upon a written application for refund or credit to the city within two years from the date that overpayment was made.

(D) In the case where the tax computed under the provisions of this subchapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund or credit, if a credit is requested, shall be made upon the filing of a return.

(E) (1) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the

next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(2) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this subchapter.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.33 FEDERAL AUDIT PROVISIONS.

§ 118.33 FEDERAL AUDIT PROVISIONS.

(A) (1) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the city within five years from the date the return was filed, except as otherwise provided in this subsection.

(a) In the case of a failure to file a return or of a fraudulent return, the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates gross receipts, or omits an amount properly includable in gross receipts s, or both, which understatement or omission, or both, is in excess of 25% of the amount of gross receipts stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(2) The times provided in this subsection may be extended by agreement between the business entity and the city. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The city may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.34 ADMINISTRATIVE PROVISIONS.

§ 118.34 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this subchapter.

(B) (1) Any tax collected pursuant to the provisions of this subchapter may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:

(a) In any case where the assessment period contained in § 118.33 of this subchapter has been extended by an agreement between the business entity and the city, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this subsection and division (A) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this subchapter is vested exclusively in the city.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.35 INFORMATION TO REMAIN CONFIDENTIAL.

§ 118.35 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of any tax district shall intentionally and without

authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

(B) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the Commissioner of Revenue of the Commonwealth of Kentucky giants to the city the reciprocal right to obtain information form the files and records of the Kentucky Revenue Cabinet and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on such information in such a manner as not to reveal data respecting gross receipts or compensation of any person.

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this subchapter.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.36 USE OF OCCUPATIONAL LICENSE TAX.

§ 118.36 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the license taxes under the provisions of this subchapter shall be paid to the city and placed to the credit of the city's general revenue fund.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.37 PAYMENT OF ESTIMATED TAX QUARTERLY.

§ 118.37 PAYMENT OF ESTIMATED TAX QUARTERLY.

(A) Every business entity, other than a sole proprietorship, subject to taxation under this subchapter, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds $5,000.

(B) The quarterly estimated tax payments required under division (A) of this section shall be based on the lesser of:

(1) Twenty-two and one-half percent of the current taxable year tax liability;

(2) Twenty-five percent of the preceding full year taxable year tax liability; or

(3) Twenty-five percent of the average tax liability for the three preceding full year taxable years' tax liabilities if the tax liability for any of the three preceding full taxable years exceeded $20,000.

(C) (1) Any business entity that fails to submit the minimum quarterly payment required under division (B) of this section by the due date for the quarterly payment shall pay an amount equal to 12% per annum simple interest on the amount of the quarterly payment required under division (B) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under division (B) of this section; or

(b) The due date of the annual return.

(2) A fraction of a month is counted as an entire month.

(D) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the city or any first taxable year in which a business entity's tax liability exceeds $5,000.

(E) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: OCCUPATIONAL LICENSES / TAXES / § 118.99 PENALTY.

§ 118.99 PENALTY.

(A) *Fees.*

(1) *Penalties.*

(a) A penalty of 10% on any license fees remaining unpaid after they become due shall be assessed.

(b) Interest at the rate of 8% per annum shall be added to any license fee remaining unpaid after they become due unless judgment is obtained, in which 12% after judgment shall apply.

(2) *Violation; fines.*

(a) No person shall fail, neglect or refuse to make any return required by §§ 118.01 through 118.11. No employer shall fail to withhold the employee license tax and to pay over to the city the taxes so withheld. No person shall refuse to permit the Certified Public Accountant or any agent or employee designated in writing by the city to examine the pursuant books, papers and records. No person shall knowingly make any incomplete, false or fraudulent return. No person shall fail, neglect or refuse to apply for an occupational license tax reporting number. No person shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings or profits in order to avoid payment of the whole or any part of the occupational license tax.

(b) A person who shall violate any of the provisions of §§ 118.01 through 118.11 shall be subject to be fined pursuant to the provisions of KRS 534.040(2)(c).

(Ord. 2,2000, passed 6-13-2000)

(B) *Taxes.*

(1) (a) A business entity subject to tax on gross receipts may be subject to a penalty equal to 5% of the tax due for each calendar month or fraction thereof if the business entity:

1. Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or

2. Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(b) The total penalty levied pursuant to this subsection shall not

exceed 25% of the total tax due; however, the penalty shall not be less than $25.

(2) Every employer who fails to file a return or pay the tax on or before the time prescribed under § 118.29 may be subject to a penalty in amount equal to 5% of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed 25% of the total tax due; however, the penalty shall not be less than $25.

(3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(4) Every tax imposed by §§ 118.25 through 118.37, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

(5) The city may enforce the collection of the occupational tax due under § 118.27 and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of §§ 118.25 through 118.37.

(6) In addition to the penalties prescribed in this division (B), any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under §§ 118.25 through 118.37 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(8) A return for the purpose of this division (B) shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of §§ 118.25 through 118.37, or by the rules of the city or by written request for information to the business entity by the city.

(9) Any person violating the provisions of § 118.35 by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than $500 or imprisoned for not longer than six months or both.

(10) Any person violating the provisions of § 118.35 by divulging confidential taxpayer information shall be fined not more than $1,000 or imprisoned for not more than one

year or both.

(Ord. 6,2008, passed 9-22-2008)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES

CHAPTER 119: ALCOHOLIC BEVERAGES

Section

Generally

119.01	Purpose
119.02	Definitions
119.03	Scope
119.04	Licenses
119.05	ABC Administrator
119.06	Hours for sale and delivery
119.07	Conditions, prohibitions and restrictions
119.08	Enforcement; investigation and inspection of premises
119.09	Mandatory responsible beverage service training
119.10	Signs and advertising
119.11	Implementation

Licensing Provisions

119.25	Fees; application
119.26	Refund of license fee
119.27	Lost or destroyed license
119.28	Revocation or suspension and hearing
119.29	Notice to licensee; surrender of license; hearing
119.30	Transfer or assignment
119.31	Refusal of license
119.32	Review of license
119.33	Regulatory license fee
119.34	Change of information
119.35	Dormancy
119.36	Approval of premises
119.37	Delinquent taxes or fees
119.38	Books, records and reports

GENERALLY

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.01 PURPOSE.

§ 119.01 PURPOSE.

The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS Chapters 242 through 244.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.02 DEFINITIONS.

§ 119.02 DEFINITIONS.

The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the State Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.03 SCOPE.

§ 119.03 SCOPE.

(A) This chapter shall apply to the sale of malt beverages, wine and distilled spirits on any premises or establishment within the city. The sale of malt beverages, wine and distilled spirits on any premises or establishment within the city pursuant to a license issued by the

Department of Alcoholic Beverage Control shall be governed by the applicable state statutes; however, the provisions of this chapter shall apply to all persons, licensees, premises and establishments within the city to the fullest extent such application is delegated to the city, or otherwise authorized, by the provisions of KRS Chapters 241 through 244. Nothing in this chapter shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other ordinance or ordinances of the city or of any statutes of the Commonwealth relating to violations pertaining to alcoholic beverages.

(B) The provisions of the Alcoholic Beverage Control Law of the Commonwealth (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.04 LICENSES.

§ 119.04 LICENSES.

Under the chapter, a license shall be issued by the city only to the owners and/or operators of those establishments which qualify for licenses applicable to City of Russell pursuant to KRS Chapter 243. Whenever any person or entity seeks of a license from the Department of Alcoholic Beverages Control to manufacture or traffic in alcoholic beverages within the city pursuant to some other provision of KRS Chapters 241 through 244, such state applicant shall apply to the city for any applicable city license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the city. City license fees, whether primary or supplemental shall be assessed in accordance with KRS 243.070 and §§ 119.25 through 119.38 of this chapter. Regulatory license fees shall be assessed in accordance with KRS 243.075 and §§ 119.25 through 119.38 of this chapter.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.05 ABC ADMINISTRATOR.

§ 119.05 ABC ADMINISTRATOR.

(A) The Police Chief shall serve as the city Alcoholic Beverage Control

Administrator (hereinafter referred to as “City ABC Administrator”).

(B) The City ABC Administrator may from time to time appoint such additional personnel as is necessary to assist him or her in the administration of this chapter.

(C) The salary for the Office of the City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the City Council.

(D) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth (hereinafter referred to as ABC Board) with respect to state licenses and regulations; except that, no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statues relating to Alcoholic Beverage Control, or than regulations of the ABC Board, (nullified by court case).

(E) No person shall be a City ABC Administrator, an investigator or an employee of the city under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.

(F) The City ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244.

(G) Should the City ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require such person to appear in person at the City Police Department for the purpose of having his or her fingerprints taken.

(H) The City ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in § 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than $1,000, the cost of which shall be paid by the city.

(I) (1) Appeals from the orders of the City ABC Administrator may be taken to the State ABC Board by filing with the Board within 30 days a certified copy of the orders of the City ABC Administrator.

(2) Matters at issue shall be heard by the Board as upon an original proceeding.

(3) Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.06 HOURS FOR SALE AND DELIVERY.

§ 119.06 HOURS FOR SALE AND DELIVERY.

(A) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages Monday through Saturday between the hours of 6:00 a.m. and 12:00 midnight and on Sunday from 12:00 p.m. until 12:00 midnight.

(B) All delivery of alcoholic beverages in the city shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

(C) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that, the appropriate licenses have been obtained from both the city and the State ABC Board. Alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.07 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

§ 119.07 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

(A) No gambling or game of chance unless otherwise authorized by the Commonwealth shall be permitted in any form on such licensed premises. Dice, slot machines or any device of chance are prohibited and shall not be kept on such premises.

(B) (1) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the county as it is now or may hereafter be operated.

(2) In addition to other penalties provided for the violation of this section, the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(C) The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise.

Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(D) It shall be unlawful for the licensee under this chapter who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages.

(E) No quota retail package licensee shall permit any alcoholic beverages to be consumed on the licensed premises, unless it holds an additional license authorizing the same.

(F) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(G) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(H) The licensee shall display at all times in a prominent place a sign at least eight inches by 11 inches in 30 point or larger type which states as follows:

"Persons under the age of 21 are subject to a fine of up to $100 if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.

2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(I) (1) The licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.

(2) The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(J) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services which shall warn that drinking alcoholic beverages prior to

conception or during pregnancy can cause birth defects.

(K) Any off-premises signage advertising the sale of alcoholic beverages is prohibited.

(L) No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration, except for cash or credit card at time of purchase.

(M) (1) No licensee shall knowingly employ in connection with his or her business any person who:

(a) Has been convicted of any felony within the last two years unless permitted by KRS

244.090(2);

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years; unless permitted by KRS 244.090(2);

(c) Is under the age of 21 years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under statue; and

(d) Within two years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

(2) Violation of this division (M) shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.08 ENFORCEMENT; INVESTIGATION AND INSPECTION OF PREMISES.

§ 119.08 ENFORCEMENT; INVESTIGATION AND INSPECTION OF PREMISES.

(A) City police officers and the City ABC Administrator are authorized to enforce this chapter for alleged violations.

(B) The City ABC Administrator and along with any authorized law enforcement

officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.09 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.

§ 119.09 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.

(A) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a city-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the city, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The city will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this chapter.

(B) All persons required to complete training under division (A) above shall complete that training within 60 days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the city not less than once every three years thereafter.

(C) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.10 SIGNS AND ADVERTISING.

§ 119.10 SIGNS AND ADVERTISING.

(A) All signage shall be in compliance with any and all other existing rules and regulations of the city and the Greenup County Joint Planning and Zoning Commission.

(B) It shall be unlawful for a licensee under this chapter to distribute or cause to be

distributed any handbills, circulars or cards as a medium of advertising alcoholic beverages.

(C) It shall be unlawful for any person holding a licensee under this chapter to distribute to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize or for any other purpose in connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / GENERALLY / § 119.11 IMPLEMENTATION.

§ 119.11 IMPLEMENTATION.

From time to time, the City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this chapter.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS

LICENSING PROVISIONS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.25 FEES; APPLICATION.

§ 119.25 FEES; APPLICATION.

(A) (1) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements of KRS Chapter 424.

(a) The advertisement shall state the name and addresses of the individual applicant, or members of a partnership or limited liability company if the applicant is

either, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(b) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(2) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Department of the ABC Board and the city, as amended and supplemented from time to time.

(3) (a) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the Department of ABC Board and the city, including as follows:

1. Name and address;

2. Nature of interest;

3. Whether or not a citizen of the United States;

4. Date of birth;

5. Date residence was established in Kentucky, if a resident of the state. If a city resident, indicate when residence was established;

6. Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this chapter;

7. Extent of stock ownership; and

8. Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(b) Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(4) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(5) All city licenses shall be in such form as may be prescribed by the City Council and shall contain:

(a) The name and address of the licensee;

(b) The number of the license;

(c) The type of licenses;

(d) A description by street and number, or otherwise, of the licensed premises;

(e) The name and address of the owner of the building in which the licensed premises are located;

(f) The expiration date of the license; and

(g) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(6) All licenses approved by the City ABC Administrator and issued by the city shall begin on July 1 of any year and shall expire on June 30 of the following year.

(7) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(8) Any licenses issued after December 31 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of six months.

(9) In the event a violation of this chapter occurs that requires the revocation of the license, the city shall not be required to refund any portion of the license fee.

(B) (1) There is hereby imposed upon each holder of a license to manufacture and/or traffic in alcoholic beverages, under any provision of KRS Chapters 241 through 244, a license fee for the privilege of manufacturing and/or trafficking in alcoholic beverages within the city, as follows:

(a) Distilled spirit and wine licenses:

(i)	Distiller’s license, per annum	$
(ii)	Rectifier’s license, per annum	$3
(iii)	Wholesaler’s distilled spirits and wine license, per annum	$3
(iv)	Quota retail package license, per annum	$1
(v)	Special temporary license, per event	$

(vi)	Non-quota type 1 retail drink license, per annum	$2
(vii)	Non-quota type 2 retail drink license, per annum	$1
(viii)	Non-quota type 3 retail drink license, per annum	$
(ix)	Distilled spirits and wine special temporary auction license, per event	$
(x)	Special Sunday retail drink license, per annum	$
(xi)	Extended hours supplemental license, per annum	$
(xii)	Caterer’s license, per annum	$
(xiii)	Bottling house or bottling house storage license, per annum	$1

(b) Caterers may be issued a caterer’s license as a supplementary license, provided that the caterer holds a retail package liquor license or distilled spirits and wine or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer’s license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer’s license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer’s license) must also obtain a City business license.

(c) Malt beverage licenses:

(i)	Brewer's license, per annum	$ 5
(ii)	Microbrewery license, per annum	$ 5
(iii)	Malt beverage distributor's license, per annum	$ 4
(iv)	Non-quota retail malt beverage package license, per annum	$ 2
(v)	Non-quota type 4 retail malt beverage drink license, per annum	$ 2
(vi)	Malt beverage brew-on premises license, per annum	$ 1

(vi)	Malt beverage brew on premises license, per annum	$ 1
(vii)	Limited restaurant license, per annum	$1,2

(d) A fee for each of the first five supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five to the same licensee at the same premises.

(e) Any license after January 1 of any year shall be a fee equal to one-half of the annual fee for the remainder of the license period.

(f) The holder of a non-quota retail malt beverage package license may obtain a non-quota type 4 malt beverage drink license for a fee of $50. The holder of a non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage license for a fee of $50.

(2) The City ABC Administrator shall transmit fees upon collection to the City Treasurer to be deposited into the appropriate designated account. City licenses shall be issued by the city ABC Administrator upon receipt of notice from the ABC Board Administrator of the formality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.26 REFUND OF LICENSE FEE.

§ 119.26 REFUND OF LICENSE FEE.

Should any licensee under this chapter be prohibited from conducting the business for the full period covered by the license because of any changes that may hereafter be made in the laws of the state with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on the business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee or agent or employee of the licensee.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.27 LOST OR DESTROYED LICENSE.

§ 119.27 LOST OR DESTROYED LICENSE.

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he or she shall be satisfied as to the facts; provided, however, that the person applying for the duplicate license shall pay a fee of $10 for issuing the duplicate.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.28 REVOCATION OR SUSPENSION AND HEARING.

§ 119.28 REVOCATION OR SUSPENSION AND HEARING.

(A) Any license may be revoked or suspended by the City ABC Administrator, or a licensee may in lieu of suspension on approval of the City ABC Administrator in the alternative pay in part or all of the days of any suspension period a sum in accordance with the schedule set forth in division (E) of this section, if the license shall have violated any of the provisions of KRS Chapter 241, 242, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation of whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(B) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(C) Any license may be revoked or suspended for the additional following causes:

(1) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed;

(2) Making any false, material statements in an application for a license;

(3) If, within a period of two consecutive years, any licensee or any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one such felony and one such misdemeanor;

(4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof; and/or

(5) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept or engaged in, on the licensed premises, any such game device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(6) Failure to pay when due any tax imposed by the City of Russell, Kentucky.

(D) (1) In the event a citation for violation of any provision of this chapter is issued, notification of the alleged violation shall be served in writing on the licensee by delivering a copy to the licensee's place of business in Russell, Kentucky and by mailing a copy by U.S. Mail, postage prepaid, to the licensee's address as shown on the application for a license, giving notice that licensee may, within seven days of the date of notification, request an administrative hearing before the City ABC Administrator to determine the existence of a violation. The hearing shall be a trial type hearing with all parties having a right to counsel and all witnesses subject to cross-examination. Rules for administrative hearings as provided in KRS Chapter 13B shall apply. (Cities do not have to follow KRS Chapter 13B, if they do not want to.)

(2) After the hearing is concluded within five business days, the City ABC Administrator shall issue a finding of fact and decision.

(3) Appeal from the decision of the City ABC Administrator shall be to the State ABC Board within 30 days from the date of the City ABC Administrator decision. (See KRS 241.200.)

(E) In the event of payment of a monetary penalty in lieu of suspension, the monetary penalties shall be:

(1) Distillers, rectifiers, wineries, and brewers: $1,000 per day.

(2) Wholesale liquor licensees: $400 per day.

(3) Wholesale beer licensees: $400 per day.

(4) Retail licensees authorized to sell distilled spirits, wine or beer by the package or drink: $400 per day.

(5) All remaining licensees: $400 per day.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.29 NOTICE TO LICENSEE; SURRENDER OF LICENSE; HEARING.

§ 119.29 NOTICE TO LICENSEE; SURRENDER OF LICENSE; HEARING.

(A) (1) Within three days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section.

(2) The licensee shall at once surrender his or her license to the City ABC Administrator.

(3) If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(B) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(C) Appeal from the decision of the City ABC Administrator shall be to the State ABC Board.

(D) If a license is revoked or suspended by an order of the City ABC Administrator,

the licensee shall at once suspend all operations authorized under his or her license.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.30 TRANSFER OR ASSIGNMENT.

§ 119.30 TRANSFER OR ASSIGNMENT.

No license issued under this chapter shall be transferred or assigned either as to licensee or location, except with prior approval of the City ABC Administrator and not then until a payment of $100 shall be made to the City ABC Administrator.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.31 REFUSAL OF LICENSE.

§ 119.31 REFUSAL OF LICENSE.

The City ABC Administrator may refuse to issue or renew a license for any of the following reasons:

(A) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof;

(B) If the applicant has done any act for which a revocation of license would be authorized; and/or

(C) If the applicant has made any false material statement in his or her application.

(D) Failure to pay taxes.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.32 REVIEW OF LICENSE.

§ 119.32 REVIEW OF LICENSE.

Applicants to whom a license is issued which require certain food sales percentages, shall provide periodic information demonstrating compliance with the continuing requirement that the required percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings, in the event the 50% food requirements are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one year in determining whether or not the 50% minimum food requirement has been met.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.33 REGULATORY LICENSE FEE.

§ 119.33 REGULATORY LICENSE FEE.

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes of fully reimbursing the city for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter.

(C) Failure to pay such quarterly remittance within ten days of the due date constitutes a violation and subjects licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed

25% of the tax; provided, however, that, in no case shall the penalty be less than $10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2015, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this chapter and KRS 243.075.

(G) Prior to establishing the subsequent regulatory license fee, the Mayor shall cause the City Auditor to audit the regulatory license fee account to ensure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior fiscal year, a fee rate for the ensuing year.

(H) The Auditor shall report his or her findings to the City Council and in addition to the regulatory license fee, recommend any action he or she deems necessary to ensure compliance with KRS 243.075.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.34 CHANGE OF INFORMATION.

§ 119.34 CHANGE OF INFORMATION.

(A) If a license issued by the city is in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(B) As used herein, the word ***CHANGE*** is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures 10% of the outstanding stock. Transfer of more than 10% of the total stock shall require approval by City ABC Administrator.

(C) (1) The following information will be required concerning any new director, officer or person securing any interest in alcoholic beverage license:

(a) Name and address;

(b) Nature of interest;

(c) Whether or not a citizen of the United States;

(d) Date of birth;

(e) Date residence was established in Kentucky, if a resident of the state. If a city resident, indicate when residence was established;

(f) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;

(g) Extent of stock ownership; and

(h) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(2) This information shall be filed with the City ABC Administrator as an amendment of the application pursuant to which the license was granted.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.35 DORMANCY.

§ 119.35 DORMANCY.

(A) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after 90 days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(B) Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90-day period, the license shall be surrendered to the City ABC Administrator.

(C) Except that, the provisions of division (A) above shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the 90 days of inactivity, for any of the reasons set forth herein, and, the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted

during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within 12 months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date, but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

(D) All renewal licenses must be on file with the City ABC Administrator within 30 days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition or these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease verified statement no less than 20, days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized, to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.36 APPROVAL OF PREMISES.

§ 119.36 APPROVAL OF PREMISES.

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the City Building Inspector, and any and all other inspections required by the Kentucky Building Code.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.37 DELINQUENT TAXES OR FEES.

§ 119.37 DELINQUENT TAXES OR FEES.

(A) No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the city at the time of the issuing the license; nor shall any license be granted or renewed to sell upon any premises or fees due the city.

(B) Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: ALCOHOLIC BEVERAGES / LICENSING PROVISIONS / § 119.38 BOOKS, RECORDS AND REPORTS.

§ 119.38 BOOKS, RECORDS AND REPORTS.

(A) Every licensee under this chapter shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner acquired by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

(B) For the purpose of assisting the City ABC Administrator in enforcement of this chapter, every licensee required to report to the Department of Revenue under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the Department of Revenue required by statute shall be furnished to the City ABC Administrator.

(Ord. 13, 2014, passed 11-17-2014)

TITLE XIII: GENERAL OFFENSES

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL PROVISIONS

131. CURFEW

CHAPTER 130: GENERAL PROVISIONS

Section

130.01	Sale and distribution of drug paraphernalia to minors
130.02	Discharge of slingshots, BB guns, air guns or pellet guns; prohibited
130.03	Hunting within corporate limits of city; prohibited
130.04	Discharge of firearms

Statutory reference:

For provisions which may supersede this chapter, see KRS Chapters 218A and 530

§ 130.01 SALE AND DISTRIBUTION OF DRUG PARAPHERNALIA TO MINORS.

(A) Where the term ***PERSON*** is used in this section, it shall be taken to mean any natural person, firm, partnership, copartnership, association, corporation or organization of any kind.

(B) Any person who, with knowledge, sells, lends, gives away or shows, offers to sell, lend, give away or show, has in his or her possession with intent to sell, lend, give away, show or advertises in any manner, or otherwise offers for sale, loan, gift or distribution any object, paraphernalia such as but not limited to "roach clips", water pipes, rolling papers and the like; book, magazine, writing, drawing, figure relating to the use of drugs or controlled substance; or other similar items which either singularly or in combination relate to the use of marijuana whose use is prohibited by the laws of the Commonwealth of Kentucky and as the same is defined therein; or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, of whom and by what means any such matter or article named in this section can be purchased, obtained or had, may not allow or permit any minor, that is a child under the of 18 years, to come upon or near the premises having the items mentioned herein or gaining information as to how to obtain the items mentioned herein.

(C) The purpose of this section is to prohibit any person from allowing minor children, that is children under the age of 18 years, to come upon his or her premises where the

items mentioned herein are advertised or available as herein specifically described.

(Ord. 14-1976, passed 6-7-1976; Ord. 18-1976, passed 8-2-1976) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES / CHAPTER 130: GENERAL PROVISIONS / § 130.02 DISCHARGE OF SLINGSHOTS, BB GUNS, AIR GUNS OR PELLET GUNS; PROHIBITED.

§ 130.02 DISCHARGE OF SLINGSHOTS, BB GUNS, AIR GUNS OR PELLET GUNS; PROHIBITED.

It shall be illegal for any individual to discharge slingshots, BB guns, air guns or pellet guns within the city limits.

(Ord. 3-1991, passed 4-22-1991) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES / CHAPTER 130: GENERAL PROVISIONS / § 130.03 HUNTING WITHIN CORPORATE LIMITS OF CITY; PROHIBITED.

§ 130.03 HUNTING WITHIN CORPORATE LIMITS OF CITY; PROHIBITED.

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

HUNTING. To take or attempt to take in any manner, whether the hunter has game in his or her possession or not.

POSSESS. The act of having or taking into control.

PROTECTED WILDLIFE. Any wildlife for which an open or closed season for taking has been designated.

TAKE. Pursue, shoot, hunt, wound, catch, kill, trap, snare or capture wildlife in any way and any lesser act designed to lure, attract or entice for these purposes; and to place, set, aim or use any device, animal, substance or agency which may reasonably be expected to accomplish these acts; or to attempt to do the acts or to assist any other person in the doing of or the attempt to do the acts.

WILDLIFE. Any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian or other terrestrial or aquatic life, whether or not possessed in a controlled environment, bred, hatched or born in captivity and

including any part, product, egg or offspring thereof, protected or unprotected.

(B) (1) Hunting shall be prohibited within the corporate limits of the city.

(2) No person shall take any wildlife, whether protected or not, within the corporate limits of the city, by trapping, snaring, crossbow, bow and arrow, gun or firearm, gun and dog, dog, falconry or other means.

(3) This prohibition shall not apply to the following: A person may take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net subject to possession of a sport fishing license in accordance with the laws of this Commonwealth.

(Ord. 10,1998, passed 11-23-1998) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES / CHAPTER 130: GENERAL PROVISIONS / § 130.04 DISCHARGE OF FIREARMS.

§ 130.04 DISCHARGE OF FIREARMS.

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

FIREARM. Any weapon which will expel a projectile by the action of an explosive.

HANDGUN. Any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

(B) *Prohibition against the discharge of firearms within the city limits; exception.*

(1) It shall be unlawful for any person to knowingly or intentionally discharge a firearm within the city limits of the city.

(2) Division (B)(1) above shall not apply to the discharge of a handgun in an approved and certified indoor shooting range located within the city limits. Any such indoor range must be equipped with a certified air filtration system and comply with all federal and Commonwealth regulations pertaining to the operation of such a facility.

(Ord. 4,1997, passed 5-12-1997) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES / CHAPTER 131: CURFEW

CHAPTER 131: CURFEW

Section

131.01 Curfew for minors

131.99 Penalty

TITLE XIII: GENERAL OFFENSES / CHAPTER 131: CURFEW / § 131.01 CURFEW FOR MINORS.

§ 131.01 CURFEW FOR MINORS.

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

ALLOW. Either permit or neglect to 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 minor violating this section, or the circumstances must be such that a reasonably prudent parent or guardian should have known the minor was violating this section.

MINOR. Any person under the age of 18, or, as may be otherwise phrased, any person of the age of 17 or under.

PARENT. Any person having legal custody of a minor:

(a) As a natural or adoptive parent;

(b) As a legal guardian;

(c) As a person who stands in loco parentis; or

(d) As a person whom legal custody has been given by order of court.

REMAIN. To stay behind, tarry, linger, congregate, move about, wander, stroll or stay unnecessarily upon or in any public assembly, building, place, street or highway.

(B) (1) 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 following periods:

(a) On any night that precedes a day in which school is in session: 10:00 p.m. to 5:00 a.m.; and

(b) On any night that precedes a day in which school is not in session: 11:00 p.m. to 5:00 a.m.

(2) It shall be unlawful for any parent or guardian having legal custody of a minor to allow the 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 as enumerated in division (C) below during the time periods contained in divisions (B)(1)(a) and (b) above.

(C) 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 division (B) above, shall not be considered in violation of this section:

(1) When the minor is accompanied by a parent or guardian;

(2) When accompanied by an adult authorized by a parent or guardian of the minor;

(3) 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, provided 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 the First Amendment rights;

(4) In case of reasonable necessity but only after the minor's parent has communicated to the Police Department the facts establishing the reasonable necessity;

(5) When the minor is on the sidewalk contiguous to the place where the minor resides, or on the sidewalk contiguous to a next-door neighbor who has not communicated an objection to a police officer or the division of police;

(6) 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 Police Department;

(7) When authorized by regulation issued by the Mayor in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. The regulation 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

Police Department of the information;

(8) When engaged in a business or occupation which the laws of Kentucky authorize a person under 18 years of age to perform;

(9) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver;

(10) 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 another either within or out of the city, including all minors that may also be within the vehicle;

(11) When the minor is married in accordance with law or had disability of non-age removed by a court of competent jurisdiction; or

(12) When the minor is homeless or uses a public place as his or her usual place or abode.

(D) (1) A police officer, upon finding or being notified of any minor in or upon any public assembly, building, place, street or highway whose parent is believed to be in violation of this section, may stop and question the minor and request such information as his or her name and age and the name and address of his or her parent, guardian or person having legal custody.

(2) If the police officer determines or has reasonable cause to believe that a curfew violation has occurred, the police officer may obtain from the minor the information necessary to issue a citation to the minor's parent, guardian or person having legal custody.

(E) Any minor found in violation of any division of this section shall be:

(1) Taken to his or her home;

(2) Directed to proceed immediately to his or her home; or

(3) Taken to a facility designated by the division of police.

(Ord. 3, passed 5-28-1996) Penalty, see § 131.99

TITLE XIII: GENERAL OFFENSES / CHAPTER 131: CURFEW / § 131.99 PENALTY.

§ 131.99 PENALTY.

Any parent, guardian or person having legal custody of a minor allowing a minor to

violate this chapter shall be subject to a fine of no more than $499.

(Ord. 3, passed 5-28-1996)

TITLE XV: LAND USAGE

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. FLOOD DAMAGE PREVENTION

152. PROPERTY MAINTENANCE CODE

153. EROSION PREVENTION AND SEDIMENT CONTROL

154. ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT

155. ZONING

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Adoption of Codes

150.01 Adoption of standard codes by reference; enforcement agents

Building Permits

150.10 Permit required
150.11 Permit fee schedule

Electrical Contractors; Permits

150.20 Definitions

150.21 Payment of fee; license required
150.22 License tax
150.23 Permit required for electrical work
150.24 Permit fees
150.25 Permit card to be displayed
150.26 Authority of Electrical Inspector
150.27 Exemptions

Blighted and Deteriorated Property

150.40 Definitions
150.41 Vacant Property Review Commission
150.42 Determination of blighted or deteriorated property; notice to owner
150.43 Acquirement of property by eminent domain; proceedings
150.44 Adoption of Commonwealth provisions

Miscellaneous Regulations

150.60 Posting of house number of every residence required

150.99 Penalty

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ADOPTION OF CODES

ADOPTION OF CODES

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ADOPTION OF CODES / § 150.01 ADOPTION OF STANDARD CODES BY REFERENCE; ENFORCEMENT AGENTS.

§ 150.01 ADOPTION OF STANDARD CODES BY REFERENCE; ENFORCEMENT AGENTS.

(A) *Miscellaneous codes.* The Kentucky Plumbing Code, as contained in 815 KAR 20; the Kentucky Standards of Safety, as contained in 815 KAR 10; the BOCA Basic/National Existing Structures Code and the CABO - One- and Two-Family Dwelling Code, together with any amendments, are hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above codes and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer where they shall be available for public inspection during normal business

hours.

(B) *Enforcement agent.* The City Planner and Code Administrator shall be designated as the local enforcement agent for the Kentucky Building Code.

(C) *Kentucky Building Code.*

(1) *Adoption of the Kentucky Building Code.* 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 an ordinance of the city as if set out at length herein. A copy of the Kentucky Building Code is on file in the office of the City Clerk/Treasurer, and the City Clerk/Treasurer shall at all times keep a copy of the Building Code for reference. An attested copy of this division shall be transmitted to the Department of Housing, Buildings and Construction of the Commonwealth of Kentucky.

(2) *Designated Enforcement Officer.* The Code Enforcement Officer shall be designated as the local enforcement agent for the Kentucky Building Code. All Building Code inspections shall be performed by persons certified by the Kentucky Department of Housing, Buildings and Construction. All electrical inspections shall be performed by a certified Electrical Inspector specifically approved by this jurisdiction.

(3) *Building inspection program.* Pursuant to KRS 198B.060(8), a building inspection program is hereby established in the city for application to all buildings, including single-family dwellings as provided in the adopted codes.

(4) *Permits and fees.* The fees for permits and inspections shall be as provided for in the attached to Ord. 9,2002 and hereby adopted as if set out in full herein.

(D) *Kentucky Residential Code.* Certain documents, three copies of which are on file in the office of the City Clerk/Treasurer, being marked and designated as the Kentucky Residential Code, Chapters 1 through 43, as published by the International Code Council, Inc. and is hereby adopted as the code of the city 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; and each and all of the regulations, provisions, conditions and terms of the Kentucky Residential Code, 2002 edition, published by the International Code Council on file in the office of the City Clerk/Treasurer are hereby referred to, adopted and made a part hereof as if fully set out in this division.

(E) *Property Maintenance Code.*

(1) *Adoption of International Property maintenance Code.* Certain documents, three copies of which are on file in the office of the City Clerk/Treasurer, being

marked and designated as the International Property Maintenance Code, as published by the International Code Council, Inc. and is hereby adopted as the Property Maintenance Code of the city for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Property Maintenance Code are hereby referred to, adopted and made a part hereof, as if fully set out in this division, with the additions, insertions, deletions and changes, if any, prescribed by division (E)(2) below.

(2) *Amendments*. The following sections are hereby revised:

(a) Section 101.1 insert [NAME OF JURISDICTION] City of Russell, Kentucky;

(b) Section 103.6 insert [APPROPRIATE SCHEDULE] See attached;

(c) Section 303.14 insert [DATES IN TWO LOCATIONS] April 1 through November 30;

(d) Section 602.3 Insert [DATES IN TWO LOCATIONS] November 1 through April 1; and

(e) Section 602.4 insert [DATES IN TWO LOCATIONS] November 1 through April 1.

(Ord. 8-1987, passed 7-20-1987; Ord. 12-1991, passed 10-15-1991; Ord. 9,2002, passed 6-25-2002; Ord. 10,2002, passed 6-25-2002; Ord. 11,2002, passed 6-25-2002) Penalty, see § 150.99

Statutory reference:

Commonwealth standards concerning the Office of City Building Inspector, see KRS Chapter 198B

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BUILDING PERMITS

BUILDING PERMITS

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BUILDING PERMITS / § 150.10 PERMIT REQUIRED.

§ 150.10 PERMIT REQUIRED.

(A) Before any new construction or repairs shall be made to any existing structures, a permit shall be obtained therefor and displayed in a conspicuous place at the site of the construction or repair, and before a permit shall be issued as above set out, the owner or contractor shall furnish the city with information as to the type of building to be constructed or repaired, together with a description of the kind of material to be used and the approximate cost of the completed building or repairs.

(B) No permit shall be required for single-family residence performing normal maintenance such as roof replacement, painting, interior work that does not change the floor plan of the building and landscaping.

(C) No permit will be issued until two sets of plans are received and reviewed by the City Building Inspector. The Building Inspector shall either approve or deny a building permit within five business days after receiving plans. Upon approval of plans, one set will be retained by the city and the other set of plans will be kept at the job site during construction.

(D) On buildings that are required to have plans reviewed by the Commonwealth Department of Housing, Building and Construction, a copy of its approval letter with one set of plans will be required before a permit is issued.

(E) The fee for building permits will double for any construction started without a building permit.

(Ord. 4-1969, passed 5-31-1969; Ord. 12-1987, passed 10-19-1987)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BUILDING PERMITS / § 150.11 PERMIT FEE SCHEDULE.

§ 150.11 PERMIT FEE SCHEDULE.

(A) This section is passed for the purpose of setting a schedule of fees for building permits.

(B) The building permit fees are as follows.

Building Permit Fees	
Building Type	***Rate***
One- and two-family construction	$0.12 per square foot
Multiple dwellings	$0.12 per square foot

Building Permit Fees	
Building Type	***Rate***
Nonresidential: First 5,000 square feet Additional area over 5,000 square feet	 $0.15 per square foot $0.15 per square foot
Fee For Other Required Permits	
Any other permits required under building codes with a minimum fee of $40.00	$0.12 per square foot
Demolitions	$100.00
Nonresidential additions	$0.08 per square foot
Nonresidential rehabilitations	$0.08 per square foot
Residential additions - $40.00 minimum	$0.12 per square foot
Residential rehabilitations	$0.06 per square foot
Signs: With a minimum fee of $40.00	 $0.75 per square foot
Moving of structure, one lot to another	$150.00

(C) No permit shall be required for single-family residence performing normal maintenance such as roof replacement, painting, interior work that does not change the floor plan of the building and landscaping.

(D) A copy of the complete document shall remain in the office of the City Clerk/Treasurer.

(Ord. 12-1987, passed 10-19-1987; Ord. 12, passed 12-12-2005)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS

ELECTRICAL CONTRACTORS; PERMITS

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.20 DEFINITIONS.

§ 150.20 DEFINITIONS.

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

ELECTRICAL CONTRACTOR. A person who has two or more licensed electricians by the Commonwealth of Kentucky in his or her regular employ.

ELECTRICIAN. A person engaged in the installation or repair of electrical wiring for any person not regularly engaged in electrical contracting work or otherwise exempt by § 150.27. An ***ELECTRICIAN*** shall have satisfactorily passed an examination and be licensed by the Commonwealth of Kentucky before engaging in electrical contracting work or trade.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.21 PAYMENT OF FEE; LICENSE REQUIRED.

§ 150.21 PAYMENT OF FEE; LICENSE REQUIRED.

Each person proposing to engage in electrical contracting work and having qualified as provided in § 150.20 before engaging in such work or trade, shall pay to the City Clerk/Treasurer the fee designated in § 150.22. Upon application, accompanied by receipt of the City Clerk/Treasurer for payment of the fee, the City Clerk/Treasurer shall issue to the person a license to engage in such work.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.22 LICENSE TAX.

§ 150.22 LICENSE TAX.

(A) There is hereby imposed and levied upon each person engaged in electrical contracting work within the city an annual license tax of $25; provided, however, that the annual license tax of an electrical contractor shall be $75 per year and no electrician in his or her regular employ shall be required to obtain the annual license tax hereby imposed for work engaged in the employ of the electrical contractor.

(B) The license tax provided for in division (A) above shall be paid in addition to and irrespective of any and all ad valorem taxes, and the license prescribed by this subchapter shall become due on the first day of January of each year, or upon the beginning of the work by the electrician or electrical contractor, and same shall not be prorated by reason of the person being engaged in the work for a part of the year only.

(C) All sums of money received in payment of the license tax provided for in this subchapter shall be paid into, and become a part of, the general fund of the city.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.23 PERMIT REQUIRED FOR ELECTRICAL WORK.

§ 150.23 PERMIT REQUIRED FOR ELECTRICAL WORK.

No person shall, at any time, make any temporary or permanent alterations, additions or extensions to the electrical wiring, in any existing building, nor shall any building be wired or electrically equipped, or any fixture installed requiring the use of electric current, without first securing a permit therefor; provided, however, that no public utility company, plant or manufacturer, or other person regularly employing electricians shall be required to obtain a permit for repairs and maintenance of their own electrical apparatus or equipment.

(Ord. 7-1975, passed 11-3-1975) Penalty, see § 150.99

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.24 PERMIT FEES.

§ 150.24 PERMIT FEES.

(A) A charge of $2.00 shall be made for each permit issued pursuant to this subchapter by the Electrical Inspector for electrical contracting work performed in existing buildings.

(B) A charge of $0.03 per ampere of the total rated amperage of all distribution panels serving the buildings shall be made for each permit issued pursuant to this subchapter on new construction or the substantial replacement or alteration of electrical wiring in any existing building.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.25 PERMIT CARD TO BE DISPLAYED.

§ 150.25 PERMIT CARD TO BE DISPLAYED.

The permit card issued pursuant to § 150.24 shall show the name of the street and house number and shall be placed in a conspicuous place on the job and be readily accessible to the Electrical Inspector at all times. It shall contain the permit number, the date of issue and the name of the person making the installation.

(Ord. 7-1975, passed 11-3-1975) Penalty. § 150.99

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.26 AUTHORITY OF ELECTRICAL INSPECTOR.

§ 150.26 AUTHORITY OF ELECTRICAL INSPECTOR.

The Electrical Inspector shall be authorized and empowered and it shall be his or her duty to do and perform all acts and things authorized and required of him or her by general law or by the provisions of the Electrical Code enforced within the city and other ordinances of the city, and a fee shall be imposed in the amount of $3 per inspection of work made by the Electrical

Inspector within the scope of his or her duties as hereinbefore mentioned.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / ELECTRICAL CONTRACTORS; PERMITS / § 150.27 EXEMPTIONS.

§ 150.27 EXEMPTIONS.

This subchapter shall not affect or apply to any person regularly employing electricians, which person is not engaged in electrical installation or repair work for profit, and shall not include any electrician working exclusively for and on the property of the person, and no license shall be required in order to execute any of the following classes of work: Replacement of repair fuses, lamps, appliances, appliance cords, wall switches, receptacles or any minor replacements or repairs not requiring the installation of wiring which is to be attached to or concealed within the wall, floor or ceiling.

(Ord. 7-1975, passed 11-3-1975)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY

BLIGHTED AND DETERIORATED PROPERTY

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY / § 150.40 DEFINITIONS.

§ 150.40 DEFINITIONS.

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

BLIGHTED OR DETERIORATED PROPERTY. Any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(1) Which, because of a physical condition or use, is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city housing, building, plumbing, fire or related codes;

(2) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;

(3) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the Housing Code of the city has been designated by the department responsible for enforcement of the code as unfit for human habitation;

(4) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(5) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property is unfit for its intended use;

(6) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(7) Which has been tax delinquent for a period of at least three years; or

(8) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

VACANT PROPERTY REVIEW COMMISSION. A Commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

(Ord. 4-1994, passed 4-25-1994)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY / § 150.41 VACANT PROPERTY REVIEW COMMISSION.

§ 150.41 VACANT PROPERTY REVIEW COMMISSION.

(A) There is hereby established in the city a Vacant Property Review Commission which shall certify properties as blighted or deteriorated to the City Council.

(B) The duties of the Commission shall be to investigate complaints relative to vacant properties and report these complaints to the City Council and recommend appropriate action to be taken thereon.

(C) The number of members of the Commission shall be three, and their terms shall be from May 1, 1994 until May 1, 1996. The members of the Commission shall be appointed by the Mayor with the approval of the City Council. The members of the Commission shall serve without pay and shall have no liability in any manner whatsoever for any action taken in their official capacity as a member of the Commission.

(Ord. 4-1994, passed 4-25-1994)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY / § 150.42 DETERMINATION OF BLIGHTED OR DETERIORATED PROPERTY; NOTICE TO OWNER.

§ 150.42 DETERMINATION OF BLIGHTED OR DETERIORATED PROPERTY; NOTICE TO OWNER.

(A) Any property which has been investigated by the Vacant Property Review Commission may only be certified as blighted or deteriorated after the Commission has determined that:

(1) The owner of the property or designated agent has been sent an order by the City Building Inspector or other appropriate official to eliminate the conditions which are in violation of local codes or law;

(2) The property is vacant;

(3) The property is blighted and deteriorated; and

(4) The Commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated, the time period for correction of the condition has expired and the property owner or agent has failed to comply with the notice.

(B) The findings required in this section shall be in writing and included in the report by the Commission to the legislative body.

(C) The Commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the Commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his or her agent shall describe the conditions that render the property blighted

and deteriorated and shall demand abatement of the conditions within 90 days of the receipt of the notice.

(Ord. 4-1994, passed 4-25-1994)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY / § 150.43 ACQUIREMENT OF PROPERTY BY EMINENT DOMAIN; PROCEEDINGS.

§ 150.43 ACQUIREMENT OF PROPERTY BY EMINENT DOMAIN; PROCEEDINGS.

(A) The city may acquire by eminent domain, pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to the provisions of this subchapter. The city shall have the power to hold, clear, manage or dispose of the property so acquired for residential and related use, pursuant to KRS 99.705 to 99.730.

(B) The City Council may institute eminent domain proceedings pursuant to KRS Chapter 416, against any property which has been certified as blighted or deteriorated by the Commission if its finds that:

(1) The property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) The property is likely to continue to deteriorate unless corrected;

(3) The continued deterioration of the property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) The owner of the property has failed to correct the deterioration of the property.

(Ord. 4-1994, passed 4-25-1994)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / BLIGHTED AND DETERIORATED PROPERTY / § 150.44 ADOPTION OF COMMONWEALTH PROVISIONS.

§ 150.44 ADOPTION OF COMMONWEALTH PROVISIONS.

The City Council adopts the provisions of KRS 99.700 to 99.730 in their totality.

(Ord. 4-1994, passed 4-25-1994)

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / MISCELLANEOUS REGULATIONS

MISCELLANEOUS REGULATIONS

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / MISCELLANEOUS REGULATIONS / § 150.60 POSTING OF HOUSE NUMBER OF EVERY RESIDENCE REQUIRED.

§ 150.60 POSTING OF HOUSE NUMBER OF EVERY RESIDENCE REQUIRED.

Every owner of real property in the city shall identify his or her residence and/or other residential real property by posting the house number, subject to the following guidelines.

(A) The house numbers shall be placed on the residence and shall be at a minimum of three inches in height.

(B) The house numbers shall be in standard numerical format only, i.e. no Roman numerals or spelled numbers shall be used.

(C) House numbers shall be placed so that they are visible from the street on which the residence is situated.

(D) If the residence has a mailbox at the street, the house number shall also be posted on the residence and the mailbox.

(E) All residents shall comply with this section by June 30, 2004.

(Ord. 13,2004, passed 1-13-2004) Penalty, see § 150.99

TITLE XV: LAND USAGE / CHAPTER 150: BUILDING REGULATIONS / MISCELLANEOUS REGULATIONS / § 150.99 PENALTY.

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty

is prescribed shall be subject to § 10.99.

(B) Any person who violates any provision of the Commonwealth codes adopted in § 150.01 shall be subject to the following penalties.

(1) Violators of the Uniform State Building Code or the Uniform State Residential Code shall, upon conviction, be subject to a fine of not less than $10 nor more than $1,000 for each offense.

(KRS 198B.990(1))

(2) Violators of the Commonwealth standards of safety shall, upon conviction, be subject to a fine of not less than $25 nor more than $1,000, imprisonment for not more than 60 days, or both, for each offense.

(KRS 227.990(1))

(3) Violators of the Commonwealth 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)

(C) Whoever violates any other provision of this chapter shall be deemed guilty of a misdemeanor and fined not more than $500 for each offense.

(D) Any person violating any section or provision of § 150.60 shall be guilty of a violation and shall be fined not less than $25 and not to exceed $100 for each offense.

(Ord. 13,2004, passed 1-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

General Provisions

151.01 Statutory authorization
151.02 Findings of fact
151.03 Statement of purpose

151.04 Objectives
151.05 Definitions
151.06 Lands to which this chapter applies
151.07 Basis for establishing the special flood hazard areas
151.08 Establishment of development permit
151.09 Compliance
151.10 Abrogation and greater restrictions
151.11 Interpretation
151.12 Warning and disclaimer of liability

Provisions For Flood Hazard Reduction

151.30 General construction standards
151.31 Specific standards
151.32 Standards for streams without established base flood elevation (unnumbered A zones) and/or floodways
151.33 Standards for shallow flooding zones
151.34 Standards for subdivision proposals
151.35 Standards for accessory structures in all zones beginning with the letter "A"
151.36 Critical facilities

Administration

151.50 Designation of local Administrator
151.51 Establishment of development permit
151.52 Duties and responsibilities of the local Administrator

Appeals and Variance Procedures

151.65 Nature of variances
151.66 Designation of Variance and Appeal Board
151.67 Duties of Variance and Appeal Board
151.68 Appeals/variance procedures
151.69 Conditions for variances
151.70 Variance notification
151.71 Historic structures
151.72 No impact certification within the floodway

151.99 Penalty

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.01 STATUTORY AUTHORIZATION.

§ 151.01 STATUTORY AUTHORIZATION.

The Legislature of the Commonwealth of Kentucky has in KRS Chapter 100 delegated to local government units the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefor, the City Council, hereby adopts the following Floodplain Management Ordinance, as follows.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.02 FINDINGS OF FACT.

§ 151.02 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed or otherwise protected from flood damage.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.03 STATEMENT OF PURPOSE.

§ 151.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private loss due to flooding by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

(B) Require that uses vulnerable to floods, including facilities which serve uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers which accommodate or channel flood waters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other areas.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.04 OBJECTIVES.

§ 151.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard;

(F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize

future flood blighted areas caused by flooding;

(G) Ensure that potential home buyers are on notice that property is in a special flood hazard area; and

(H) Ensure that those who occupy a special flood hazard area assume responsibility for their actions.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.05 DEFINITIONS.

§ 151.05 DEFINITIONS.

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

A ZONE. Portions of the special flood hazard area (SFHA) in which the principle source of flooding is runoff from rainfall, snow melt or a combination of both. In ***A ZONES***, flood waters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure, the use of which is incidental to the use of the principle structure. ***ACCESSORY STRUCTURES*** should constitute a minimal initial investment, may not be used for human habitation and should be designed to have minimal flood damage potential. Examples of ***ACCESSORY STRUCTURES*** are detached garages, carports, storage sheds, pole barns and hay sheds.

ACCESSORY USE. A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

A1-30 and ***AE ZONES.*** Special flood hazard areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

ALL ZONE. An area of 100-year shallow flooding where depths are between one and

three feet (usually shallow ponding). Base flood elevations are shown.

AO ZONE. An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are shown.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

AR/A1 – A30, AR/AE, AR/AH, AR/AO AND AR/A ZONES. Special flood hazard areas (SFHAs) that result from the decertification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

A99 ZONE. That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a federal flood protection system under construction. No base flood elevations are determined.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

B AND X ZONES (SHADED). Areas of the 0.2% annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile and areas protected by levees from the base flood.

BASE FLOOD. A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood"). ***BASE FLOOD*** is the term used throughout this chapter.

BASE FLOOD ELEVATION (BFE). The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH and AR/AO that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

BASEMENT. That portion of a structure having its floor subgrade (below ground level) on all four sides.

BUILDING. A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank, or other human-made facility or infrastructure. See ***STRUCTURE***.

C AND X (UNSHADED) ZONES. Areas determined to be outside the 500-year

floodplain.

COMMUNITY. A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY FLOOD HAZARD AREA (CFHA). An area that has been determined by the Floodplain Administrator (or other delegated, designated or qualified community official) from available technical studies, historical information and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives to those communities in the regular program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

CRITICAL FACILITY. Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. ***CRITICAL FACILITIES*** include, but are not limited to: Housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood, schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

D ZONE. An area in which the flood hazard is undetermined.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials or equipment.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls or breakaway walls. (See freeboard requirements for residential and nonresidential structures.)

ELEVATION CERTIFICATE. A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

EMERGENCY PROGRAM. The initial phase under which a community participates in

the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

ENCLOSURE. That portion of a structure below the Base Flood Elevation (BFE) used solely for parking of vehicles, limited storage or access to the structure.

ENCROACHMENT. The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING CONSTRUCTION. Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. ***EXISTING CONSTRUCTION*** may also be referred to as ***EXISTING STRUCTURES***.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the city based on specific technical base flood elevation data which established the area of special flood hazards.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FIVE HUNDRED YEAR FLOOD. The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

FLOOD, FLOODING or ***FLOODWATER.***

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, the unusual and rapid accumulation or runoff of surface waters from any source and/or mudslides (i.e. mudflows). See ***MUDSLIDES***.

(2) The condition resulting from flood-related erosion. See ***FLOOD-RELATED EROSION***.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has

delineated the areas of flood hazards and the regulatory floodway.

FLOOD HAZARD BOUNDARY MAP (FHBM). A map on which the boundaries of the flood, mudslide (i.e. mudflow) and flood-related erosion areas having special hazards have been designated as Zones A, M and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).

FLOOD INSURANCE RATE MAN (FIRM). A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.

FLOOD INSURANCE STUDY. The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the Flood Insurance Rate Map (FIRM) and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

FLOODPLAIN or ***FLOOD-PRONE AREA.*** Any land area susceptible to being inundated by flood waters from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management ordinances and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications of police power, which control development in flood-prone areas. This term describes federal, Commonwealth and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

FLOOD-PROOFING CERTIFICATE. A certification by a registered professional engineer or architect, on a FEMA approved form in effect at the time of certification stating that a nonresidential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the ***REGULATORY FLOODWAY***.

FLOODWAY FRINGE. That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

FRAUD and ***VICTIMIZATION.*** As related in §§ 151.65 through 151.72, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage and can be insured only at very high flood insurance rates.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. ***FREEBOARD*** must be applied not just to the elevation of the lowest floor or flood-proofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components and the like.

FUNCTIONALLY DEPENDENT USE FACILITY. A facility, structure or other development which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

GOVERNING BODY. The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

HAZARD POTENTIAL. The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or mis-operation of a dam or appurtenances. The ***HAZARD POTENTIAL*** classification of adlam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity and flood routing capacity).

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface,

prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a Commonwealth inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved Commonwealth program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

INCREASED COST OF COMPLIANCE (ICC). Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with Commonwealth or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a Standard Flood Insurance Policy under the NFIP sustains a loss and the Commonwealth or community declares the building to be substantially or repetitively damaged, ICC will help pay up to $30,000 for the cost to elevate, flood-proof, demolish or remove the building. ICC coverage is available on residential and nonresidential buildings (this category includes public or government buildings, such as schools, libraries and municipal buildings) insured under the NFIP.

KENTUCKY REVISED STATUTE 151.250. Plans for dams, levees and the like to be approved and permit issued by Cabinet (Environmental and Public Protection Cabinet).

(1) Notwithstanding any other provision of law, no person and no city, county or other political subdivision of the Commonwealth, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for the work have been submitted by the person or political subdivision responsible for the construction,

reconstruction or improvement and the plans and specifications have been approved in writing by the Cabinet and a permit issued. However, the Cabinet by regulation may exempt those dams, embankments or other obstructions which are not of the size or type as to require approval by the Cabinet in the interest of safety or retention of water supply.

(2) No person, city, county or other political subdivision of the Commonwealth shall commence the filling of any area with earth, debris or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that the filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for the work have been submitted to and approved by the Cabinet and a permit issued as required in division (1) above.

(3) Nothing in this section is intended to give the Cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch or system established for agricultural purposes, or to require approval of the same except where the obstruction of the stream or floodway is determined by the Cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Kentucky Bureau of Surface Mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

KENTUCKY REVISED STATUTE 151.320. Officers required to enforce law.

(1) The Mayor or Chief Executive Officer of each city and the county judge/executive of each county, shall have the concurrent duty of enforcing with the Cabinet, within their respective cities and counties, the provisions of KRS 151.250, 151.280 and 151.310 and rules and regulations issued thereunder.

(2) When a violation of KRS 151.250, 151.280 or 151.310 within his or her jurisdiction is brought to the attention of a Mayor or Chief Executive Officer of a city or a county judge/executive, he or she shall immediately notify the Cabinet of the location and details of the violation.

LETTER OF MAP AMENDMENT (LOMA). A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A ***LOMA*** amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

LETTER OF MAP CHANGE (LOMC). An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps and Flood Insurance Studies. ***LOMC'S*** include the following categories.

LETTER OF MAP REVISION (LOMR). A revision based on technical data that, usually due to human-made changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations and planimetric features.

LETTER OF MAP REVISION – FILL (LOMR F). A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system that consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices. For a ***LEVEE SYSTEM*** to be recognized, the following criteria must be met:

(1) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised); and

(2) All operations must be under the jurisdiction of a federal or Commonwealth agency, an agency created by federal or Commonwealth law or an agency of a community participating in the NFIP.

LIMITED STORAGE. An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting and cannot be temperature controlled.

LOWEST ADJACENT GRADE. The elevation of the sidewalk, patio, deck support or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

LOWEST FLOOR. The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access or storage in an area other than a basement area is not considered a structure's ***LOWEST FLOOR***, provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which

is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE*** (see ***RECREATIONAL VEHICLE***).

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP. The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

MAP PANEL NUMBER. The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA and the letter "B" is the first revision.)

MARKET VALUE. The structure value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. ***MARKET VALUE*** can be established by independent certified appraisal, replacement cost depreciated by age of structure (actual cash value) or adjusted assessed values.

MEAN SEA LEVEL (MSL). The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the ***MSL*** is used as a reference for establishing various elevations within the floodplain as shown on a community's FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

MUDSLIDE (i.e. MUDFLOW). Describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained ram. A ***MUDSLIDE (i.e. MUDFLOW)*** may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

MUDSLIDE (i.e. MUDFLOW) AREA MANAGEMENT. The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including, but not limited to, emergency preparedness plans, mudslide control works and

floodplain management regulations.

MUDSLIDE (i.e. MUDFLOW) PRONE AREA. An area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRMs. Refer to FIRM legend panel for correct datum.)

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the city's floodplain management regulations and includes any subsequent improvements to the structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the city's adopted floodplain management ordinances.

NONRESIDENTIAL. Structures that are not designed for human habitation, including but is not limited to: Small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses and hotels or motels with normal room rentals for less than six months' duration.

NORTH AMERICAN VERTICAL DATUM (NAVD). As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRMs and Digitally Referenced FIRMs (DFIRMs). (Refer to FIRM or DFIRM legend panel for correct datum.)

OBSTRUCTION. Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.

ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD). The flood that has a 1% or

greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA. (See ***BASE FLOOD***.)

PARTICIPATING COMMUNITY. A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

POST-FIRM CONSTRUCTION. Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

PRE-FIRM CONSTRUCTION. Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

PROBATION. A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a $50 surcharge.

PROGRAM DEFICIENCY. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 C.F.R. 60.3, 44 C.F.R. 60.4, 44 C.F.R. 60.5 and/or 44 C.F.R. 60.6.

PUBLIC SAFETY and ***NUISANCE.*** Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin.

RECREATIONAL VEHICLE. A vehicle that is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable to a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULAR PROGRAM. The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of

insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See ***BASE FLOOD***.

REMEDY A VIOLATION. The process by which a community brings a structure or other development into compliance with Commonwealth or local floodplain management regulations, or, if this is not possible, to reduce the impact of noncompliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing Commonwealth or federal financing exposure with regard to the structure or other development.

REPAIR. The reconstruction or renewal of any part of an existing structure.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two or more separate occasions during a ten-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of $1,000 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted Commonwealth or local zoning authority or other authorized public body to be in violation of Commonwealth or local laws, regulations or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SHEET FLOW AREA. See ***AREA OF SHALLOW FLOODING***.

SPECIAL FLOOD HAZARD AREA (SFHA). That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO or AR.

START OF CONSTRUCTION (INCLUDES SUBSTANTIAL IMPROVEMENT AND OTHER PROPOSED NEW DEVELOPMENT). The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the

pouring of slabs or footings, the installation of piles, construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual ***START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

STRUCTURE. A walled and roofed building that is principally above ground; including manufactured homes, gas or liquid storage tanks or other human-made facilities or infrastructures. See ***BUILDING***.

SUBDIVISION. Any division, for the purposes of sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two or more lots or parcels.

SUBROGATION. An action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

SUBSTANTIAL DAMAGE. Any repair to a building for which the cost of repairs equals or exceeds 50% of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

(1) For the purposes of this definition, ***REPAIR*** is considered to occur when the first repair or reconstruction of any wall, ceiling, floor or other structural part of the building commences.

(2) The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the Floodplain Coordinator/Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUBSTANTIAL IMPROVEMENT. Any combination of reconstruction, alteration or improvement to a building, taking place during a five-year period during the life of the building, in which the cumulative percentage of improvement equals or exceeds 50% of the current market value of the building. For the purposes of this definition, an improvement occurs when the first

alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not apply to:

(1) Any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the Floodplain Coordinator/Code Enforcement Official and which are solely necessary to assure safe living conditions;

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure; or

(3) Any building that has been damaged from any source or is categorized as repetitive loss.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS. Repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equaling or exceeding 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

SUSPENSION. Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

UTILITIES. Electrical, heating, ventilation, plumbing and air conditioning equipment.

VARIANCE. Relief from some or all of the requirements of this chapter.

VIOLATION. Failure of a structure or other development to fully comply with this chapter. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in violation until the time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERSHED. All the area within a geographic boundary from which water, sediments, dissolved materials and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake or underlying aquifer.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X Zones shown on recent FIRMs (B Zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% probability of being equaled or exceeded (the 500-year flood) in any

year. Unshaded X Zones (C Zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.

§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas (SFHA) and, as determined by the Floodplain Administrator or other delegated, designated or qualified community official as determined by the City Council from available technical studies, historical information and other available and reliable sources, areas within the jurisdiction of the City Council which may be subject to periodic inundation by flood waters that can adversely affect the public health, safety and general welfare of the citizens of the city.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

§ 151.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Greenup County, dated September 26, 2014, with the accompanying Flood Insurance Rate Maps (FIRMs) and other supporting data are adopted by reference and declared to be a part of these regulations by the city, and for those land areas acquired by the city through annexation. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the Floodplain Administrator and are enacted by the city pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of and are on file and available for review by the public during regular business hours at Russell City Building located at 410 Ferry

Street, Russell, Kentucky.

(Ord. 20-2004, passed 12-13-2004; Ord. 7, 2014, passed 9-22-2014)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

§ 151.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 151.51 for instructions and explanation.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.09 COMPLIANCE.

§ 151.09 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable Commonwealth regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 20-2004, passed 12-13-2004) Penalty, see § 151.99

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.10 ABROGATION AND GREATER RESTRICTIONS.

§ 151.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.11 INTERPRETATION.

§ 151.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under Commonwealth statutes.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / GENERAL PROVISIONS / § 151.12 WARNING AND DISCLAIMER OF LIABILITY.

§ 151.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within the areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City Council, any officer or employee, the Commonwealth of Kentucky, the Federal Insurance Administration or the Federal Emergency Management Agency, thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 20-2004, passed 12-13-2004)

PROVISIONS FOR FLOOD HAZARD REDUCTION

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.30 GENERAL CONSTRUCTION STANDARDS.

§ 151.30 GENERAL CONSTRUCTION STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable Commonwealth requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(F) Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures;

(G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood

waters;

(I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(J) Any alteration, repair, reconstruction or improvements to a structure, which is not in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and

(K) Any alteration, repair, reconstruction or improvements to a structure, which is not in compliance with the provisions of this chapter, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.31 SPECIFIC STANDARDS.

§ 151.31 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation data have been provided, as set forth in § 151.07, the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, mechanical and utility equipment, and duct work elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of division (B)(3) below.

(1) In an AO Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.

(2) In an A Zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated one foot above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data and best supportable and reasonable judgement in the event no data can be produced. Title 401 KAR 4:060, § 5(6)a, states as a part of the technical requirements for a

Commonwealth floodplain permit, the applicant shall provide cross sections for determining floodway boundaries (and thereby base flood elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than five-tenths foot. Cross section elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the Cabinet. If necessary to ensure that significant flood damage will not occur, the Cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other zones, elevated one foot above the base flood elevation. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the Community Building Inspection Department to be properly elevated. Certification and verification shall be provided to the Floodplain Administrator.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential structure (including manufactured homes used for nonresidential purposes) shall be elevated to conform with division (B)(1) below or together with attendant utility and sanitary facilities:

(1) Be flood-proofed below an elevation one foot above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Have the lowest floor, including basement, mechanical and utility equipment, and duct work, elevated no lower than one foot above the level of the base flood elevation;

(4) A registered professional engineer or architect shall certify that the standards of this section are satisfied. Certification shall be provided to the official as set forth in § 151.51(D)(1)(c);

(5) Manufactured homes shall meet the standards in § 151.31(D); and

(6) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials below an elevation one foot above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the

entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:

(a) Be certified by a registered professional engineer or architect; and

(b) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(C) *Elevated structures.* New construction or substantial improvements of elevated structures on columns, posts or pilings (e.g.) that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Opening sizes for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);

(3) The interior portion of the enclosed areas shall not be partitioned or finished into separate rooms;

(4) The total floor area of all enclosed areas shall not exceed 300 square feet; and

(5) For enclosures greater then seven feet in interior height, where elevation requirements exceed six feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structures' originally approved design, shall be presented as a

condition of issue of the final certificate of occupancy.

(D) *Standards for manufactured homes and recreational vehicles.*

(1) (a) All new or substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

1. On individual lots or parcels;

2. In expansions to existing manufactured home parks or subdivisions;

3. In new manufactured home parks or subdivisions;

4. In substantially improved manufactured home parks or subdivisions;

5. Outside of a manufactured home park or subdivision; and/or

6. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.

(b) All manufactured homes must be:

1. Elevated on a permanent foundation;

2. Have their lowest floor elevated no lower than one foot above the level of the base flood elevation; and

3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:

(a) The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height

above the highest adjacent grade.

(3) (a) All recreational vehicles placed on sites located within A, A1-30, AO, AH and AE on the community's Flood Insurance Rate Map (FIRM) must either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use; or

3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for "manufactured homes".

(b) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the Commonwealth of Kentucky Motor Vehicle Regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(E) *Floodways.* Located within areas of special flood hazard established in § 151.07, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge; and

(2) If § 151.31(E) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of this subchapter.

(F) *Standards for utilities.*

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(a) Infiltration of flood waters into the systems; and

(b) Discharge from the systems into flood waters.

(2) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(G) *Structures elevated on fill.* A residential or nonresidential structure may be constructed on permanent fill in accordance with the following:

(1) The lowest floor (including basement) of the structure or addition shall be

no lower than one foot above the base flood elevation;

(2) The fill shall be placed in layers no greater than one foot deep before compacting and should extend at least ten feet beyond the foundation of the structure before sloping below the base flood elevation, the slope being no greater than a two to one ratio unless a stability analysis is provided by a registered professional engineer;

(3) The top of the fill shall be no lower than one foot above the base flood elevation. However, the ten-foot minimum may be waived if a structural engineer certifies an alternative method to protect the structure from damage due to erosion, scour and other hydrodynamic forces;

(4) The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties;

(5) All new structures built on fill must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The design of the fill or the fill standard must be approved by a licensed professional engineer; or

(6) If the community adopts and enforces the soil testing and compaction requirements set forth by the Standard, Uniform or National Building Codes or the International Residential and Building Codes, it may qualify for additional CRS credit.

(H) *Vegetative buffer strips (riparian zones).* For all activities involving construction within 25 feet of the channel, the following criteria shall be met:

(1) A natural vegetative buffer strip shall be preserved within at least 25 feet of the mean high water level of the channel;

(2) Where it is impossible to protect this buffer strip during the construction of an appropriate use, a vegetated buffer strip shall be established upon completion of construction; and

(3) The use of native riparian vegetation is preferred in the buffer strip. Access through this buffer strip shall be provided for stream maintenance purposes.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.32 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

§ 151.32 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

Located within the special flood hazard areas established in § 151.07, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply.

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will, not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with § 151.07.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.33 STANDARDS FOR SHALLOW FLOODING ZONES.

§ 151.33 STANDARDS FOR SHALLOW FLOODING ZONES.

(A) Located within the special flood hazard areas established in § 151.07, are areas designated as shallow flooding areas.

(B) These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures shall:

(a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade; and

(b) In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade; and

(b) Together with attendant utility and sanitary facilities be completely flood-proofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 151.31(B)

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.34 STANDARDS FOR SUBDIVISION PROPOSALS.

§ 151.34 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided.

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and

lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(F) All new subdivision proposals shall include streets for emergency access that will be subject to no more than six inches of flood waters during the 1% annual chance flood (100-year flood).

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.35 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER "A".

§ 151.35 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER "A".

For all accessory structures in special flood hazard areas designated "A", the following provisions shall apply:

(A) Structure must be non-habitable;

(B) Must be anchored to resist floatation forces;

(C) Will require flood openings/vents no more than one foot above grade, total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls;

(D) Built of flood resistant materials below a level one foot above the base flood elevation;

(E) Must elevate utilities above the base flood elevation;

(F) Can only be used for storage or parking; and

(G) Cannot be modified for a different use after permitting.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / PROVISIONS FOR FLOOD HAZARD REDUCTION / § 151.36 CRITICAL FACILITIES.

§ 151.36 CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the level of the base flood elevation at the site. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / ADMINISTRATION

ADMINISTRATION

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / ADMINISTRATION / § 151.50 DESIGNATION OF LOCAL ADMINISTRATOR.

§ 151.50 DESIGNATION OF LOCAL ADMINISTRATOR.

The City Council hereby appoints the Floodplain Coordinator/Code Enforcement Officer to administer, implement and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / ADMINISTRATION / § 151.51 ESTABLISHMENT OF DEVELOPMENT PERMIT.

§ 151.51 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 151.07.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

(C) Endorsement of local Administrator is required before a Commonwealth floodplain construction permit can be processed.

(D) Specifically, the following information is required.

(1) *Application stage.*

(a) Proposed elevation in relation to mean sea level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade;

(b) Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;

(c) All appropriate certifications from a registered professional engineer or architect that the nonresidential flood-proofed structure will meet the flood-proofing criteria in §§ 151.31(B) and 151.33(B)(2); and

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) *Construction stage.*

(a) Upon placement of the lowest floor, and before construction continues, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the Commonwealth, a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. In AE, A1-30, AH and A zones where the community has adopted a regulatory base flood elevation, the certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(b) When flood-proofing is utilized for a particular structure, the certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing elevation survey data submitted. Deficiencies detected by the review shall be

corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / ADMINISTRATION / § 151.52 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

§ 151.52 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

(A) *Floodplain Administrator to administrator, implement and enforce provisions.* The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(B) *Duties and responsibilities of Floodplain Administrator.* The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

(1) *Permit review.* Review all development permits to ensure that:

(a) Permit requirements of this chapter have been satisfied;

(b) All other required Commonwealth and federal permits have been obtained. Advise permittee that additional federal or Commonwealth permits may be required, and if specific federal or Commonwealth permit requirements are known, require that copies of the permits be provided and maintained on file with the development permit;

(c) Flood damages will be reduced in the best possible manner; and

(d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, ***ADVERSELY AFFECTS*** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) *Review and use of any other base flood data.* When base flood elevation data has not been provided in accordance with § 151.07, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal or Commonwealth agency, or other source, in order to administer §§ 151.30 through 151.36. Any information shall be submitted to the City Council for adoption. Notification of

other agencies:

(a) Notify adjacent communities, the Kentucky Division of Water and any other federal and/or Commonwealth agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;

(b) Submit evidence of the notification to the Federal Insurance Administration Federal Emergency Management Agency (FEMA); and

(c) Assure that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.

(C) *Documentation of floodplain development.* Obtain and maintain for public inspection and make available as needed the following:

(1) Certification required by § 151.31(A) (lowest floor elevations) as shown on a completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.51(D)(2);

(2) Certification required by § 151.31(B) (elevation or flood-proofing of nonresidential structures) as shown on a completed and certified flood-proofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 151.51(D)(2);

(3) Certification required by § 151.31(C) (elevated structures);

(4) Certification of elevation required by § 151.34(A) (subdivision standards);

(5) Certification required by § 151.31(E) (floodway encroachments);

(6) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(7) Review certified plans and specifications for compliance; and

(8) Remedial action. Take action to remedy violations of this chapter as specified in § 151.99.

(D) *Map determinations.* Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions:

(1) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the

necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 151.67(B);

(2) When base flood elevation data or floodway data have not been provided in accordance with § 151.07, then the Floodplain Administrator shall obtain, review and reasonablely utilize any base flood elevation and floodway data available from a federal, Commonwealth or other source, in order to administer the provisions of §§ 151.30 through 151.36;

(3) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 151.31(B) a flood-proofing certificate; and

(4) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(E) *Right of entry.*

(1) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes the building, structure or premises unsafe, dangerous or hazardous, the Administrator may enter the building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this chapter.

(2) If the structure or premises are occupied, he or she shall first present proper credentials and request entry. If the building, structure or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the request entry.

(3) If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.

(4) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this chapter.

(F) *Stop work orders.* Upon notice from the Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease. The notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(G) *Revocation of permits.*

(1) The Administrator may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) The Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(H) *Liability.* Any officer, employee or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render himself or herself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer, employee or member because of the act performed by him or her in the enforcement of any provision of this chapter shall be defended by the Department of Law until the final termination of the proceedings.

(I) *Expiration of floodplain construction permit.* A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within 180 calendar days from the date of its issuance by the Floodplain Administrator.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES

APPEALS AND VARIANCE PROCEDURES

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.65 NATURE OF VARIANCES.

§ 151.65 NATURE OF VARIANCES.

(A) The variance criteria set forth in this subchapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that

complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

(B) It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefor, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.66 DESIGNATION OF VARIANCE AND APPEAL BOARD.

§ 151.66 DESIGNATION OF VARIANCE AND APPEAL BOARD.

The City Council shall establish an Appeal Board consisting of the same individuals currently serving on the Zoning Board of Adjustment.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.67 DUTIES OF VARIANCE AND APPEAL BOARD.

§ 151.67 DUTIES OF VARIANCE AND APPEAL BOARD.

(A) The Appeal Board shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal the decision to the Circuit Court, as provided in Kentucky Revised Statutes.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.68 APPEALS/VARIANCE PROCEDURES.

§ 151.68 APPEALS/VARIANCE PROCEDURES.

In passing upon the applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and the:

(A) Danger that materials may be swept onto other lands to the injury of others;

(B) Danger to life and property due to flooding or erosion damage;

(C) Susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the existing individual owner and future owners of the property;

(D) Importance to the community of the services provided by the proposed facility;

(E) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;

(F) Availability of alternative locations which are not subject to flooding or erosion damage;

(G) Compatibility of the proposed use with existing and anticipated development;

(H) Relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;

(I) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(J) Expected height, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(K) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.

(Ord. 20-2004, passed 12-13-2004)

§ 151.69 CONDITIONS FOR VARIANCES.

Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach the conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(A) Generally, variances may be issued for new construction, substantial improvement and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of divisions (D) and (E) below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(B) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(C) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. ***MINIMUM NECESSARY*** means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(D) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. In the instance of an historical structure, a determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.

(E) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant (as defined in this chapter); and

(3) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create

nuisance (as defined in ***PUBLIC SAFETY AND NUISANCE***), cause fraud or victimization of the public (as defined in § 151.05) or conflict with existing local laws or ordinances.

(F) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(G) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the Federal Insurance Administration (FIA) upon request.

(H) Variances may be issued for new construction, substantial improvement and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of this subchapter are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.70 VARIANCE NOTIFICATION.

§ 151.70 VARIANCE NOTIFICATION.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(A) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage;

(B) The construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the City Clerk/Treasurer and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

(C) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report the variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.71 HISTORIC STRUCTURES.

§ 151.71 HISTORIC STRUCTURES.

Variances may be issued for the repair or rehabilitation of "historic structures" (see definition in § 151.05) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.72 NO IMPACT CERTIFICATION WITHIN THE FLOODWAY.

§ 151.72 NO IMPACT CERTIFICATION WITHIN THE FLOODWAY.

Variances shall not be issued within any mapped or designated fioodway if any increase in flood levels during the base flood discharge would result.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 151: FLOOD DAMAGE PREVENTION / APPEALS AND VARIANCE PROCEDURES / § 151.99 PENALTY.

§ 151.99 PENALTY.

(A) *Civil offense.* If, at any time, development occurs which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, the development shall constitute a civil offense.

(B) *Notice of violation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved

modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See divisions (C) and (D) below.

(C) *Notice of citation; notice of violation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If tile person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(D) *Penalties.* Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than $100 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 20-2004, passed 12-13-2004)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE

CHAPTER 152: PROPERTY MAINTENANCE CODE

Section

General Provisions

152.01 Short title
152.02 Scope
152.03 Intent
152.04 Application of Building Code
152.05 Definitions

Condemnation

152.15 General
152.16 Closing of vacant structures

Notices, Orders, Placarding, Penalties, Appeal Board and Demolition

152.25 Notice to owner or to person or persons responsible
152.26 Form
152.27 Service
152.28 Service on occupants
152.29 Penalties for noncompliance
152.30 Transfer of ownership
152.31 Placarding of structure
152.32 Prohibited use
152.33 Removal of placard
152.34 Emergency orders
152.35 Violations
152.36 Appeal Board
152.37 Demolition

Environmental Requirements

152.43 Scope and responsibility

Mechanical and Electrical Requirements

152.55 Scope and responsibility

Fire Safety Requirements

152.65 Scope and responsibility

Responsibilities of Persons

152.75 Scope and responsibility

Administration and Enforcement

152.85 Officer
152.86 Official records
152.87 Duties and powers of Code Official

International Property Maintenance Code

152.95 Adoption by reference
152.96 Amendments; revisions
152.97 Effect on other provisions

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS

GENERAL PROVISIONS

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS / § 152.01 SHORT TITLE.

§ 152.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Property Maintenance Code of the City of Russell", hereinafter referred to as the "Property Maintenance Code" or "this chapter".

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS / § 152.02 SCOPE.

§ 152.02 SCOPE.

This chapter is to protect the public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing premises as hereinafter provided, by:

(A) Establishing minimum maintenance standards for all structures and premises for basic equipment and facilities for heating and sanitation, for safety from fire, for space, use and location and for safe and sanitary maintenance of all structures and premises now in existence;

(B) Fixing the responsibilities of owners, operators and occupants of all structures; and

(C) Providing for administration, enforcement and penalties.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS / § 152.03 INTENT.

§ 152.03 INTENT.

This Code shall be construed liberally and justly to ensure public health, safety and welfare insofar as they are affected by the maintenance of structures and premises.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS / § 152.04 APPLICATION OF BUILDING CODE.

§ 152.04 APPLICATION OF BUILDING CODE.

Any repairs or alterations to a structure or changes of use therein, which may be caused directly or indirectly by the enforcement of this chapter, shall be done in accordance with the procedures and provisions of the Kentucky Building Code as amended from time to time.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / GENERAL PROVISIONS / § 152.05 DEFINITIONS.

§ 152.05 DEFINITIONS.

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

APPROVED. As applied to a material, device or method of construction shall mean approved by the Code Official under the provisions of this chapter, or approved by other authority designated by law to give approval in the matter in question.

BASEMENT. That portion of a building which is partly below and partly above grade, and having at least one-half its height above grade. (See ***CELLAR.***)

BUILDING CODE. The Kentucky Building Code and such amendments as legally promulgated by the Kentucky Department of Housing, Buildings and Construction and adopted by the City Council of Russell, Kentucky.

BUILDING OFFICIAL. The Building Inspector of the city or his or her designee.

CELLAR. That portion of a building which is partly or completely below grade, and having at least one-half its height below grade. (See ***BASEMENT.***)

CENTRAL HEATING. The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

CODE OFFICIAL. The Official charged by the Mayor with the administration and enforcement of this chapter, or any duly authorized representative.

CONDEMN. To adjudge unfit for use or occupancy.

CONDEMNATION. The act of judicially condemning.

DWELLINGS. Whenever the words "multi-family dwelling", "residence building", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this chapter, they shall be construed as though they were followed by the words, "or any part thereof".

(1) ***BOARDING HOUSE/TOURIST HOUSE.*** A building arranged or used for the lodging with or without meals, for compensation, by more than five and not more than 20 individuals.

(2) ***DORMITORY.*** A space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

(3) ***HOTEL.*** Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

(4) ***LODGING HOUSE.*** Any building or portion thereof containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A ***LODGING HOUSE*** shall comply with all the requirements for ***DWELLING***.

(5) ***MULTI-FAMILY APARTMENT HOUSE.*** A building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

(6) ***ONE-FAMILY DWELLING.*** A building containing one dwelling unit with not more than five lodgers or boarders.

(7) ***TWO-FAMILY DWELLING.*** A building containing two dwelling units with not more than five lodgers or boarders per family, but not more than five lodgers or boarders per family, but not more than 20 individuals.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

ENFORCEMENT OFFICER. The official designated herein or otherwise charged with the responsibilities of administering this Code, or his or her authorized representative.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

FAMILY. An individual or married couple and the children thereof and other persons related directly to the individual or married couple by blood or marriage; or a group of not more than five unrelated (excluding servants) persons, living together as a single housekeeping unit in a dwelling unit.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered ***HABITABLE SPACE***.

INFESTATION. The presence of insects, rodents, vermin or other pests within or contiguous to a structure or premises.

LET FOR OCCUPANCY or ***LET.*** To permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who shall be legal owner or not be the legal owner of record thereof pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

MAINTENANCE. Conformance of a building and its facilities to the code under which the building was constructed.

MOTEL. A ***HOTEL*** as defined in this chapter.

MULTI-FAMILY (MULTIPLE) DWELLINGS. See ***DWELLINGS.***

OCCUPANT. Any person over one year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of the dwelling or rooming unit.

OPENABLE AREA. That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which are let or offered for occupancy.

OWNER. Any person, agent, firm or corporation having a legal or equitable interest in the property.

PERSON. A corporation, partnership, limited partnership as well as an individual.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances within the scope of the Plumbing Code.

PLUMBING FIXTURE. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.

PREMISES. A lot, plot or parcel of land including the buildings or structures thereon.

PRIOR PROPERTY AREAS. The open space on the premises and on adjoining property under the control of owners or operators of the premises.

PUBLIC NUISANCE. Includes the following:

(1) The physical condition, or use of any premises regarded as a public nuisance at common law;

(2) Any physical condition, use or occupancy of any premises or its

appurtenances considered an attractive nuisance, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;

(3) Any premises which have unsanitary sewerage or plumbing facilities;

(4) Any premises designated as unsafe for human habitation or use;

(5) Any premises which are manifestly capable of being a fire hazard or are manifestly unsafe or unsecure as to endanger life, limb or property;

(6) Any premises from which the plumbing, heating and/or facilities required by this chapter have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective; or any premises where required precautions against trespassers have not been provided;

(7) Any premises where required precautions against trespassers have not been provided;

(8) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or

(9) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

RENOVATION. A building and its facilities made to conform to present day minimum standards of sanitation, fire and life safety.

RESIDENCE BUILDING. A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided; except when classified as an institution under the Kentucky Building Code.

ROOMING HOUSE. Any residence building, or any part thereof, containing one or more rooming units, in which space is let by the owner or operator to more than five persons who are not members of the family. (See ***DWELLINGS, BOARDING HOUSE***).

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and non-combustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust and other similar materials.

STRUCTURE. That which is built or constructed, including without limitation because

of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, stairway, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

SUPPLIED. Installed, furnished or provided by the owner or operator.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any space.

(1) ***MECHANICAL.*** Ventilation by power-driven devices.

(2) ***NATURAL.*** Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks without wind driven devices.

WORKMANLIKE. Whenever the words "workmanlike state of maintenance and repair" are used in this chapter they shall mean that the maintenance and repair shall be made in a reasonably skillful manner.

YARD.

(1) ***FRONT YARD.*** An open space extending across the entire width of the lot between the front main wall of a building and the front property line (street or road right-of-way line).

(2) ***REAR YARD.*** An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot.

(3) ***SIDE YARD.*** An open unobstructed space in the same lot with a principal building between the principal building and the side line of the lot and extending through from the front yard to the rear yard.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / CONDEMNATION

CONDEMNATION

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / CONDEMNATION / § 152.15 GENERAL.

§ 152.15 GENERAL.

(A) When a structure or part thereof is found by the Code Official to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found unlawful, it may be condemned pursuant to the provisions of the Eminent Domain Act of Kentucky and shall be placarded and vacated.

(B) It shall not be re-occupied without the approval of the Code Official.

(C) Unsafe equipment shall be placarded and placed out of service.

(1) An unsafe structure is one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of faulty construction or unstable foundation that it is likely to partially or completely collapse.

(2) Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use. For the purpose of enforcing this provision, the Code Official shall use the BOCA Basic Mechanical Code as legally promulgated or as amended from time to time.

(3) A structure is unfit for human occupancy or use whenever the Code Official finds that it is unsafe, unlawful or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rodent infested, contains filth and contamination or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter.

(4) An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / CONDEMNATION / § 152.16 CLOSING OF VACANT STRUCTURES.

§ 152.16 CLOSING OF VACANT STRUCTURES.

(A) If the structure or part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the Code Official may post a placard of condemnation on the premises and may order the structure closed up so it will not be a nuisance.

(B) Upon failure of the owner to close up the premises within the time specified in the order, the Code Official shall cause it to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon the real estate.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION

NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.25 NOTICE TO OWNER OR TO PERSON OR PERSONS RESPONSIBLE.

§ 152.25 NOTICE TO OWNER OR TO PERSON OR PERSONS RESPONSIBLE.

Whenever the Code Official determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred, or whenever he or she has condemned any structure or equipment, he or she shall give notice to the owner or the person or persons responsible therefor in the manner prescribed below.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.26 FORM.

§ 152.26 FORM.

The notice prescribed shall:

(A) Be in writing;

(B) Include a description of the real estate sufficient for identification;

(C) Include a statement of the reason or reasons why it is being issued;

(D) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this chapter; and

(E) Include an explanation of the owner's right to seek modification or withdrawal of the notice by petition to an appeal board or appropriate review board.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.27 SERVICE.

§ 152.27 SERVICE.

The service shall be deemed to be properly served upon the owner if a copy thereof is delivered to him or her personally; or by certified or registered mail addressed to the owner at his or her last known address with return receipt requested; or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by the notice.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.28 SERVICE ON OCCUPANTS.

§ 152.28 SERVICE ON OCCUPANTS.

When the Code Official determines it necessary to serve a condemnation order on an occupant other than the owner or person responsible for the compliance, a reasonable time to vacate the property after noncompliance shall be stated.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.29 PENALTIES FOR NONCOMPLIANCE.

§ 152.29 PENALTIES FOR NONCOMPLIANCE.

Penalties for noncompliance of orders and notices shall be subject to penalties set forth in § 10.99.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.30 TRANSFER OF OWNERSHIP.

§ 152.30 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until the owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by the compliance order or notice of violation.

(Ord. 12-1982, passed 12-6-1982) Penalty, see § 10.99

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.31 PLACARDING OF STRUCTURE.

§ 152.31 PLACARDING OF STRUCTURE.

After the condemnation notice required under the provisions of this chapter has resulted in an order by virtue of failure to comply within the time given, the Code Official may post on the premises or structure or parts thereof, or on defective equipment, a placard bearing the words: "Condemned as Unfit for Human Occupancy or Use", and a statement of the penalties provided for any occupancy, use or for removing the placard. The owner or the person or persons responsible for the correction of violations shall have removed themselves from the property on failure to comply with the correction order in the time specified, but other occupants shall be given a reasonable time thereafter to vacate.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.32 PROHIBITED USE.

§ 152.32 PROHIBITED USE.

Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by this chapter.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.33 REMOVAL OF PLACARD.

§ 152.33 REMOVAL OF PLACARD.

The Code Official shall remove the condemnation placard whenever the defect or defects which resulted in the condemnation and placarding have been remedied. Any person defacing or removing a condemnation placard without approval of the Code Official shall be subject to penalties provided by this chapter.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.34 EMERGENCY ORDERS.

§ 152.34 EMERGENCY ORDERS.

Whenever a Code Official finds that an emergency exists on any premises, or in any structure or part thereof, or on any defective equipment which requires immediate action to protect the public's health and safety or that of the occupants thereof, he or she may, with proper notice and service issue an order reciting the existence of such an emergency and requiring the vacating of the premises or the action taken as he or she deems necessary to meet the emergency. Notwithstanding other provisions of this chapter, the order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.35 VIOLATIONS.

§ 152.35 VIOLATIONS.

(A) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure or equipment regulated by this chapter, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this chapter.

(B) Any person, firm or corporation, who shall violate any provision of this chapter shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a penalty as set forth in § 10.99.

(C) In case any violation order is not promptly complied with, the Code Official may request the County Attorney to institute an appropriate action or proceeding at law to exact the penalty provided, and in addition thereto, may ask the County Attorney to proceed at law or in equity against the person responsible for the violation for the purpose of ordering him or her:

(1) To restrain, correct or remove the violation or refrain from any further

execution of work;

(2) To restrain or correct the erection, installation or alteration of the structure;

(3) To require the removal of work in violation; or

(4) To prevent the occupation or use of the structure, or part thereof erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this chapter, or in violation of a plan or specification under which an approval, permit or certificate was issued.

(Ord. 12-1982, passed 12-6-1982) Penalty, see § 10.99

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.36 APPEAL BOARD.

§ 152.36 APPEAL BOARD.

(A) In order to protect existing structures and property owners from unfair enforcement of any provision of this chapter, there shall be and is hereby created "The Property Maintenance Code Appeal Board", hereafter referred to as the "Board". This Board shall consist of the six persons serving on the City Council, and their terms on the Property Maintenance Code Appeal Board shall run concurrent with their terms on the City Council.

(B) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the Property Maintenance Code Appeal Board; provided that the person shall file in the office of the Board a written petition requesting the hearing and containing a statement of the grounds therefor within ten days after the day the notice was served.

(C) The Board shall hear all appeals relative to the enforcement of this chapter, and by a concurring vote of the majority of its members present, constituting a quorum, may reverse or affirm, wholly or partly, or may modify the decision appealed from. Failure to change, modify or void a decision of the Code Official shall be deemed a confirmation of that decision.

(D) Any member of the Board shall not participate in any hearings or vote on any appeal in which he or she has a direct or indirect financial interest, is engaged as a contractor, is engaged in the preparation of plans and specifications or in which he or she has any personal interest.

(E) The Secretary of the Board shall keep a record of each meeting so that the record

shows clearly the basis for each decision made by the Board.

(Ord. 12-1982, passed 12-6-1982; Ord. 10-1984, passed 11-5-1984)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / NOTICES, ORDERS, PLACARDING, PENALTIES, APPEAL BOARD AND DEMOLITION / § 152.37 DEMOLITION.

§ 152.37 DEMOLITION.

(A) The Code Official may order the owner of premises upon which is located any structure or part thereof, which in his or her judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove the structure or part thereof; or if it can be made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove the structure or part thereof. Demolition orders shall specify a time in which the owner shall comply therewith. It shall be served on the owner of record or his or her agent where an agent is legally in charge of the building. If the owner or a holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for three successive weeks in a newspaper authorized to provide service by publication. Anyone affected by such an order, after first appealing to the Property Maintenance Code Appeal Board, may apply within 14 days after the Board's decision to the Circuit Court for an order restraining the Code Official from razing and removing the structure or parts thereof.

(B) Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of the razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon the real estate. The Code Official, furthermore, may use any other method allowed in this chapter, or by law, to recapture these costs.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ENVIRONMENTAL REQUIREMENTS

ENVIRONMENTAL REQUIREMENTS

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ENVIRONMENTAL REQUIREMENTS / § 152.43 SCOPE AND RESPONSIBILITY.

§ 152.43 SCOPE AND RESPONSIBILITY.

(A) The provisions of this section shall govern the minimum conditions for maintenance of exterior property, premises and structures.

(B) The owner of the premises shall maintain the structures and premises in compliance with these requirements.

(C) A person shall not occupy as owner or occupant or let to another for occupancy or use premises which do not comply with the following requirements.

(1) All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage.

(2) The operator of every establishment producing garbage, vegetable wastes or other putrescible materials shall provide and at all times cause to be used, leakproof approved containers, provided with close fitting covers for the storage of the materials until removed from the premises for disposal.

(3) All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(4) All loading areas, automobile service stations and drive-in food establishments shall be paved with bituminous, concrete or equivalent surfacing and shall be free from dirt and other litter and kept in good repair.

(5) An owner of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior and interior areas of the structure and premises.

(6) All areas shall be kept free from weeds or plant growth which are noxious or detrimental as defined by the city's ordinance controlling weeds.

(7) A person shall not construct, maintain or operate pipes, ducts, conductors, fans or blowers discharging gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes so as to discharge directly upon abutting or adjacent public and private

property or that of another tenant.

(8) All accessory structures, including detached garages, fences and was, shall be maintained structurally sound and in compliance with applicable sections of this chapter.

(9) All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained capable of safely bearing the dead and live loads imposed upon them.

(10) Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair shall be kept in such condition as to exclude rodents.

(11) Foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare.

(12) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. An exterior surface material, including wood, composition or metal siding shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration.

(13) The roof shall be structurally sound, tight and not have defects which might admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.

(14) Cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(15) Canopies, marquees, signs, metal awnings, stairways, fire escapes, stand pipes, exhaust ducts and similar overhand extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment.

(16) Chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe, sound and in good repair, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating material such as paint or similar surface treatment.

(17) Every stair, porch, balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected

and shall be kept in sound condition and good repair.

(18) Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling or structure.

(19) Every window, door and frame shall be fitted reasonably in its frame and be weather tight and weather stripping shall be used to exclude wind or rain from entering the dwelling or structure and they shall be kept in sound condition and good repair.

(20) Every required window sash shall be fully supplied with approved glazing materials which are without open cracks or holes.

(21) Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

(22) Every door, window or other outside opening used for ventilation purpose shall be supplied with approved screening, and every swinging screen door shall have a self-closing device in good working condition, except that the screens shall not be required for areas on a floor above the fifth floor and screen doors shall not be required on nonresidential structures or structures where the doors are required to swing out as required in the Building Code.

(23) Every exterior door, door hinge and door latch shall be maintained in good condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door.

(24) Every basement or cellar hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the structure.

(25) Every basement or cellar window which is openable shall be supplied with rodent-proof shields, storm windows or other material affording protection against the entry of rodents.

(26) The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the health and safety of the of the occupants and protect the occupants from the environment.

(27) The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads.

(28) In every existing building used for business, industrial, mercantile or storage occupancy, in which heavy loads or concentrations occur or in which machinery is introduced, the owner or occupant shall cause the weight that each floor will safely sustain to be

calculated by a registered architect or engineer and filed with the Building Official, posted on each floor in a conspicuous place.

(29) Floors, walls, including windows and doors, ceilings and other interior surfaces shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood and other defective surface conditions shall be eliminated.

(30) Lead-based paint with a lead content of more than 0.5% shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations. Existing interior and exterior painted surfaces of dwelling units and child care facilities that contain an excess of 0.5% lead shall be removed or covered with paneling or other suitable covering approved by the Code Official.

(31) Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(32) In every building, cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

(33) The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage.

(34) Garbage or refuse shall not be allowed to accumulate or be stored in public halls or stairways.

(35) All structures shall be kept free from insect and rodent infestation and where insects or rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

(36) Every door available as an exit shall be capable of being opened easily from the inside and without the use of key.

(37) Stairs and other exit facilities shall be adequate for safety as provided in the Building Code.

(38) All interior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.

(39) Every flight of stairs, which is more than three risers high shall have handrails which shall be located as required by the Building Code, and every open portion of a

stair, porch, landing and balcony which is more than 30 inches above the floor or grade below shall have guardrails. Every handrail and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / MECHANICAL AND ELECTRICAL REQUIREMENTS

MECHANICAL AND ELECTRICAL REQUIREMENTS

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / MECHANICAL AND ELECTRICAL REQUIREMENTS / § 152.55 SCOPE AND RESPONSIBILITY.

§ 152.55 SCOPE AND RESPONSIBILITY.

(A) The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(B) The owner of the structure shall provide and maintain the mechanical and electrical facilities and equipment in compliance with these requirements.

(C) A person shall not occupy as owner/occupant or let to another for occupancy or use any premises which do not comply with the following.

(1) Every dwelling unit and guest room shall be provided with heating facilities capable of a maintaining a room temperature of 65°F, at a point three feet above the floor and three feet from an exterior wall in all habitable rooms, bathrooms and toilet rooms.

(2) All cooking and heating equipment, components and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All installations and repairs shall be made in accordance with the provisions of the Building Code, or other laws or ordinances applicable thereto. Portable cooking equipment employing flame is prohibited, except for approved residential type food trays or salvers which are heated by a candle or alcohol lamp.

(3) All mechanical equipment shall be properly installed and safely maintained in good working condition, and be capable of performing the function for which it

was designed and intended.

(4) All fuel burning equipment shall be connected to a chimney, flue or vent as approved in the BOCA Basic Mechanical Code as legally promulgated or as amended from time to time.

(5) All clearances to combustible material required in the BOCA Basic Mechanical Code shall be maintained.

(6) All safety controls for fuel burning equipment shall be maintained in effective operation.

(7) A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided the fuel burning equipment.

(8) All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of a type as approved in the National Electric Code as may be amended from time to time.

(9) Where there is electric service available to a structure, every habitable room of a dwelling unit, and every guest room shall contain at least two separate and remote duplex outlets, one of which may be a ceiling or wall type electric light fixture. In a kitchen, three separate and remote duplex wall type electric outlets or two duplex outlets and one ceiling or wall type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one electric duplex outlet.

(10) Where it is found, in the opinion of the Code Official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, he or she shall require the defects to be corrected to eliminate the hazard.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / FIRE SAFETY REQUIREMENTS

FIRE SAFETY REQUIREMENTS

§ 152.65 SCOPE AND RESPONSIBILITY.

(A) Provisions of this section shall govern minimum fire safety facilities and equipment to be provided.

(B) All structures shall be constructed and maintained to prevent and avoid fire hazards, and in a manner conducive to fire safety.

(C) All fire safety facilities and equipment shall comply with requirements herein prescribed insofar as they are applicable.

(D) The owner of the structure shall provide and maintain the fire safety facilities and equipment in compliance with these requirements and the Standards of Safety of Kentucky.

(E) A person shall not occupy as owner occupant or let to another for occupancy or use any premises which does not comply with the following requirements.

(1) A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street or to a yard, court or passageway leading to a public open area at grade.

(2) Every dwelling unit shall have access directly to the outside or to a public corridor.

(3) All doors in the required means of egress shall be readily openable from the inner side without the use of keys. Exits from dwelling units, hotel units, lodging units and dormitory units shall not lead through other units, through toilet rooms or bathrooms.

(4) All required fire escapes shall be maintained in working condition and structurally sound.

(5) All exit signs shall be maintained illuminated and visible.

(6) Waste, refuse or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

(7) Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as waste paper, boxes and/or rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.

(8) A dwelling unit or rooming unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 110°F or lower, except as provided for in the Building Code.

(9) Floors, walls, ceilings and other elements and components required shall be maintained so that the respective fire resistance rating of the enclosure, separation or construction is preserved.

(10) All fire protection systems and equipment shall be maintained in proper operating condition at all times.

(11) Fire suppression systems shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint, and not bent or damaged.

(12) Hose stations for stand pipes shall be identified and accessible. The hose shall be in proper position, ready for operation, dry and free of deterioration.

(13) All portable fire extinguishers shall be visible and accessible, and maintained in an efficient and safe operating condition.

(Ord. 12-1982, passed 12-6-1982) Penalty, see § 10.99

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / RESPONSIBILITIES OF PERSONS

RESPONSIBILITIES OF PERSONS

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / RESPONSIBILITIES OF PERSONS / § 152.75 SCOPE AND RESPONSIBILITY.

§ 152.75 SCOPE AND RESPONSIBILITY.

The provisions of this section shall govern responsibilities of persons for the maintenance of structures, and the equipment and premises thereof per the following requirements.

(A) Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which he or she occupies, controls or uses in a clean and sanitary condition. Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Every occupant of a structure or part thereof shall dispose of all his or her rubbish in a clean and sanitary manner by placing it in rubbish containers equipped with tight fitting covers as required by this Code.

(C) Every occupant of a structure or part thereof shall dispose of his or her garbage in a clean and sanitary manner by the other disposal method as may be required by applicable laws or ordinances.

(D) Every dwelling unit shall be supplied with an approved garbage disposal facility, which may be any adequate mechanical garbage disposal unit (mechanical sink grinder), in each dwelling unit or an incinerator unit, to be approved by the Building Official, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can or cans. Such facilities shall be sufficient to meet the needs of the occupants.

(E) Every dwelling unit shall be supplied with approved containers and covers for storage of rubbish, and the owner, operator or agent in control of the dwelling shall be responsible for the removal of the rubbish.

(F) All spaces used or intended to be used for food preparation shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(G) The owner or occupant of a structure or part thereof shall keep the supplied equipment and fixtures therein clean and sanitary, and shall be responsible for the exercise of reasonable care in their proper use and operation.

(H) The equipment and fixtures furnished by the occupant of a structure shall be properly installed, and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ADMINISTRATION AND ENFORCEMENT

ADMINISTRATION AND ENFORCEMENT

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ADMINISTRATION AND ENFORCEMENT / § 152.85 OFFICER.

§ 152.85 OFFICER.

It shall be the duty and responsibility of the Code Official, as defined in § 152.05, to enforce the provisions of this chapter as herein provided.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ADMINISTRATION AND ENFORCEMENT / § 152.86 OFFICIAL RECORDS.

§ 152.86 OFFICIAL RECORDS.

An official record shall be kept of all business and activities of the Department of Planning and Community Development, Division of Code Enforcement and all records shall be open to public inspection at all appropriate times.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / ADMINISTRATION AND ENFORCEMENT / § 152.87 DUTIES AND POWERS OF CODE OFFICIAL.

§ 152.87 DUTIES AND POWERS OF CODE OFFICIAL.

(A) The Code Official shall enforce all provisions of this chapter relative to the maintenance of structures and premises, except as may otherwise be specifically provided for by other regulations.

(B) The Code Official shall issue all necessary notices and orders to abate illegal or unsafe conditions to insure compliance with this chapter's requirements for the safety, health and general welfare of the public.

(C) In order to safeguard the safety, health and welfare of the public, the Official is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing his or her duties under this chapter.

(D) If any owner, occupant or other person in charge of a structure subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry

and free access to any part of the structure or premises where inspection authorized by this chapter is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that the owner, occupant or other person in charge cease and desist with the interference.

(E) Every occupant of a structure or premises shall give the owner or operator thereof, or his or her agent or employee, access to any part of the structure or its premises at reasonable times for the purpose of making the inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this chapter.

(F) The Code Official or his or her authorized representative shall disclose proper credentials of his or her respective office for the purpose of inspecting any and all buildings and premises in the performance of his or her duty under this chapter.

(G) Inspection of premises, the issuance of notices, orders and enforcement thereof shall be the responsibility of Code Officials so charged by the Mayor. Whenever, in the opinion of a Code Official initiating an inspection under this chapter, it is deemed necessary or desirable to have inspections by any other department, he or she shall make reasonable effort to arrange for the coordination of the inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders which it determined must be issued.

(Ord. 12-1982, passed 12-6-1982)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / INTERNATIONAL PROPERTY MAINTENANCE CODE

INTERNATIONAL PROPERTY MAINTENANCE CODE

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / INTERNATIONAL PROPERTY MAINTENANCE CODE / § 152.95 ADOPTION BY REFERENCE.

§ 152.95 ADOPTION BY REFERENCE.

A certain document, which is on file in the office of the Russell City Clerk being marked and designated as the International Property Maintenance Code as published by the International Code Council, Inc. be and is hereby adopted as the Property Maintenance Code of the City of Russell, Kentucky and the Commonwealth of Kentucky for the control of buildings and structures as herein provided and each and all regulations, provisions, penalties, conditions and

terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof as if fully set out in this subchapter, with additions, insertions, deletions, and changes, if any, as set forth in § 152.96.

(Ord. 5, passed 6-25-2012)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / INTERNATIONAL PROPERTY MAINTENANCE CODE / § 152.96 AMENDMENTS; REVISIONS.

§ 152.96 AMENDMENTS; REVISIONS.

The following sections are hereby revised:

(A) **Section 101.1** Insert: City of Russell, Kentucky

(B) **Section 111.1** Change: Appeal is filed within 10 days.

(C) **Section 303.14** Insert: April 1 and October 30.

(D) **Section 602.3** Insert: September 1 to June 1.

(E) **Section 602.4** Insert: September 1 to June 1.

(F) **Section 106.4** is hereby revised and the following language shall be applicable instead of the language set forth in the Code:

"Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Upon conviction a fine of $250.000. The above fines are exclusive of court costs, which shall be added at the discretion of the Court. Code official is hereby granted authority to city individuals violating the Code to the District Court of the Commonwealth of Kentucky consistent with §§ 152.95 through 152.97 of the City of Russell Code of Ordinances and the same power shall be granted to sworn officers of the Police Department of the City of Russell."

(Ord. 5, passed 6-25-2012)

TITLE XV: LAND USAGE / CHAPTER 152: PROPERTY MAINTENANCE CODE / INTERNATIONAL PROPERTY MAINTENANCE CODE / § 152.97 EFFECT ON OTHER PROVISIONS.

§ 152.97 EFFECT ON OTHER PROVISIONS.

Nothing in this subchapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any cause or causes of action required or existing under any act or ordinance hereby repealed as cited in § 152.96; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this subchapter.

(Ord. 5, passed 6-25-2012)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL

CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL

Section

153.01	Introduction and purpose
153.02	Definitions
153.03	Permits and fees
153.04	Review and issuance
153.05	Erosion Prevention and Sediment Control Plan
153.06	Design requirements
153.07	Inspection
153.08	Enforcement
153.99	Penalty

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.01 INTRODUCTION AND PURPOSE.

§ 153.01 INTRODUCTION AND PURPOSE.

(A) The Clean Water Act (CWA), EPA and KYDOW established Phase II regulations and mandated Erosion Protection and Sediment Control (EPSC) procedures for land disturbance

activity and site work construction in the Commonwealth of Kentucky.

(B) (1) During the construction process, soil is highly vulnerable to erosion by wind and water.

(2) Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species.

(3) Eroded soil also necessitates repair of sewers, ditches, sinkholes and dry wells. Streets and roads with sediment deposits are slick and hazardous to the public.

(4) In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

(C) As a result, the purpose of this local regulation is to safeguard persons, protect property and prevent damage to the environment in the city. This chapter will also promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.02 DEFINITIONS.

§ 153.02 DEFINITIONS.

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

BEST MANAGEMENT PRACTICE (BMP). A measure that is implemented to protect water quality and reduce the potential for pollution associated with storm water runoff.

BLUE LINE STREAMS. Streams that are represented on the United States Department of the Interior Geological Survey 1:24,000 quadrangle maps.

CERTIFIED CONTRACTOR. A person who has received EPSC training and is certified by the city or Kentucky Division of Water to inspect and maintain erosion and sediment control practices.

CHANNEL. A natural or constructed/human-made watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. ***CHANNEL FLOW*** is that water which is flowing within the limits of the defined channel.

CLEAN WATER ACT (CWA). Federal regulation that prohibits the discharge of pollutants to waters of the United States unless the discharge is in accordance with a NPDES permit.

CLEARING. Any activity that removes the vegetative surface cover.

CRITICAL AREA. A site difficult to stabilize due to exposed subsoil, steep slope, extent of exposure or other conditions.

DETENTION. The temporary delay of storm runoff prior to discharge into receiving waters.

DEVELOPER. Any individual, firm, corporation, association, partnership or trust involved in commencing proceedings to affect development of land for him, her or others.

DRAINAGE BASIN. A part of the surface of the earth that is occupied by and provides surface water runoff into a storm water management system, which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

DRAINAGE/DRY WELL. A bored, drilled, driven, dug or naturally occurring shaft or hole with a depth greater than the largest surface dimension; used to drain surface fluid, primarily storm water runoff, into a subsurface formation.

DRAINAGE WAY. Any channel that conveys surface runoff throughout the site.

EPHEMERAL STREAM. A stream or part of a stream that flows only in direct response to precipitation or snow melt. Its channel is above the water table at all times.

EROSION. The wearing away of land surface by the action of wind, water, gravity, ice or any combination of those forces.

EROSION PREVENTION AND SEDIMENT CONTROL PLAN (EPSC). A set of plans prepared by or under the direction of a qualified professional in the Commonwealth of Kentucky indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EXCAVATION. Any portion of land surface or area from which earth has been removed or will be removed, the depth below original ground surface to remaining surface.

EXISTING GRADE. The slope or elevation of existing ground surface prior to cutting or filling.

FILL. Portion of land surface or area to which soil, rock or other materials have been or will be added, height above original ground surface after the material has been or will be added.

FINISHED GRADE. The final slope or elevation of the ground surface after cutting or filling.

FLOODPLAIN. The relatively flat or lowland area adjoining a river, stream, watercourse, lake or other body of standing water which has been or may be covered temporarily by floodwater. For purposes of this manual, the ***FLOODPLAIN*** is defined as the 100-year floodplain having a 1% chance of being equaled or exceeded in any given year.

GRADING. Any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

IMPERVIOUS SURFACE. A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

KYDOW GENERAL PERMIT. An agreement between the regulating authority (KYDOW) and the permittee which specifies conservation practices that shall be implemented in the construction of activities specified in the terms and conditions of the general permit.

LAND DISTURBANCE. The purposeful act of clearing, grubbing, excavating or grading, disrupting ground surface by or for construction activities, including construction access/roads, staging and storage sites producing significant areas of exposed soil and soil piles.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). The EPA's program to control the discharge of pollutants to waters of the United States NPDES is a part of the Federal CWA, which requires point and non-point source dischargers to obtain permits. These permits are referred to as NPDES permits.

NOTICE OF INTENT (NOI). A formal notice to the KYDOW that a construction project seeking coverage under a general permit is about to begin.

NOTICE OF TERMINATION (NOT). A formal notice to KYDOW that construction project is complete and seeking release for the EPSC and the Commonwealth general permit.

PERIMETER CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMIT PHASING. Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

PERMITTEE. The person, company, contractor or developer, who is responsible for the land disturbing activity.

PERMITTING AGENCY. The city is responsible for review and approval permits and EPSC plans.

PUBLIC STORM DRAIN. Drain system provided and maintained by the city that is

designed to help maintain storm water runoff and also provides inlets for water to travel to holding areas attempting to remove excessive water from streets and other areas.

SEDIMENT. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SEDIMENT CONTROL. Measures that prevent eroded sediment from leaving the site.

SITE. A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation subject to erosion of sedimentation as a result of cutting, filling, grading or other disturbance of the soil.

SITE DEVELOPMENT PERMIT. A permit issued by the city for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

SITE WASTE CONTROL. The requirements set forth in this chapter are also intended to control or eliminate waste from construction site operators that may cause adverse impacts to water quality.

STABILIZATION. The use of practices that prevent exposed soil from eroding.

START OF CONSTRUCTION. The first land disturbing activity associated with a development, including land preparation such as clearing, grading and filling, installation of streets and walkways, excavation for basements, footings, piers or foundations, erection of temporary forms and installation of accessory buildings such as garages.

STORM WATER MANAGEMENT PLAN (SWMP). A plan which is based on hydrologic and hydraulic calculations to determine flood stage and required improvement to minimize impacts by development.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan required by storm water regulations or permits that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the storm water and a description of measures or practices to control these pollutants. This is synonymous with the term ***BMP PLAN*** used in the KYDOW general permit.

TEMPORARY PROTECTION. Short-term stabilization of erosive or sediment producing areas.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment producing areas by covering the soil with any of the following materials: Permanent seeding for long-term vegetative cover, short-term seeding for temporary vegetative cover, sodding, producing areas covered with a turf of perennial sod-forming grass, tree planting or other planting.

WATERCOURSE. Any body of water, including, but not limited to, lakes, ponds, rivers,

streams and bodies of water designated as part of the storm water conveyance system.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drain.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.03 PERMITS AND FEES.

§ 153.03 PERMITS AND FEES.

(A) Permits through the city are required for all site construction projects and/or land disturbances. Depending on the amount of land disturbance, various levels of permits are required. Design requirements and erosion prevention and sediment control plans shall be prepared in accordance with §§ 153.05 and 153.06. Criteria for permit levels and submittal requirements are as follows.

(1) *Level one permit.*

(a) Site construction disturbs less than one acre of soil and is not a part of a larger development;

(b) Increased impervious area is less than 3,400 square feet;

(c) Ground slopes are less than 6%;

(d) Submit level one permit application accompanied by a plot plan that shows general erosion protection and sediment control notations and practices; and

(e) Fee shall be not be charged.

(2) *Level two permit.*

(a) Site construction disturbs less than one acre of soil and is not a part of a larger development;

(b) Increased impervious area is greater than 3,400 square feet;

(c) Ground slopes are less than 6%;

(d) Submit level two permit application accompanied by a detailed grading/erosion prevention and sediment control plan with details; and

(e) Fee shall be $100 per year.

(3) *Level three permit.*

(a) Site construction disturbs one acre or greater of soil;

(b) Submit level three permit application accompanied by a detailed grading/erosion prevention and sediment control plan and a SWPP plan prepared by a qualified professional. Submit KYDOW notice of intent (NOI). Copies of all Commonwealth applications, plans and NOIs must be submitted to the city; and

(c) Fee shall be $300 for the first acre and $100 per every one-half additional acres per year.

(4) *Level four permit (general permit for utility companies).*

(a) Operations disturb less than one acre;

(b) Submit level four permit application;

(c) Permit renewed every three years; and

(d) Fee shall be $300.

(B) Contractor shall coordinate with the KYDOW and the U.S. Army Corps of Engineers to determine whether permits are required from those agencies before construction begins.

(C) No permit through the city is required for the following activities:

(1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources; and

(2) Existing nursery and agricultural operations conducted as a permitted main or accessory use. However, permitting through regional, Commonwealth and federal agencies may be required.

(D) Each permit application shall bear the name(s), telephone information, electronic contact information (if available) and address(s) of the owner and/or developer of the site, contractor for the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at the firm and shall be accompanied by a permit fee.

(E) Each permit application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the EPSC plan and that a certified contractor be responsible for implementing and maintaining all aspects of that plan.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.04 REVIEW AND ISSUANCE.

§ 153.04 REVIEW AND ISSUANCE.

(A) The city will review each permit application to determine its conformance with the provisions of this chapter. Acceptance indicates that minimum requirements or intent are met and does not imply a guarantee of performance. Based on the review of the permit application, the permitting agency will:

(1) Accept the permit application submittal;

(2) Accept the permit application submittal subject to the reasonable conditions as may be necessary to meet the requirements/intent of the objectives of this chapter and issue the permit subject to these conditions; or

(3) Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(B) The city reserves the right to inspect the site prior to any construction activity in furtherance of the review process.

(C) The city's acceptance of the permit is for general compliance with local requirements and the KYDOW permit. The designer and/or engineer are ultimately responsible for the details of design of the EPSC plan, with the property owner/developer being responsible for implementation.

(D) The city will not issue a building permit until the required site permit application is accepted and the permit issued.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.05 EROSION PREVENTION AND SEDIMENT CONTROL PLAN.

§ 153.05 EROSION PREVENTION AND SEDIMENT CONTROL PLAN.

(A) The Erosion Prevention and Sediment Control (EPSC) Plan shall include the

following:

(1) A natural resources map identifying soil types, forest cover, topography and other natural features of concern. This map should be to scale equivalent to balance of submittal;

(2) A schedule of events for the construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary EPSC measures and establishment of permanent vegetation;

(3) All EPSC measures necessary shall be shown on the plan by location and referred to by a legend for all phases of construction. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season. Multiple EPSC plan sheets may be necessary to best convey requirements for each phase;

(4) Seeding mixtures and rates, types of sod, method of seed bed preparation, expected seeding dates, type and rate of lime and fertilizer application, and type and quantity of mulching for both temporary and permanent vegetative control measures;

(5) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance; and

(6) The proposed plan to control site waste, including a delineation of contractor staging areas for equipment and fuel storage, site materials and temporary facilities.

(B) Modifications to the plan shall be processed and accepted or denied in the same manner as § 153.04 and may be authorized by the city by written authorization to the permittee, and shall include:

(1) Major amendments of the EPSC plan require a qualified professional's signature and shall be submitted to the city for acceptance; and

(2) Field modifications of a minor nature shall require a qualified professional's signature and shall be noted and dated on the EPSC record drawings and available for review and acceptance by the city.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.06 DESIGN REQUIREMENTS.

§ 153.06 DESIGN REQUIREMENTS.

(A) Any permitted land disturbance operation shall meet the design criteria set forth in the most recent version of the city's Storm Water Manual and shall be adequate to prevent erosion and control sediment from the site to the satisfaction of the city. Cut and fill slopes shall be no greater than three to one, except as approved by the city to meet other community or environmental objectives.

(B) Clearing and grading of natural resources, such as forests and wetlands and other natural features of concern shall not be permitted, except when in compliance with all sections of this chapter as well as any regional, Commonwealth and federal regulation. Clearing techniques that retain natural vegetation, drainage patterns, and buffers along streams as described by the Storm Water Manual, shall be used to the satisfaction of the city.

(C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(D) Phasing shall be required on all sites disturbing greater than 50 acres, with the size of each phase to be established at plan review and as approved by the city.

(E) Erosion prevention BMP requirements:

(1) Soil stabilization shall be completed within 14 days of final grade work. If an area is left inactive for 21 days or more, the area shall have temporary stabilization;

(2) If seeding or other vegetative erosion prevention methods are used, vegetation shall become established within three weeks. If a satisfactory stand of vegetation is not established, the city may require the site to be re-seeded or a non-vegetative option employed;

(3) Special techniques such as rip rap, turf reinforcement, armoring and other methods that meet the design criteria outlined in the Storm Water Manual on steep slopes or in drainage ways shall be used to ensure stabilization;

(4) Soil stockpiles must be stabilized or covered and/or have sediment control measures in place to control sediment movement. Stockpiles shall have temporary vegetation established if they are going to be left for 21 days or more;

(5) During the winter months, at the close of the construction season, when no construction is going on the entire site must be stabilized, using a heavy mulch layer or other methods that do not require germination to control sediment and prevent erosion;

(6) Minimize clearing and grading to the smallest possible area. Preserve

existing vegetation and trees to the maximum extent possible;

(7) Areas to be left undisturbed during construction shall be clearly noted and delineated on the plans;

(8) Vegetative buffer strips in combination with other perimeter controls shall be used for the protection of adjacent properties, watercourses and rights-of-way; and

(9) Measures shall be implemented to control sedimentation deposits into drainage structures and features, receiving water bodies, natural parts, features, roads, rights-of-way and adjacent properties.

(F) Sediment control BMP requirements include:

(1) Dust control techniques shall be employed to prevent the blowing of dust by air movements during land disturbance, demolition and other construction activities;

(2) Diversion of upland runoff past disturbed slopes shall be implemented when necessary;

(3) Settling basins, sediment traps, tanks and/or perimeter controls shall be implemented as required by the Storm Water Manual to control sediment; and

(4) Effective debris and trash management shall be required. At a minimum the following shall be met:

(a) Implementing waste management practices and disposal of wastes including a designated waste collection area on site that does not drain directly to a waterway, ensuring storage containers have lids, regular scheduled waste collection (daily, weekly and the like) to prevent overfilling, cleaning up spills immediately and disposal of construction site waste at authorized landfills or disposal areas. Concrete trucks must wash out on the job site and the run-off not allowed to drain onto public streets or into the storm water collection system; and

(b) Disposal plan for hazardous materials that may be utilized during construction in accordance with local and Commonwealth solid waste regulatory agencies.

(G) Waterway, watercourse, ephemeral stream and public storm drain protection requirements shall include the following:

(1) A temporary stream crossing installed and approved by the Kentucky Division of Water and the city if a watercourse will be crossed regularly during construction;

(2) Stabilization of the watercourse channel before, during and after any in-channel work;

(3) Design of all on-site storm water conveyance channels in accordance with

criteria outlined in the Storm Water Manual; and

(4) Stabilization adequate to prevent erosion located at the inlets and outlets of all pipes and paved channels.

(H) Construction site access requirements designed to minimize the deposit of sediment or other materials on public streets and rights-of-way shall include:

(1) Continuous access via a stabilized rock entrance, constructed in accordance with the city's Storm Water Manual; and

(2) A tire wash rack may also be required by the city.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.07 INSPECTION.

§ 153.07 INSPECTION.

(A) Plans accepted by the city for grading, stripping, excavating and filling work shall be maintained on-site throughout the duration of the work. After EPSC measures have been installed, contact the city and request a pre-construction inspection.

(B) Upon completion of the pre-construction inspection and approval of EPSC measures, the permit will be issued and site construction may commence.

(C) The city designated agent shall make inspections as deemed necessary to ensure the EPSC measures are being properly implemented and maintained during construction. If minimum requirements for the EPSC are not met, the permittee shall be notified and enforcement actions shall be taken.

(D) The permittee or his or her agent shall make regular inspections of all control measures to determine the overall effectiveness of the EPSC plan and the need for additional control measures. The frequency of these inspections shall be once every seven calendar days and before and after storm events of a half-inch of precipitation or more. All inspections shall be documented in written form and kept on the construction site. Reports should be available for the city or Commonwealth Inspectors to review upon request during a site inspection.

(E) The city designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under division (D) above.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.08 ENFORCEMENT.

§ 153.08 ENFORCEMENT.

In the event that any person holding a site development permit pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare or safety of the public near the development site or vicinity so as to be materially detrimental to the public welfare or injurious to property or improvements in the vicinity, the city may suspend or revoke the site development permit.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 153: EROSION PREVENTION AND SEDIMENT CONTROL / § 153.99 PENALTY.

§ 153.99 PENALTY.

No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued or permitted, shall constitute a separate offense. Upon conviction of any violation, the person, partnership or corporation shall be punished by a fine of not more than $1,000 for each offense. For each day that the prohibited action is continued, it shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of the restoration.

(Ord. 2,2007, passed 4-23-2007)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT

CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT

Section

Illicit Discharge and Connection

154.01	Intent and objectives
154.02	Definitions
154.03	Applicability
154.04	Responsibility for administration
154.05	Ultimate responsibility
154.06	Discharge prohibitions
154.07	Suspension of access to the storm drainage system
154.08	Industrial or construction activity discharges
154.09	Monitoring of discharges
154.10	Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices
154.11	Protection of the waters of the city
154.12	Notification of spills
154.13	Enforcement
154.14	Remedies not exclusive

Post-Construction Stormwater Management

154.30	Findings of fact
154.31	Purpose
154.32	Applicability
154.33	Compatibility with other permit and ordinance requirements
154.34	Severability
154.35	Development of a Stormwater Design Manual
154.36	Definitions
154.37	Permit required
154.38	Application requirements
154.39	Application review fees
154.40	Application procedure
154.41	Permit duration
154.42	Waivers for providing stormwater management
154.43	Fee in lieu of stormwater management practices

154.44 Dedication of land
154.45 General performance criteria for stormwater management
154.46 Basic stormwater management design criteria
154.47 Minimum control requirements
154.48 Site design feasibility
154.49 Conveyance issues
154.50 Pretreatment requirements
154.51 Treatment/geometry conditions
154.52 Landscaping plans required
154.53 Maintenance agreements
154.54 Non-structural stormwater practices
154.55 Stormwater management plan required for all developments
154.56 Stormwater management concept plan requirements
154.57 Final stormwater management plan requirements
154.58 Performance bond/security
154.59 Notice of construction commencement
154.60 As built plans
154.61 Landscaping and stabilization requirements
154.62 Maintenance easement
154.63 Maintenance covenants
154.64 Requirements of maintenance covenants
154.65 Inspection of stormwater facilities
154.66 Right of entry for inspection
154.67 Records of installation and maintenance activities
154.68 Failure to maintain practices
154.69 Violations
154.70 Notice of violation
154.71 Stop work orders
154.72 Restoration of lands
154.73 Holds on occupation permits

154.99 Penalty

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION

ILLICIT DISCHARGE AND CONNECTION

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND

CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.01 INTENT AND OBJECTIVES.

§ 154.01 INTENT AND OBJECTIVES.

(A) The purpose of this subchapter is to provide for the health, safety and general welfare of the citizens of city, through the regulation of non-stormwater discharges to the stormwater system. To the maximum extent practicable, the introduction of pollutants into the municipal storm sewer system shall be controlled in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(B) The objectives of this subchapter are:

(1) To regulate the contribution of pollutants to the municipal storm sewer system by non-stormwater discharges by any user;

(2) To prohibit illicit connections and discharges to the municipal storm sewer system; and

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.02 DEFINITIONS.

§ 154.02 DEFINITIONS.

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

BEST MANAGEMENT PRACTICES (BMPS). The schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. ***BMPS*** also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq*.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. The activities include but are not limited to cleaning, grubbing, grading, excavating and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drainage system, except as exempted in § 154.06.

ILLICIT CONNECTIONS. Either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system including, but not limited to, any conveyances which allow any non-stormwater discharge including, but not limited to, sewage, process wastewater or wash water to enter the storm drainage system or any connections to the storm sewer system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm sewer system which has not been documented in plans, maps or equivalent records and approved by the city.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the Commonwealth of Kentucky pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the Commonwealth, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm drainage system that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity whatsoever.

POLLUTANT. Anything which causes or contributes to the alternation of the physical,

thermal, chemical or biological quality of, or the contamination of any water of the city, that renders the water harmful, detrimental or injurious to humans, animal life, vegetation, property or to the public health, safety or welfare, or impairs the usefulness of the public enjoyment or the water for any lawful or reasonable purpose. ***POLLUTANTS*** may include, but are not limited to: paints, varnishes and solvents, oil and other automotive fluids, soap, detergent, de-greaser, solvent, emulsifier or other cleaning substance, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations so that same may cause or contribute to pollution, floatables, pesticides, herbicides and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. Facilities, both publicly and privately owned, by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, ditches, swales, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORMWATER. Any surface flow, runoff or drainage consisting entirely of water from any from natural precipitation and resulting from precipitation.

STORMWATER POLLUTION PREVENTION PLAN. A document which describes the best management practices and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, storm drainage system and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid other than uncontaminated stormwater.

WATERS OF CITY. Groundwater, percolating or otherwise, lakes, ponds, impounded reservoirs, springs, rivers, streams, creeks, wetlands, marshes and all other bodies of surface water including the bed and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the boundary of the city.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.03 APPLICABILITY.

§ 154.03 APPLICABILITY.

This subchapter shall apply to all water entering the storm drainage system unless explicitly exempted herein.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.04 RESPONSIBILITY FOR ADMINISTRATION.

§ 154.04 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement and enforce the provisions of this subchapter.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.05 ULTIMATE RESPONSIBILITY.

§ 154.05 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards. This subchapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution nor unauthorized discharge of pollutants.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.06 DISCHARGE PROHIBITIONS.

§ 154.06 DISCHARGE PROHIBITIONS.

(A) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the storm drainage system, or onto any watercourses, any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this subchapter: flushing of water lines or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater de-watering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated to less than one PPM chlorine), firefighting activities and any other water source not containing pollutants.

(2) Discharge specifically permitted in writing by the city as being necessary to protect public health and safety.

(3) Dye testing, however, a verbal notification to the city shall be provided prior to the time of the test.

(4) Any non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illicit connections.* The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited in the city. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. An illicit connection shall include, but not be limited to, the connection of a line conveying sewage to the storm drainages system or allowing such a connection to continue.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.07 SUSPENSION OF ACCESS TO THE STORM DRAINAGE SYSTEM.

§ 154.07 SUSPENSION OF ACCESS TO THE STORM DRAINAGE SYSTEM.

(A) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend discharge access to the storm drainage system to a person when the suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or the waters of the city. If the violator fails to comply with a suspension order issued in an emergency, the city may take steps as deemed necessary to prevent or minimize damage to the storm drainage system or the waters of the city, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the storm drainage system in violation of this chapter may have his or her access terminated if the termination would abate or reduce an illicit discharge. The city shall notify a violator of the proposed termination of its storm drainage system access. A person commits an offense if the person reinstates access to premises terminated pursuant to this section, without the prior written approval of the city.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.08 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

§ 154.08 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to the allowing of discharges to the storm drainage system.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.09 MONITORING OF DISCHARGES.

§ 154.09 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.* The city shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the city.

(1) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by Commonwealth and federal law.

(2) The city shall have the right to set-up on any permitted facility such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of the facility's stormwater discharge.

(3) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at his or her own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing the access shall be borne by the operator.

(5) Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this subchapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.

(6) If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the

community, then the city may seek issuance of a search warrant.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.10 REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

§ 154.10 REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The city shall adopt requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system or the water of the city. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.11 PROTECTION OF THE WATERS OF THE CITY.

§ 154.11 PROTECTION OF THE WATERS OF THE CITY.

Every person owning property through which the water of the city passes shall keep and maintain that part of the water within the property free of trash, debris, excessive vegetation and other material that could pollute or contaminate water through the watercourse. In addition, the

owner shall maintain the property adjacent to the water free of such trash, debris, excessive vegetation and other materials that could pollute or contaminate the watercourse during periods of flooding.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.12 NOTIFICATION OF SPILLS.

§ 154.12 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or the waters of city, the person shall take all necessary steps to ensure the discovery, containment and cleanup of the release. In the event of such a release of hazardous materials, the person shall immediately notify the city. In the event of a release of non-hazardous materials, the person shall notify the persons listed above by phone, in person, or by facsimile, no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the above listed persons within three business days of the phone or personal notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner and/or operator of the establishment shall retain on-site written records of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least three years.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.13 ENFORCEMENT.

§ 154.13 ENFORCEMENT.

(A) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the city may order compliance by sending a written notice of violation to the property owner. The notice may require without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices or operations shall cease and desist;

(3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(4) The performance of monitoring, analyses and reporting; and

(5) The implementation of source control or treatment BMPs.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The city may commence appropriate legal action and/or seek equitable relief, including injunctive relief, against any person who fails to abate a violation and/or restore an affected property prior to the deadline established in the notice of violation. The notice of violation shall be mailed to the property owner at the last known address listed on the current tax assessment roll, or by personally serving, or by causing to be personally served, the property owner with a written notice of violation.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / ILLICIT DISCHARGE AND CONNECTION / § 154.14 REMEDIES NOT EXCLUSIVE.

§ 154.14 REMEDIES NOT EXCLUSIVE.

The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, Commonwealth or local law and it is within the discretion of the city to seek cumulative remedies.

(Ord. 2, passed 6-8-2005)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT

POST-CONSTRUCTION STORMWATER MANAGEMENT

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.30 FINDINGS OF FACT.

§ 154.30 FINDINGS OF FACT.

It is hereby determined that:

(A) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; this stormwater runoff contributes to increased quantities of water-borne pollutants; and stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

(B) Therefore, the City of Russell establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.31 PURPOSE.

§ 154.31 PURPOSE.

The purpose of this subchapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This subchapter seeks to meet that purpose through the following objectives:

(A) Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the

integrity of stream channels;

(B) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;

(C) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable;

(D) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

(Ord. 1, 2103, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.32 APPLICABILITY.

§ 154.32 APPLICABILITY.

(A) This subchapter shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Russell under the specifications of §§ 154.42 through 154.44. This subchapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the local MS4 Coordinator for the City of Russell and when necessary by a qualified plan reviewer for the City of Russell with hydrological and hydraulic expertise adequate for review of the environmental aspects of the plans to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

(B) The minimum area for application of this subchapter shall be one acre; however where the development activity creates total impervious cover areas exceeding 1,000 square feet, this subchapter will apply irrespective of how small the development activity may be.

(C) To prevent the adverse impacts of stormwater runoff, the City of Russell has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing 43,560 or more square feet of land. The

following activities may be exempt from these stormwater performance criteria:

(1) Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the USDA Natural Resources Conservation Service (NRCS), as applicable.

(2) Additions or modifications to existing single family structures.

(3) Developments that do not disturb more than 43,560 square feet of land, provided they are not part of a larger common development plan.

(4) Repairs to any stormwater treatment practice deemed necessary by the City of Russell.

(D) When a site development plan is submitted that qualifies as a redevelopment project as defined in § 154.36, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current Stormwater Design Manual. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the City of Russell. Suffice it to say, that redevelopment projects are to be encouraged with incentives on the level of stormwater requirements required for compliance. In some instances the regulations through the Stormwater Design Manual will allow for reduced criteria to meet the limitations of specific sites proposed for redevelopment. Reduction in impervious areas for proposed redevelopment is encouraged by the Stormwater Design Manual, as well as considerations regarding the management of the water quality volume.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.33 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS.

§ 154.33 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS.

This subchapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this subchapter should be considered minimum requirements, and where any provision of this subchapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective

standards for human health or the environment shall be considered to take precedence.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.34 SEVERABILITY.

§ 154.34 SEVERABILITY.

If the provisions of any section, division, paragraph, subdivision or clause of this subchapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, division, paragraph, subdivision or clause of this subchapter.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.35 DEVELOPMENT OF A STORMWATER DESIGN MANUAL.

§ 154.35 DEVELOPMENT OF A STORMWATER DESIGN MANUAL.

(A) The City of Russell may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this subchapter and may provide such information in the form of a Stormwater Design Manual.

(B) This Manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The Manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

(C) The Stormwater Design Manual shall emphasize the performance standards of stormwater treatment practices. An example would be the requirement for 80% removal of total suspended solids (TSS) as a means of controlling heavy metals, phosphorus, and other pollutants

present in runoff.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.36 DEFINITIONS.

§ 154.36 DEFINITIONS.

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

ACCELERATED EROSION. Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

APPLICANT. A property owner or agent of a property owner who has filed an application for a stormwater management permit.

BUILDING. Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

DEDICATION. The deliberate appropriation of property by its owner for general public use.

DETENTION. The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY. A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DEVELOPER. A person who undertakes land disturbance activities.

DRAINAGE EASEMENT. A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

EROSION AND SEDIMENT CONTROL PLAN. A plan that is designed to minimize

the accelerated erosion and sediment runoff at a site during construction activities.

FEE IN LIEU. A payment of money in place of meeting all or part of the storm water performance standards required by this subchapter.

HOTSPOT. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

HYDROLOGIC SOIL GROUP (HSG). A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

IMPERVIOUS COVER. Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, and the like).

INDUSTRIAL STORMWATER PERMIT. A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION. The process of percolating stormwater into the subsoil.

INFILTRATION FACILITY. Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

JURISDICTIONAL WETLAND. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND DISTURBANCE ACTIVITY. Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

LANDOWNER. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to,

pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

OFFSET FEE. A monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

OFF-SITE FACILITY. A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY. A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

RECHARGE. The replenishment of underground water reserves.

REDEVELOPMENT. Any construction, alteration or improvement exceeding 43,560 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

STOP WORK ORDER. An order issued which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT. The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER RETROFIT. A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

STORMWATER RUNOFF. Flow on the surface of the ground, resulting from precipitation.

STORMWATER TREATMENT PRACTICES (STPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

WATER QUALITY VOLUME (WQv). The storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically ***(WQv)*** will vary as a function of long term rainfall statistical data.

WATERCOURSE. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.37 PERMIT REQUIRED.

§ 154.37 PERMIT REQUIRED.

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this subchapter prior to commencing the proposed activity.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.38 APPLICATION REQUIREMENTS.

§ 154.38 APPLICATION REQUIREMENTS.

(A) Unless specifically excluded by this subchapter, any land owner or operator desiring a permit for a land disturbance activity shall submit to the City of Russell a permit application on a form provided for that purpose.

(B) Unless otherwise excepted by this subchapter, a permit application must be accompanied by the following in order that the permit application be considered: a stormwater management plan; a maintenance agreement; and a non-refundable permit review fee.

(C) The stormwater management plan shall be prepared to meet the requirements of § 154.45, the maintenance agreement shall be prepared to meet the requirements of §§ 154.62 through 154.68, and fees shall be those established by the City of Russell.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.39 APPLICATION REVIEW FEES.

§ 154.39 APPLICATION REVIEW FEES.

The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the City of Russell. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any building permit for the development.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.40 APPLICATION PROCEDURE.

§ 154.40 APPLICATION PROCEDURE.

(A) Applications for land disturbance activity permits must be filed with the City of Russell on any regular business day.

(B) A copy of this permit application shall be forwarded to the City of Russell for review.

(C) Permit applications shall include the following: two copies of the stormwater management plan, two copies of the maintenance agreement, and any required review fees.

(D) Within 20 business days of the receipt of a complete permit application, including all documents as required by this subchapter, the City of Russell shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

(E) If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the City of Russell shall have 15 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(F) If the permit application, final stormwater management plan and maintenance agreement are approved by the City of Russell, all appropriate land disturbance activity permits shall be issued.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.41 PERMIT DURATION.

§ 154.41 PERMIT DURATION.

Permits issued under this subchapter shall be valid from the date of issuance through the date the City of Russell notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.42 WAIVERS FOR PROVIDING STORMWATER MANAGEMENT.

§ 154.42 WAIVERS FOR PROVIDING STORMWATER MANAGEMENT.

(A) Every applicant shall provide for stormwater management as required by this subchapter, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Russell for approval.

(B) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this subchapter.

(2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Russell and the implementation of the plan is required by local ordinance.

(3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and

maintenance of the stormwater practice.

(4) The City of Russell finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

(5) Non-structural practices will be used on the site that reduce: (a) the generation of stormwater from the site, (b) the size and cost of stormwater storage and (c) the pollutants generated at the site. These non-structural practices are explained in detail in the current Design Manual and the amount of credit available for using such practices shall be determined by the City of Russell.

(C) In instances where one of the conditions above applies, the City of Russell may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City of Russell that the variance will not result in the following impacts to downstream waterways:

(1) Deterioration of existing culverts, bridges, dams, and other structures;

(2) Degradation of biological functions or habitat;

(3) Accelerated stream bank or streambed erosion or siltation;

(4) Increased threat of flood damage to public health, life, property.

(D) Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the jurisdictional stormwater authority. Mitigation measures may include, but are not limited to, the following:

(1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.

(2) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this subchapter.

(3) Monetary contributions (fee-in-lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices).

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.43 FEE IN LIEU OF STORMWATER MANAGEMENT PRACTICES.

§ 154.43 FEE IN LIEU OF STORMWATER MANAGEMENT PRACTICES.

Where the City of Russell waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Russell. When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by the City of Russell, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.44 DEDICATION OF LAND.

§ 154.44 DEDICATION OF LAND.

In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Russell for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Russell prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND

CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.45 GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT.

§ 154.45 GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT.

Unless judged by the City of Russell to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

(A) The post-construction BMPs chosen for stormwater management at all sites shall be designed to minimize water quality impacts, and shall attempt to maintain pre-development runoff conditions.

(B) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(C) All stormwater runoff generated from new development and re-development shall not be allowed to discharge untreated directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Russell. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the City of Russell for natural resources.

(D) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions.

(E) For new development, structural stormwater treatment practices (STP) shall be designed to remove 80% of the average annual post development total suspended solids load (TSS). It is presumed that a STP complies with this performance standard if it is:

(1) Sized to capture the prescribed water quality volume (WQv),

(2) Designed according to the specific performance criteria outlined in the local stormwater design manual,

(3) Constructed properly, and

(4) Maintained regularly.

(F) An on-site stormwater runoff quality treatment standard shall be based on an analysis of precipitation records to determine the equivalent surface depth of runoff produced from an 80th percentile precipitation event.

(G) (1) The Greenup County MS4 Group has produced an analysis of Rainfall Records from the Ashland, KY Weather Recording Station, COOPID No. 15-0254-04 as the Climate Data Station located the nearest to the MS4 Boundary. The analysis was produced for 48 years of records from January 1, 1962 through December 31, 2010.

(2) The 80th percentile determination from the Rainfall Records has yielded a runoff depth of 0.42 inches, which shall become the design requirement for use in the design of water quality control structures dedicated to contain and treat the flow from this runoff event to meet the required contaminate removal prior to off-site discharge.

(3) The initial 0.42 inches of runoff from all storm events shall pass through the approved water quality BMPs permitted for the development activity, and the performance of the BMPs shall meet the treatment standards as established herein.

(H) Structural and non-structural BMPs shall be provided in combination to contain the 0.42-inch runoff volume from the developed or re-developed area utilizing measures designed, constructed, and maintained to treat, filter, flocculate, infiltrate, screen, evapo-transpire, harvest and reuse stormwater runoff, or otherwise manage the stormwater runoff quality as indicated herein.

(I) The developer shall provide the necessary design of the combination of treatment measures for consideration by the permit reviewer. The reviewer will consider the selection of methods and BMPs that will provide evidence of meeting the water quality standards and shall demonstrate their applicability to the particular development. The review process shall include a determination that the BMPs are maintainable and operable in the future. The review shall mandate that a complete demonstration of the maintainability of selected BMPs over those more recognized for their ease of maintenance from past application before they will be approved. In addition BMPs shall demonstrate their acceptable conformance to the zoning and land use of the particular development within the MS4 jurisdiction.

(J) The consideration of green infrastructure BMPs shall be encouraged in the selection of BMPs to meet the treatment standards. BMPs may include grass swales; filter strips; infiltration basins; dry, wet and extended-wet detention ponds; stormwater wetlands; bio-retention areas; natural filtration areas; sand filters; pervious pavements; and rain gardens. In all instances of wet detention ponds, the developer shall demonstrate how the facility shall be maintained to prevent the production of mosquitoes and other insects that produce a public health threat.

(K) Special considerations and measures shall be implemented for new or expanded discharges to high-quality waters that provide sufficient treatment to protect existing in-stream water uses and the level of water quality necessary to protect the existing uses.

(L) To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the Stormwater Design Manual.

(M) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(N) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

(O) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots,” may require the use of specific structural STPs and pollution prevention practices.

(P) Prior to design, applicants are required to consult with the City of Russell to determine if they are subject to additional stormwater design requirements.

(Q) The calculations for determining peak flows as found in the Stormwater Design Manual shall be used for sizing all stormwater management practices.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.46 BASIC STORMWATER MANAGEMENT DESIGN CRITERIA.

§ 154.46 BASIC STORMWATER MANAGEMENT DESIGN CRITERIA.

The design standards for the development application to the City of Russell shall utilize the current Stormwater Design Manual for the exact design criteria for the stormwater management practices appropriate for a specific site. Design considerations for the application shall address the following:

(A) Site design feasibility;

(B) Conveyance issues;

(C) Pretreatment requirements;

(D) Treatment/geometry conditions;

(E) Environmental/landscaping standards;

(F) Maintenance needs

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.47 MINIMUM CONTROL REQUIREMENTS.

§ 154.47 MINIMUM CONTROL REQUIREMENTS.

(A) All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, ten-year, 100-year) as identified in the current Stormwater Design Manual are met, unless the City of Russell grants the applicant a waiver or the applicant is exempt from such requirements.

(B) In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Russell reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.48 SITE DESIGN FEASIBILITY.

§ 154.48 SITE DESIGN FEASIBILITY.

(A) Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

(1) Topography;

(2) Maximum drainage area;

(3) Depth to water table;

(4) Soils;

(5) Slopes;

(6) Terrain;

(7) Head;

(8) Location in relation to environmentally sensitive features or ultra-urban areas.

(B) Applicants shall consult the Stormwater Design Manual for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.49 CONVEYANCE ISSUES.

§ 154.49 CONVEYANCE ISSUES.

(A) All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

(1) Maximizing of flow paths from inflow points to outflow points;

(2) Protection of inlet and outfall structures;

(3) Elimination of erosive flow velocities;

(4) Providing of underdrain systems, where applicable.

(B) The Stormwater Design Manual shall provide detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.50 PRETREATMENT REQUIREMENTS.

§ 154.50 PRETREATMENT REQUIREMENTS.

Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current Stormwater Design Manual. Certain stormwater treatment practices, as specified in the Stormwater Design Manual, are prohibited even with pretreatment in the following circumstances:

(A) Stormwater is generated from highly contaminated source areas known as "hotspots."

(B) Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges.

(C) Stormwater is being managed in a designated groundwater recharge area.

(D) Certain geologic conditions exist (e.g., karst) that prohibit the proper pretreatment of stormwater.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.51 TREATMENT/GEOMETRY CONDITIONS.

§ 154.51 TREATMENT/GEOMETRY CONDITIONS.

All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Stormwater Design Manual. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND

§ 154.52 LANDSCAPING PLANS REQUIRED.

All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a professional engineer or registered landscape architect.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

§ 154.53 MAINTENANCE AGREEMENTS.

All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

§ 154.54 NON-STRUCTURAL STORMWATER PRACTICES.

The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in

detail in the current Design Manual and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.55 STORMWATER MANAGEMENT PLAN REQUIRED FOR ALL DEVELOPMENTS.

§ 154.55 STORMWATER MANAGEMENT PLAN REQUIRED FOR ALL DEVELOPMENTS.

No application for development will be approved unless it includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual with adequate qualifications and approved by the City of Russell. The plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the submittal checklist found in the Stormwater Design Manual. No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the City of Russell after determining that the plan or waiver is consistent with the requirements of this subchapter.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.56 STORMWATER MANAGEMENT CONCEPT PLAN REQUIREMENTS.

§ 154.56 STORMWATER MANAGEMENT CONCEPT PLAN REQUIREMENTS.

(A) A stormwater management concept plan shall be required with all permit

applications and will include sufficient information (e.g., maps, hydrologic calculations, and the like) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

(1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this subchapter and the specifications of the Stormwater Design Manual.

(3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(4) A written description of the required maintenance burden for any proposed stormwater management facility.

(5) The City of Russell may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(B) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this subchapter to the maximum extent practicable.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION

§ 154.57 FINAL STORMWATER MANAGEMENT PLAN REQUIREMENTS.

After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the City of Russell, a final stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the information required in the final stormwater management plan checklist found in the Stormwater Design Manual. This includes:

(A) *Contact information*. The name, address, and telephone number of all persons having a legal interest in the property, the tax reference number and parcel number of the property or properties affected.

(B) *Topographic base map*. A one-inch equals 200 feet topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

(C) *Calculations*. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this subchapter. Such calculations shall include:

(1) Description of the design storm frequency, intensity and duration,

(2) Time of concentration,

(3) Soil curve numbers or runoff coefficients,

(4) Peak runoff rates and total runoff volumes for each watershed area,

(5) Infiltration rates, where applicable,

(6) Culvert capacities,

(7) Flow velocities,

(8) Data on the increase in rate and volume of runoff for the design storms referenced in the Stormwater Design Manual, and

(9) Documentation of sources for all computation methods and field test results.

(D) *Soils information*. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(E) *Maintenance and repair plan*. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(F) *Landscaping plan.* The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, professional engineer, or by the local office of the Natural Resources Conservation Service (NRCS).

(G) *Maintenance easements*. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.

(H) *Maintenance agreement.* The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this subchapter.

(I) *Erosion and sediment control plans for construction of stormwater management measures*. The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices.

(J) *Other environmental permits*. The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION

§ 154.58 PERFORMANCE BOND/SECURITY.

(A) The City of Russell may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The installation performance security shall be released in full only upon submission of “as built” plans and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this subchapter. The City of Russell will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this subchapter. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the City of Russell.

(B) The City of Russell may also require the issuance of a performance security or bond for the maintenance costs estimated in the stormwater plan for the period during which the permit holder has maintenance responsibility which shall be released when the responsibility for the maintenance has passed on to another party via an approved maintenance agreement.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

§ 154.59 NOTICE OF CONSTRUCTION COMMENCEMENT.

(A) The applicant must notify the City of Russell in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the staff of the City of Russell or certified by a professional engineer or their designee who has been approved by the City of Russell. All inspections shall be documented and written reports prepared that contain the following information:

(1) The date and location of the inspection;

(2) Whether construction is in compliance with the approved stormwater management plan;

(3) Variations from the approved construction specifications;

(4) Any violations that exist.

(B) If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the City of Russell.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.60 AS BUILT PLANS.

§ 154.60 AS BUILT PLANS.

All applicants are required to submit actual "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City of Russell is required before the release of any performance securities can occur.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.61 LANDSCAPING AND STABILIZATION REQUIREMENTS.

§ 154.61 LANDSCAPING AND STABILIZATION REQUIREMENTS.

(A) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten days from the substantial completion of such clearing and construction. The following criteria shall

apply to revegetation efforts:

(1) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 90% of the seeded area.

(2) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(3) Any area of revegetation must exhibit survival of a minimum of 75% of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75% survival for one year is achieved.

(B) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district, and must be approved prior to receiving a permit.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.62 MAINTENANCE EASEMENT.

§ 154.62 MAINTENANCE EASEMENT.

Prior to the issuance of any permit that has an stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management

facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection

by the City of Russell, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this subchapter. The easement agreement shall be recorded by the City of Russell in the land records.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.63 MAINTENANCE COVENANTS.

§ 154.63 MAINTENANCE COVENANTS.

(A) Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Russell and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

(B) The City of Russell, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this subchapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Specific conditions for application to dedicate any existing or future stormwater management facility for maintenance to the City of Russell shall be provided in the Stormwater Design Manual.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.64 REQUIREMENTS OF MAINTENANCE COVENANTS.

§ 154.64 REQUIREMENTS OF MAINTENANCE COVENANTS.

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this subchapter and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Russell, and the inspection and maintenance requirement may be increased as deemed necessary

to ensure proper functioning of the stormwater management facility.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.65 INSPECTION OF STORMWATER FACILITIES.

§ 154.65 INSPECTION OF STORMWATER FACILITIES.

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.66 RIGHT OF ENTRY FOR INSPECTION.

§ 154.66 RIGHT OF ENTRY FOR INSPECTION.

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of Russell the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this subchapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this subchapter.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.67 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES.

§ 154.67 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES.

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 15 years. These records shall be made available to the City of Russell during inspection of the facility and at other reasonable times upon request.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.68 FAILURE TO MAINTAIN PRACTICES.

§ 154.68 FAILURE TO MAINTAIN PRACTICES.

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Russell, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Russell shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have seven days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City of Russell may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION

STORMWATER MANAGEMENT / § 154.69 VIOLATIONS.

§ 154.69 VIOLATIONS.

Any development activity that is commenced or is conducted contrary to this subchapter may be restrained by injunction or otherwise abated in a manner provided by law.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.70 NOTICE OF VIOLATION.

§ 154.70 NOTICE OF VIOLATION.

When the City of Russell determines that an activity is not being carried out in accordance with the requirements of this subchapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

(A) The name and address of the owner or applicant;

(B) The address when available or a description of the building, structure or land upon which the violation is occurring;

(C) A statement specifying the nature of the violation;

(D) A description of the remedial measures necessary to bring the development activity into compliance with this subchapter and a time schedule for the completion of such remedial action;

(E) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(F) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.71 STOP WORK ORDERS.

§ 154.71 STOP WORK ORDERS.

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the City of Russell confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this subchapter.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.72 RESTORATION OF LANDS.

§ 154.72 RESTORATION OF LANDS.

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Russell may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(Ord. 1, 2013, passed 2-25-2013) Penalty, see § 154.99

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION STORMWATER MANAGEMENT / § 154.73 HOLDS ON OCCUPATION PERMITS.

§ 154.73 HOLDS ON OCCUPATION PERMITS.

Occupation permits will not be granted until a correction to all stormwater practices have been made and accepted by the City of Russell.

(Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 154: ILLICIT DISCHARGE AND CONNECTION; STORMWATER MANAGEMENT / POST-CONSTRUCTION

§ 154.99 PENALTY.

(A) (1) Any person violating the provisions of §§ 154.01 through 154.14 shall, upon conviction therefor, be fined not less than $200 nor more than $10,000. Each day in which any such violation shall continue shall be deemed a separate offense.

(2) Any person violating any section of §§ 154.01 through 154.14 shall become liable to the city for any expense, loss or damage caused to the city by reason of the violation, including, but not limited to, any cleanup, evacuation, administrative or other expenses, including legal expenses, incurred. The City Commission is hereby directed to initiate proceedings in the name of the city in any court having jurisdiction over such matters as are necessary to recover costs to the city caused by the violation.

(B) In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of §§ 154.30 through 154.73 shall be punished by a fine of not less than $500 or by imprisonment for a period not to exceed 30 days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(Ord. 2, passed 6-8-2005; Am. Ord. 1, 2013, passed 2-25-2013)

TITLE XV: LAND USAGE / CHAPTER 155: ZONING

CHAPTER 155: ZONING

Section

155.01 Zoning provisions; adopted by reference

TITLE XV: LAND USAGE / CHAPTER 155: ZONING / § 155.01 ZONING PROVISIONS; ADOPTED BY REFERENCE.

§ 155.01 ZONING PROVISIONS; ADOPTED BY REFERENCE.

The city's zoning regulations are hereby adopted by reference and incorporated herein as

if set out in full.

(Ord. 6,1995, passed 11-27-1995; Ord. 14,2004, passed 8-19-2004; Ord. 10,2008, passed 9-24-2008; Ord. 2-2015, passed 5-18-2015)

TABLE OF SPECIAL ORDINANCES

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS

II. BOND ISSUES

III. CONTRACTS AND AGREEMENTS

IV. EASEMENTS

V. FRANCHISES

VI. REAL ESTATE TRANSACTIONS

VII. STREET CLOSINGS

VIII. STREET NAME CHANGES

IX. ZONING MAP CHANGES

TABLE OF SPECIAL ORDINANCES / TABLE I: ANNEXATIONS

TABLE I: ANNEXATIONS

Ord. No.	*Date Passed*	*Description*
191-1919	9-2-1919	Extending corporate limits beginning at northwest corner of the city limits at the mouth of Meads Run west along the Ohio River to the Mead Line, south to Wheelers Corner, east to Mead Corner to connect

Ord. No.	*Date Passed*	*Description*
		with southeast corner of city limits on Bear Run Creek with corporate line north to the Ohio River
210-1922	4-3-1922	Extending corporate limits beginning at mouth of Bear Run Creek, north across the Ohio River to a point on the Ohio side at low water mark, then on a northwesterly course to opposite Meads Run Creek, south across the Ohio River to mouth of Meads Run on Kentucky side
-	12-9-1926	Beginning at north corner of Lot Number 14 of the Rice and Kidds Addition, with property line of Chesapeake & Ohio Railway, along west corporation line south to forks of Bear Run Branch to low water mark of the Ohio River
-	12-2-1929	Beginning at north corner of Lot Number 13 of Rice and Kidds Purchase, southeasterly along the Ohio River to mouth of Bear Run, crossing the Ohio River to the Ohio side at low water mark, then northwesterly along Ohio side and back to beginning
3-1957	4-1-1957	Certain property beginning with alley between High Street and Ridge Avenue to alley south of Poplar Street
18-1960	12-12-1960	Certain territory beginning at the easterly line of Bellefonte-Russell Road to right-of-way of the Chesapeake & Ohio Railway to corporation line of Town of Kenwood
13-1961	12-18-1961	Certain territory situated between the southwest right-of-way line of Russell-Worthington Road and the Ohio

Ord. No.	*Date Passed*	*Description*
		River extending west from the present corporation line of city
4-1962	5-14-1962	Certain territory beginning at rear of Lot Number 26, § 1 of Means & Russell Iron Co. to line of Chesapeake & Ohio Railway
5-1962	5-14-1962	Certain territory beginning at south line of Bellefonte Street to Ball Park
6-1962	6-11-1962	Certain territory beginning at Ball Park to east corporate line of the City of Worthington
9-1962	9-10-1962	Certain territory beginning at right-of-way of Chesapeake & Ohio Railway and Lot Number 12 in the Riverview Acres Subdivision to the property line of Means & Russell Iron Co., including the portion of Riverview excluded from Ord. of July 18, 1960
11-1962	12-10-1962	Certain territory from Ball Park to east corporation line of the City of Worthington (Worthington dump)
12-1962	12-10-1962	Certain territory beginning at the intersection of Lot Number 12 of the Riverview Acres Subdivision with the westerly line of the Chesapeake & Ohio Railway to the east line of the Means & Russell Iron Co.
7-1964	12-14-1964	Certain territory situated on White Oak Creek adjoining Russell, Bellefonte, Kenwood and Flatwoods in Greenup County
2-1965	3-8-1965	Certain territory situated on White Oak Creek and adjoining the property annexed

Ord. No.	*Date Passed*	*Description*
		by Ord. 6-1964 comprising the Belhaven Subdivision
5-1968	7-16-1968	Certain territory situated on White Oak Creek adjoining existing corporate limits as set out in Ord. 6-1964
8-1968	10-7-1968	Certain territory situated on the southwesterly side of the Chesapeake & Ohio Railway adjoining the present corporate limits of the Cities of Russell and Bellefonte
8-1969	12-9-1969	Certain territory situated on White Oak Creek and on the east side of Thompson Road adjoining the present corporation limits of the Cities of Russell and Flatwoods
8-1971	10-12-1971	Certain territory situated on White Oak Creek and adjoining the city comprising the Berkshire Estates Subdivision
8-1973	12-10-1973	Certain territory beginning with the intersection of the existing corporation line of the city and the northerly right-of-way of Short White Oak Road through the Short White Oak Addition
1-1974	1-14-1974	Certain territory between Short White Oak Road and Country Club Drive and on Short White Oak Road
3-1974	4-8-1974	Certain territory between Short White Oak Road and Country Club Drive comprising Stony Brooke Subdivision and on Short White Road
17-1979	9-17-1979	Certain territory beginning at the southeast corner of Berkshire Addition to

Ord. No.	*Date Passed*	*Description*
		Thompson Road
18-1979	9-17-1979	Certain territory beginning at the existing corporation line and north right-of-way of Short White Oak Road to east line of White Oak Heights Subdivision
14-1981	1-5-1981	Certain territory beginning at McCown Street where the Cities of Russell and Flatwoods common boundary meet to Hamer Road
15-1981	1-5-1981	Certain territories beginning at the common boundary of the Cities of Russell and Flatwoods at the rear of Lot Number 55, §§ Numbers 4 and 5, Kenwood Acres Tract
16-1985	12-2-1985	Certain territory beginning at corporation line and the north side of Short White Oak Road to the White Oak Heights Subdivision, Belhaven Subdivision and the George Thompson tract
17-1985	12-2-1985	Certain territory beginning at southernly line of Thompson Drive to the corporation line, the George Thompson tract and the David Slone property
14-1988	12-27-1988	Certain territory beginning with the corporation line between the Cities of Russell and Flatwoods to Fraysse A. Delegal III property
15-1988	12-27-1988	Certain territory beginning at corporation line as described in Ord. 3-1974 where the line intersects the corporation line as described in Ord. 16-1985, to Jacob Lynd property
4,1998	5-11-1998	Being a 5.372 acre tract and being all of

Ord. No.	*Date Passed*	*Description*
4,1998	5-11-1998	Being a 5.372 acre tract and being all of the remainder of that property having been conveyed to Gerald Ray Adam and Mary Adams by deed of record in Deed Book 221, page 67 of the Greenup County Clerk's office, beginning at an iron pin (set) in the east R/W of Rockgate Road (being 15 feet from the center), and being a corner to the William Niswonger property

TABLE OF SPECIAL ORDINANCES / TABLE II: BOND ISSUES

TABLE II: BOND ISSUES

Ord./Res. No.	*Date Passed*	*Description*
5-1960	1-18-1960	Issuance of water revenue bonds to the amount of $220,000 for the purpose of constructing extensions and improvements to the municipal waterworks system
1-1961	- -1961	Issuance and sale of special obligation bonds to provide funds for school building purposes
8-1963	1-18-1963	Issuance of Water Revenue Bonds, Series of 1963, for the purpose of defraying cost of constructing extensions and permanent improvements to the municipal waterworks system
Res. 10-1963	9-11-1963	Providing for the sale and award of $300,000 Water Revenue Bonds, Series

Ord./Res. No.	*Date Passed*	*Description*
		$300,000 Water Revenue Bonds, Series 1963
9-1968	10-21-1968	Issuance of Water Revenue Bonds, Series of 1968, for the purpose of defraying the cost of construction of extensions and permanent improvements to the municipal waterworks system
3-1970	- -1970	Issuance of Sewer Revenue Bonds, Series of 1970, to the amount of $100,000 for the purpose of paying the cost of constructing extensions and improvements to the municipal sewer system
19-1985	- -1985	Issuance of Economic Revenue Bonds, Series 1985, in an amount not to exceed $12,500,000, which bonds will be payable solely from the gross revenues of Our Lady of Bellefonte Hospital
21-1985	12-19-1985	Issuance of Economic Development Revenue Bonds in an amount not to exceed $14,000,000 for the purpose of creating and retaining employment opportunities and promoting economic development
17	11-24-1997	Refunding revenue bonds of the city currently outstanding for the benefit of Our lady of Bellefonte Hospital, Inc; authorizing the refunding for the purpose of creating and retaining employment
10, 1999	- -1999	Acquisition of Our Lady of bellefonte Hospital, Inc. by BS- OLBH, Inc. and Bon Secours Health System, Inc.
8	11-14-2000	Refunding of certain revenue bonds previously issued by the city and payment

Ord./Res. No.	*Date Passed*	*Description*
		or reimbursement to Our Lady of Bellefonte Hospital, Inc.
19	11-12-2002	Refunding of certain revenue bonds previously issued by the city and payment or reimbursement to Our Lady of Bellefonte Hospital, Inc.
12	11-26-2012	Refunding of certain revenue bonds previously issued by the city and payment or reimbursement to Our Lady of Bellefonte, Hospital, Inc.

TABLE OF SPECIAL ORDINANCES / TABLE III: CONTRACTS AND AGREEMENTS

TABLE III: CONTRACTS AND AGREEMENTS

Ord. No.	*Date Passed*	*Description*
1-1951	1-2-1951	Authorizing the Mayor to enter into agreements with the Department of Highways, Commonwealth of Kentucky, to carry out the purposes of certain sections of the Kentucky Revised Statutes
9-1951	12-13-1951	Approving and ratifying a contract with the City of Flatwoods for the sale of water to the city
1-1955	1-17-1955	Accepting the bid of W. D. Johnson to erect a school building in or near the City of Flatwoods and within the Russell Independent School District

Ord. No.	***Date Passed***	***Description***
4-1955	5-2-1955	Accepting the bid of W. D. Johnson to erect an addition to a school building in Bellefonte known as the Bellefonte School Building and within the Russell Independent School District
5-1955	5-2-1955	Accepting the bid of W. D. Johnson to erect an addition to a school building known as the Advance School Building in the City of Flatwoods and within the Russell Independent School District
5B-1957	9-3-1957	Awarding contract to C. H. Wiley for drilling a 12-inch water well
8-1957	11-21-1957	Providing that the city shall produce and sell to the City of Flatwoods for distribution through its waterworks system for a period of 25 years
9-1957	12-2-1957	Directing the Mayor and City Clerk to sign and execute the option with the Means & Russell Iron Company on the water system supplying the Bellefonte and Riverview Subdivisions
12-1958	8-14-1958	Making and approving deed and bill of sale and contract between Means & Russell Iron Company and John M. Seaton, sellers and city, purchaser, for waterworks in Bellefonte and certain surrounding territory
17-1959	5-8-1959	Approving contract with United States for facilities made necessary by Greenup Locks and Dam Navigation Project
23A-1959	11-16-1959	Approving contract with R. T. Erwin in regard to water lines
23B-1959	12-7-1959	Providing 14 water hydrants in the City of

Ord. No.	***Date Passed***	***Description***
23B-1959	12-7-1959	Providing 14 water hydrants in the City of Bellefonte and rental of same to City of Bellefonte
7-1961	9-13-1961	Relating to compensation for use of certain property belonging to the Chesapeake & Ohio Railway being annexed to the city to be used solely for recreational purposes
8-1961	11-13-1961	Authorizing and directing the Mayor to enter into and sign a contract with the City of Bellefonte authorizing the installation of ten additional fire hydrants
8-1962	6-25-1962	Approving and accepting a contract with the Ironton-Russell Bridge Company Consolidated for a new bridge approach
4-1963	6-17-1963	Approving agreement between the city and the Means & Russell Iron Co. to furnish the city the sum of $3,447.57 to purchase certain water lines from the City of Raceland
2-1966	8-31-1966	Approving a contract between the city and Ohio Valley Engineers, Inc., covering engineering for additions to sewer and water systems of the city
5-1969	8-30-1969	Approving the contract with the Southern Engineering Company of Georgia for the design and supervision of water plant and distribution expansion for the city
4-1971	4-13-1971	Determining and electing to acquire and operate jointly sources of water supply with the Cities of Bellefonte, Flatwoods, Greenup, Raceland, Worthington and the Wurtland and Greenup County Water

Ord. No.	***Date Passed***	***Description***
		Districts
10-1976	2-2-1976	Approving the joint financing, construction, maintenance and operation of a sewage treatment plant by the Greenup County Environmental Commission
22-1976	9-7-1976	Authorizing the Mayor to execute a contract for the sale of water to the City Waterworks by the City of Ashland
3-1983	7-18-1983	Authorizing Mayor to execute an interlocal cooperation agreement between the Cities of Ashland, Bellefonte and Russell and Boyd County relating to participation in a public safety communications center
5-1986	7-23-1986	Authorizing the execution of the interlocal cooperation agreement under which the program will be organized and revenue bonds for the financing thereof will be issued
14-1987	11-16-1987	Accepting bill of sale from CSX Transportation, Inc. for river water intake facilities and approving an agreement for water purchase by CSX and transfer of river water intake and authorizing Mayor to execute same
7-1989	5-8-1989	Affirming the approval and authorization of loan agreement between the city and the Kentucky Infrastructure Authority
2-1990	2-26-1990	Authorizing the Mayor to enter into a contract on behalf of the city with the Commonwealth
9-1990	7-23-1990	Authorizing the Mayor to execute an

Ord. No.	***Date Passed***	***Description***
9-1990	7-23-1990	Authorizing the Mayor to execute an interlocal cooperation agreement between the Cities of Ashland, Kentucky and Russell, Kentucky for a cooperative computerized records system to be known as Computerized Records Information Sharing System (CRISS)
14-1990	10-9-1990	Authorizing the Mayor to sign the interlocal cooperation agreement concerning the regional public safety communications center agreement
6-1992	6-9-1992	Authorizing the Mayor to execute an interlocal cooperation agreement between the Cities of Russell, Ashland, Flatwoods, Grayson, Louisa, Olive Hill and the Elliott County Sheriff's Department, and for the operation of the FIVCO Area Drug Enforcement Task Force
23-1992	12-14-1992	Authorizing the Mayor to sign the ordinance amending the interlocal cooperation agreement which allows Morgan County to join the F.A.D.E. Task Force
3-1993	5-24-1993	Authorizing the Mayor to enter into an agreement with the FIVCO Area Drug Enforcement (F.A.D.E.) Task Force thereby guaranteeing the minimum standard pay rate for all task force officers
5-1993	5-24-1993	Approving a joint and cooperative program for self-insurance, 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

Ord. No.	*Date Passed*	*Description*
		establish the Kentucky Municipal Risk Management Association and approving the articles of association and bylaws of the Kentucky Municipal Risk Management Association
4,1999	6-3-1999	Donald G. Fraley, Mayor of the city, be and is hereby authorized and directed to execute an amended interlocal agreement between the City of Ashland, Kentucky, City of Catlettsburg, Kentucky, City of Russell, Kentucky and the counties of Boyd and Greenup, Kentucky, the agreement to include the Ashland Drive & Ashland Oil Drive and the area between those two roads in the Enterprise Zone
5,1999	6-3-1999	The City Council hereby designates the property located at the Ashland Drive and Ashland Oil Drive and the area between those two roads to be designated an area economically depressed for the purpose of applying to the Enterprise Zone of Kentucky for inclusion in the City of Ashland Enterprise Zone; interlocal agreement
6,1999	6-29-1999	Agreement between the Department of the Army Corps of Engineers and the city for construction of streambank protection for four storm sewer outfalls located along the Ohio River
2,2001	5-2-2001	Authorizing and directing Donald G. Fraley, Mayor, to execute an amended interlocal agreement between the City of Ashland, Kentucky, the City of Catlettsburg, Kentucky, the City of Russell, Kentucky and the counties of Boyd and Greenup, Kentucky to expand

Ord. No.	*Date Passed*	*Description*
		the Ashland Enterprise Zone
12,2003	11-11-2003	Establishing tower rental rate; contracts with other entities and/or companies for the rental of tower space, lease term of one year, pay rent, comply with laws and regulations and shall maintain property, assume all risk of loss and damage to property and termination of contracts

TABLE OF SPECIAL ORDINANCES / TABLE IV: EASEMENTS

TABLE IV: EASEMENTS

Ord. No.	*Date Passed*	*Description*
10-1962	11-12-1962	Accepting from the Chesapeake & Ohio Railway Company an easement and right to construct a four-inch force sewer main under the main tracks and along the right-of-way between mile posts 523 and 524 of the Russell Subdivision
14-1987	11-16-1987	Accepting deed of easement from CSX Transportation, Inc. from Ohio River bank to mean low water mark for river water intake facilities
1-1993	4-26-1993	Authorizing the Mayor to execute a deed of easement for driveway to Linton Wells II

TABLE V: FRANCHISES

Ord. No.	*Date Passed*	*Description*
6-1950	- -1950	Creating and directing the sale of a telephone franchise in the city
7-1965	- -1965	Granting William H. McKnight a franchise to erect and install coaxial cables, messenger cables and supporting wires and poles to transmit television signals in the city
4-1965	6-15-1965	Granting to Kentucky Power Company a franchise for the distribution of electric energy to the city
7-1984	9-17-1984	Granting a non-exclusive franchise to Times Mirror Cable Television of Eastern Kentucky, Inc. to operate and maintain a cable television system in the city
4-1985	3-14-1985	Granting to Kentucky Power Company a franchise for the distribution of electric energy to the city
10,2004	7-19-2004	Advertisement and sale of a 20-year franchise authorizing the owner thereof to own, maintain, construct and operate electric power transmission and distribution lines upon, along, over and under streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the city
15,2004	8-19-2004	Advertisement and sale of a 20-year

Ord. No.	*Date Passed*	*Description*
		franchise authorizing the owner thereof to own, maintain, construct and operate electric power transmission and distribution lines upon, along, over and under streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the city
16,2004	8-19-2004	Granting a franchise to Frontiervision Operating Partners LLC, L/K/A Adelphia Communications (the grantee) to construct, operate and maintain a cable system in the city until 9-17-2014
17,2004	9-23-2004	Granting to Kentucky Power Company, d/b/a American Electric Power, its successors and assigns, a 20-year franchise; distribution of electric energy to the city

TABLE OF SPECIAL ORDINANCES / TABLE VI: REAL ESTATE TRANSACTIONS

TABLE VI: REAL ESTATE TRANSACTIONS

Ord. No.	*Date Passed*	*Description*
4-1951	5-7-1951	Providing for the conveyance of real estate in exchange for other real estate to the Means & Russell Iron Company for use as a water reservoir
11-1954	12-6-1954	Accepting a deed of conveyance from the Board of Education for a school building

Ord. No.	*Date Passed*	*Description*
		site to be created within the Russell Independent School District
5-1963	6-24-1963	Approving the purchase of an eight-inch water line from the City of Raceland
5-1971	7-20-1971	Approving a lease between the city and the Chesapeake & Ohio Railway Co. for the location of a water well and pipeline on a certain parcel of land
16-1990	12-10-1990	Authorizing the sale of real estate to GTE South, Inc.
19-1992	10-13-1992	Directing the Mayor of the city to execute a deed returning real estate to the Russell Board of Education

TABLE OF SPECIAL ORDINANCES / TABLE VII: STREET CLOSINGS

TABLE VII: STREET CLOSINGS

Ord. No.	*Date Passed*	*Description*
-	- -	Providing for the closing of portions of Ferry Street, Houstin Street and Elm Street for the construction of an under grade crossing west of Ferry Street in the city
8-1955	8-1-1955	Closing Forest Alley between Bellefonte Street and Division Street
10-1968	11-18-1968	Authorizing and directing the attorney for

Ord. No.	*Date Passed*	*Description*
10-1968	11-18-1968	Authorizing and directing the attorney for the city to institute an action in the Greenup County Court to close certain public ways on the property of the Franklin Real Estate Company subdivision known as Berkshire Estates
5-1970	6-9-1970	Closing and abandoning a portion of Florida Drive in Bellefontaine Subdivision
5-1974	8-12-1974	Closing part of Radford Street constituting a court
3-1986	7-7-1986	Authorizing and directing the City Attorney to institute an action in the Greenup Circuit Court to close Edinburgh Court
10-1992	8-10-1992	Closing Hayes Street between new U.S. Route 23 and Atlantic-Pacific Highway (Old U.S. Route 23)
2-1994	3-28-1994	Closing portion of Erwin Road now located within the city limits
1,2001	4-30-2001	Closing the public way and cul-de- sac situated between Block 37 and Block 38 of Bellefonte Heights Subdivision

TABLE OF SPECIAL ORDINANCES / TABLE VIII: STREET NAME CHANGES

TABLE VIII: STREET NAME CHANGES

Ord. No.	*Date Passed*	*Description*
6-1987	7-6-1987	Changing the name of a public street in the city from Eagle Road to Bear Run Road
13-1989	9-11-1989	Changing the name of Oxford Court to Oxford Lane
5,2002	5-14-2002	Changing the street name of Lemaster Lane to Cherry Hill

TABLE OF SPECIAL ORDINANCES / TABLE IX: ZONING MAP CHANGES

TABLE IX: ZONING MAP CHANGES

Ord. No.	*Date Passed*	*Description*
8	10-14-1996	Re-zoning property from Residential (R-1D) to Commercial (C-1) Lot Number 12 on the recorded plat of D. T. Miles' Addition to the city, Greenup County, Kentucky
5,1997	5-22-1997	Re-zoning certain property from Residential (R-1D) to Commercial (C-1); Being known and designated on Map of Carners Addition to the city as Lot Number 12, being a parcel of land 132 feet in depth and 45 feet and 8 inches the whole length thereof
16	11-10-1997	Re-zoning certain property from Residential (R-1D) to Commercial (C-1):

Ord. No.	*Date Passed*	*Description*
		Being parts of Lots 1, 2 and 3, Block 3, Kenwood Addition, Russell, Greenup County, Kentucky, and being a part of the real estate conveyed to Charles and Bertha Wells by Deed Book 143, Page 437 of the Greenup County Court Clerk's office
18	11-24-1997	(1) Re-zoning certain property from Commercial (C-1) and public lands to Commercial (C- 3): Being the Board of Education Russell Independent School District property found in D.B. 146 P. 279 and also being Lot Number 3 of the Bingaman & Gray Subdivision in the city as shown by plat in D.B. "R" P. 313 of the Greenup County Court Records
		(2) Being the city property found in D.B. 116 P. 614 and also being a part of the Russell Independent Board of Education property found in D.B. 271 P. 145 and also being Lots 1, 2, 3 and 4 of the Bingaman Third Addition of the city, as shown by plat in D.B. 35 P. 328 of the Greenup County Court of Records and also being the portion of Hazel Alley, on this site, closed by the city, and also being all of Lot Number 25 and a part of Lot Number 24 of the Bingaman Fourth Addition to the city as shown by plat also in D.B. 35 P. 328 of the Greenup County Court Records
5,1998	7-13-1998	Re-zoning certain property from Residential (R-4) to Commercial (C-1): Being a part of Lot Number "E" as shown on the Russell City Map and beginning at a point in the north side of Main Street, which the point bears north 66 degrees - 00 east a distance of 49 feet from the

Ord. No.	*Date Passed*	*Description*
		corner of Main Street and Bellefonte Street
17,2002	8-27-2002	Re-zoning certain property from Residential (R-5) to office: Being all of Lots 1, 2, 3 and 4, as shown on the attached plat titled Plat of Survey of Division of Part of Property of Castlewood Company, St. Christopher Dive and Kenwood Drive, Russell, Greenup County, Kentucky, dated 8-7-2002 by Kevin Barker Professional Land Surveyor Number 2630 at Tri-State Land Development
4,2006	7-17-2006	Re-zoning certain property shown on a map entitled Attachment A, is hereby classified and zoned Residential (R-2)
5,2006	7-17-2006	Re-zoning certain property shown on a map is hereby classified and zoned Commercial (C-2)

PARALLEL REFERENCES

PARALLEL REFERENCES

References to Kentucky Revised Statutes
References to Resolutions
References to Ordinances

PARALLEL REFERENCES / REFERENCES TO KENTUCKY REVISED STATUTES

REFERENCES TO KENTUCKY REVISED STATUTES

KRS Section	***Code Section***
6.050	32.48
6.955 - 6.975	33.05
Ch. 13B	119.05, 119.28
15A.195	34.13
42.450 - 42.495	33.05
45A.343 - 45A.460	38.02
45A.380	33.31
Ch. 61	32.21
61.870	37.01
61.870 - 61.884	37.17
61.872(4)	37.06
61.872(5)	37.07
61.872(6)	37.08
61.874(1) - (3)	37.12
61.874(3)	37.13
61.874(5)	37.14
61.874(6)	37.15
61.878	37.01, 37.16
61.878(1)	37.16

KRS Section	***Code Section***
61.880	37.09
61.884	37.11
62.060	31.01
65.8801 - 65.8839	39.02
67.592	34.12
67.594	34.12
67.594(2)	34.12
67.594(3)	34.12
82.600 - 82.640	71.01, 71.99
82.700 et seq.	39.08
82.700 - 82.725	39.06
82.720	39.14
Ch. 83A	31.20
83A.010(5)	10.02
83A.010(6)	10.02
83A.010(8)	10.02
83A.030(1)	30.02
83A.040(1)	32.21
83A.040(2)	32.21
83A.040(2)(c)	31.21
83A.040(2)(d)	31.21
83A.040(2)	31.21

KRS Section	***Code Section***
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.050	31.20
83A.060	32.38
83A.060(1)	32.35
83A.060(2)	32.36
83A.060(3)	32.37
83A.060(5)	32.40
83A.060(6)	32.22, 70.01, 71.10
83A.060(8)	32.41, 32.42
83A.060(9)	32.43
83A.060(10)	32.44
83A.060(11)	32.45
83A.060(12)	32.45
83A.060(13)	32.45
83A.060(14)	32.47
83A.060(15)	32.48

KRS Section	***Code Section***
83A.065	10.99
83A.070	31.02
83A.070(3)	35.05
83A.075	31.02
83A.080	52.01
83A.080(1)	31.21
83A.080(3)	31.03, 31.20, 31.35, 35.02
83A.080(4)	31.20
83A.085	31.35
83A.090	10.18
83A.130	35.02
83A.130(1)	30.01
83A.130(2)	30.02
83A.130(3)	31.21
83A.130(4)	31.21
83A.130(5)	32.20
83A.130(6)	32.39
83A.130(7)	31.21
83A.130(8)	31.21
83A.130(9)	31.21
83A.130(10)	31.21
83A.130(11)	32.03, 32.21, 71.10

KRS Section	***Code Section***
83A.130(11)	32.03, 32.21, 74.10
83A.130(12)	32.03, 70.01
83A.130(13)	32.03
83A.175	32.02
91A.010	33.01
91A.010(8)	10.02
91A.020	33.02
91A.030	33.03
91A.030(7)	33.04
91A.040	33.05
91A.040(8)	33.99
91A.050	33.05
91A.060	33.06
91A.200	33.11
91A.210	33.10
91A.220(2)	33.11
91A.220(3)	33.11
91A.230	33.12
91A.240	33.13
91A.250	33.14
91A.260	33.15
91A.270	33.16

KRS Section	***Code Section***
91A.280	33.17
91A.290	33.18
95.845	34.12
99.700 - 99.730	150.44
99.705 - 99.730	150.42, 150.43
Ch. 100	151.01
Chs. 116-121	31.20
132.285	36.01
134.800	36.04
134.810	36.04
Ch. 136	36.20
136.120	118.27
136.602	118.27
Ch. 149	91.03
Ch. 151	151.05
151.250	151.05
151.280	151.05
151.310	151.05
151.320	151.05
Ch. 154	37.16
154.20-250 - 154.20-284	118.27
189.221(4)	70.05

KRS Section	***Code Section***
189.390(2)	70.01
189.390(4)	70.99
189.450(1)	71.02
Ch. 198B	150.01
198B.060(8)	150.01
198B.990(1)	150.99
Ch. 218A	Ch. 130
227.700	91.02
227.990	91.02
227.990(1)	150.99
Ch. 241	119.28
Chs. 241 - 244	119.02 - 119.05, 119.25
241.100	119.05
241.200	119.28
Ch. 242	119.28
Chs. 242 - 244	119.01
Ch. 243	118.27, 119.04, 119.28
243.033(1)	119.25
243.033(2)	119.25
243.070	119.04, 119.33
243.075	119.04, 119.33

KRS Section	***Code Section***
243.360	119.25
243.450	119.31
243.490	119.31
243.500	119.31
243.850	119.38
Ch. 244	119.28
244.090(2)	119.07
244.130	119.10
286.3-135	36.21
318.990	150.99
Ch. 350	151.05
360.010	39.14
381.770 et seq.	39.08
Ch. 416	150.43
Ch. 424	33.05, 33.12, 33.14, 34.12, 119.25
424.170	119.25
424.220	33.05
424.260	38.02
446.010(1)	10.02
446.010(2)	10.02
446.010(7)	10.02
446.010(8)	10.02

KRS Section	***Code Section***
446.010(9)	10.02
446.010(11)	10.02
446.010(12)	10.02
446.010(13)	10.02
446.010(14)	10.02
446.010(16)	10.02
446.010(17)	10.02
446.010(22)	10.02
446.010(24)	10.02
446.010(25)	10.02
446.010(26)	10.02
446.010(28)	10.02
446.010(29)	10.02
446.010(31)	10.02
446.010(34)	10.02
446.010(36)	10.02
446.010(40)	10.02
446.010(43)	10.02
446.010(44)	10.02
446.010(46)	10.02
446.010(52)	10.02

KRS Section	*Code Section*
446.020(1)	10.03
446.020(2)	10.03
446.030(1)(a)	10.04
445.030(1)(b)	10.04
446.030(2)	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	10.07
446.110	10.09
446.140	10.01
Ch. 530	Ch. 130
532.090(2)	118.10
534.040(2)(b)	118.10
534.040(2)(c)	118.99

PARALLEL REFERENCES / REFERENCES TO RESOLUTIONS

REFERENCES TO RESOLUTIONS

Res. No.	*Date Passed*	*Code Section*
10-1963	9-11-1963	T.S.O. II

PARALLEL REFERENCES / REFERENCES TO ORDINANCES

REFERENCES TO ORDINANCES

Ord. No.	*Date Passed*	*Code Section*
-	- -	T.S.O. VII
191-1919	9-2-1919	T.S.O. I
202	5-2-1921	116.01
210-1922	4-3-1922	T.S.O. I
-	12-9-1926	T.S.O. I
-	12-2-1929	T.S.O. I
-	7-3-1933	110.01
2-1934	- -1934	116.03
8-1946	7-1-1946	Ch. 73, Sch. I
6-1950	- -1950	T.S.O. V
1-1951	1-2-1951	T.S.O. III

Ord. No.	*Date Passed*	*Code Section*
4-1951	5-7-1951	T.S.O. VI
9-1951	12-13-1951	T.S.O. III
6-1953	12-7-1953	71.04, 71.09, Ch. 73, Sch. I
11-1954	12-6-1954	T.S.O. VI
1-1955	1-17-1955	T.S.O. III
4-1955	5-2-1955	T.S.O. III
5-1955	5-2-1955	T.S.O. III
8-1955	8-1-1955	T.S.O. VII
5-1956	9-4-1956	Ch. 72, Sch. I, Ch. 73, Sch. I
8-1956	12-3-1956	71.05
3-1957	4-1-1957	T.S.O. I
5B-1957	9-3-1957	T.S.O. III
6-1957	11-4-1957	70.01
7-1957	11-4-1957	115.01 - 115.04
8-1957	11-21-1957	T.S.O. III
9-1957	12-2-1957	T.S.O. III
10-1958	8-4-1958	117.01
12-1958	8-14-1958	T.S.O. III
16-1959	5-4-1959	70.02, 71.03
17-1959	5-8-1959	T.S.O. III
20-1959	9-8-1959	Ch. 72, Sch. I
21-1959	9-8-1959	Ch. 72, Sch. II

Ord. No.	***Date Passed***	***Code Section***
23A-1959	11-16-1959	T.S.O. III
23B-1959	12-7-1959	T.S.O. III
28-1960	1-11-1960	71.10
5-1960	1-18-1960	T.S.O. II
9-1960	3-14-1960	90.02
18-1960	12-12-1960	T.S.O. I
1-1961	- -1961	T.S.O. II
7-1961	9-13-1961	T.S.O. III
8-1961	11-13-1961	T.S.O. III
13-1961	12-18-1961	T.S.O. I
2-1962	3-12-1962	Ch. 72, Sch. I, Ch. 73, Sch. I
4-1962	5-14-1962	T.S.O. I
5-1962	5-14-1962	T.S.O. I
6-1962	6-11-1962	T.S.O. I
8-1962	6-25-1962	T.S.O. III
9-1962	9-10-1962	T.S.O. I
10-1962	11-12-1962	T.S.O. IV
11-1962	12-10-1962	T.S.O. I
12-1962	12-10-1962	T.S.O. I
8-1963	1-18-1963	T.S.O. II
2-1963	5-13-1963	Ch. 73, Sch. I

Ord. No.	***Date Passed***	***Code Section***
4-1963	6-17-1963	T.S.O. III
5-1963	6-24-1963	T.S.O. VI
5-1964	5-11-1964	70.03
5-1964	8-11-1964	Ch. 72, Sch. I
8-1964	8-11-1964	Ch. 72, Sch. I
7-1964	12-14-1964	T.S.O. I
7-1965	- -1965	T.S.O. V
2-1965	3-8-1965	T.S.O. I
4-1965	6-15-1965	T.S.O. V
8-1965	7-12-1965	52.02
9-1965	12-20-1965	70.04
2-1966	8-31-1966	T.S.O. III
5-1967	12-12-1967	112.01, 112.02
5-1968	7-16-1968	T.S.O. I
8-1968	10-7-1968	T.S.O. I
9-1968	10-21-1968	T.S.O. II
10-1968	11-18-1968	T.S.O. VII
4-1969	5-31-1969	150.10
5-1969	8-30-1969	T.S.O. III
8-1969	12-9-1969	T.S.O. I
3-1970	- -1970	T.S.O. II
5-1970	6-9-1970	T.S.O. VII

Ord. No.	***Date Passed***	***Code Section***
15-1970	10-27-1970	Ch. 73, Sch. I
4-1971	4-13-1971	T.S.O. III
5-1971	7-20-1971	T.S.O. VI
8-1971	10-12-1971	T.S.O. I
2-1973	4-17-1973	116.02
4-1973	5-14-1973	52.03
8-1973	12-10-1973	T.S.O. I
9-1973	12-10-1973	90.01
1-1974	1-14-1974	T.S.O. I
3-1974	4-8-1974	T.S.O. I
5-1974	8-12-1974	T.S.O. VII
5-1975	7-15-1975	70.05
7-1975	11-3-1975	150.20 - 150.27
19-1976	- -1976	93.03
9-1976	1-19-1976	35.03
10-1976	2-2-1976	T.S.O. III
11-1976	2-2-1976	36.02, 36.03
12-1976	5-3-1976	90.02
14-1976	6-7-1976	130.01
17-1976	7-12-1976	32.38
18-1976	8-2-1976	130.01

Ord. No.	***Date Passed***	***Code Section***
22-1976	9-7-1976	T.S.O. III
23-1976	9-7-1976	111.10
24-1976	10-4-1976	71.02
33-1977	5-2-1977	92.03
36-1977	8-15-1977	52.04
41-1977	11-21-1977	90.10 - 90.13
5-1978	4-17-1978	92.01, 92.02
8-1978	6- -1978	Ch. 73, Sch. II
8-1978	6-19-1978	71.07, 71.08
8-1978	6-19-1978	Ch. 72, Sch. I, Ch. 73, Sch. I, Ch. 73, Sch. II
11-1978	9-18-1978	52.08
13-1978	12-4-1978	36.01
9-1979	6-4-1979	93.02
17-1979	9-17-1979	T.S.O. I
18-1979	9-17-1979	T.S.O. I
20-1979	10-15-1979	70.01
14-1981	1-5-1981	T.S.O. I
15-1981	1-5-1981	T.S.O. I
3-1981	2-21-1981	30.01, 30.02
6-1981	6-15-1981	33.04
10-1981	9-21-1981	51.01

Ord. No.	***Date Passed***	***Code Section***
11-1981	11-9-1981	52.01
1-1982	2-1-1982	32.20
4-1982	4-22-1982	34.01
12-1982	12-6-1982	152.01 - 152.05, 152.15 - 152.16, 152.25 - 152.37, 152.43, 152.55, 152.65, 152.75, 152.85 - 152.87
13-1982	12-6-1982	71.06
3-1983	7-18-1983	T.S.O. III
6-1984	6-18-1984	70.01
6-1984	6-18-1984	Ch. 72, Sch. II
7-1984	9-17-1984	T.S.O. V
10-1984	11-5-1984	152.36
19-1985	- -1985	T.S.O. II
2-1985	1-10-1985	52.07
4-1985	3-14-1985	T.S.O. V
16-1985	12-2-1985	T.S.O. I
17-1985	12-2-1985	T.S.O. I
21-1985	12-19-1985	T.S.O. II
1-1986	5-5-1986	91.02
3-1986	7-7-1986	T.S.O. VII
5-1986	7-23-1986	T.S.O. III
9-1986	10-28-1986	71.01, 71.99
4-1987	5-18-1987	71.99

Ord. No.	***Date Passed***	***Code Section***
5-1987	6-20-1987	34.10
6-1987	7-6-1987	T.S.O. VIII
8-1987	7-20-1987	150.01
12-1987	10-19-1987	150.10, 150.11
13-1987	11-16-1987	35.02
14-1987	11-16-1987	T.S.O. III
14-1987	11-16-1987	T.S.O. IV
15-1987	12-7-1987	114.01 - 114.05
16-1987	1-4-1988	113.01 - 113.03
17-1988	1-4-1988	32.21
1-1988	2-22-1988	34.02
2-1988	3-14-1988	93.01
3-1988	3-28-1988	111.01 - 111.04
4-1988	4-25-1988	35.01
8-1988	8-8-1988	90.14
9-1988	8-22-1988	52.05
10-1988	8-22-1988	Ch. 72, Sch. I
14-1988	12-27-1988	T.S.O. I
15-1988	12-27-1988	T.S.O. I
1-1989	1-23-1989	52.06
2-1989	3-27-1989	52.07

Ord. No.	***Date Passed***	***Code Section***
4-1989	4-10-1989	113.03
5-1989	4-24-1989	52.07
7-1989	5-8-1989	T.S.O. III
9-1989	6-12-1989	Ch. 72, Sch. I
13-1989	9-11-1989	T.S.O. VIII
2-1990	2-26-1990	T.S.O. III
7-1990	6-25-1990	34.11, 34.15, Appendix A
9-1990	7-23-1990	T.S.O. III
14-1990	10-9-1990	T.S.O. III
11-1990	10-23-1990	36.06
15-1990	11-26-1990	Ch. 72, Sch. II
16-1990	12-10-1990	T.S.O. VI
19-1990	1-14-1991	Ch. 72, Sch. III
1-1991	1-28-1991	91.01
3-1991	4-22-1991	130.02
4-1991	5-13-1991	34.12
11-1991	9-23-1991	35.02
12-1991	10-15-1991	150.01
13-1991	10-15-1991	35.04
4-1992	5-26-1992	Ch. 72, Sch. II
6-1992	6-9-1992	T.S.O. III
10-1992	8-10-1992	T.S.O. VII

Ord. No.	***Date Passed***	***Code Section***
13-1992	9-14-1992	52.07
18-1992	9-22-1992	52.07
19-1992	10-13-1992	T.S.O. VI
20-1992	10-26-1992	33.30, 33.31
23-1992	12-14-1992	T.S.O. III
1-1993	4-26-1993	T.S.O. IV
2-1993	5-10-1993	Ch. 73, Sch. I
3-1993	5-24-1993	T.S.O. III
4-1993	5-24-1993	35.04
5-1993	5-24-1993	T.S.O. III
6-1993	7-1-1993	91.03
10-1993	10-12-1993	35.05
1	1-24-1994	32.20
2-1994	3-28-1994	T.S.O. VII
4-1994	4-25-1994	150.40 - 150.44
8-1994	8-8-1994	35.05
11,1994	12-12-1994	35.06
1,1995	7-3-1995	35.05
3,1995	7-3-1995	35.04
6,1995	11-27-1995	155.01
7,1995	12-11-1995	91.04

Ord. No.	*Date Passed*	*Code Section*
3	5-28-1996	131.01, 131.99
7	8-15-1996	51.40-51.48, 51.99
8	10-14-1996	T.S.O. IX
10,1996	11-25-1996	36.20 - 36.25
1,1997	3-10-1997	35.04
3,1997	4-14-1997	51.20 - 51.25
2,1997	4-28-1997	34.15
4,1997	5-12-1997	130.04
5,1997	5-22-1997	T.S.O. IX
6,1997	5-22-1997	35.04
8,1997	6-23-1997	94.01
9	6-30-1997	35.05
10,1997	7-14-1997	34.14
12-1997	10-13-1997	35.05
13-1997	10-13-1997	35.05
14,1997	10-13-1997	71.99
16	11-10-1997	T.S.O. IX
17	11-24-1997	T.S.O. II
18	11-24-1997	T.S.O. IX
1,1998	2-10-1998	35.05
4,1998	5-11-1998	T.S.O. I
5,1998	7-13-1998	T.S.O. IX

Ord. No.	***Date Passed***	***Code Section***
10,1998	11-23-1998	130.03
10,1999	- -1999	T.S.O. II
11,1999	- -1999	91.03, 91.99
2,1999	5-14-1999	90.10 - 90.13, 90.99
4,1999	6-3-1999	T.S.O. III
5,1999	6-3-1999	T.S.O. III
6,1999	6-29-1999	T.S.O. III
8,1999	8-24-1999	35.05
2,2000	6-13-2000	118.01 - 118.11, 118.99
5,2000	7-11-2000	52.10
7	8-10-2000	35.04, 35.05
8	11-14-2000	T.S.O. II
10-2000	12-12-2000	35.04
1,2001	4-30-2001	T.S.O. VII
2,2001	5-2-2001	T.S.O. III
3,2001	6-12-2001	35.05
6,2001	11-13-2001	34.13
1,2002	1-22-2002	51.02
2	2-12-2002	35.04
3,2002	2-12-2002	50.01 - 50.09, 50.99
5,2002	5-14-2002	T.S.O. VIII
7,2002	6-11-2002	35.04, 35.05

Ord. No.	***Date Passed***	***Code Section***
7,2002	6-11-2002	35.04, 35.05
8,2002	6-11-2002	35.05
9,2002	6-25-2002	150.01
10,2002	6-25-2002	150.01
11,2002	6-25-2002	150.01
14	6-28-2002	35.04, 35.05
15	6-28-2002	35.04, 35.05
16,2002	8-27-2002	38.02
17,2002	8-27-2002	T.S.O. IX
19	11-12-2002	T.S.O. II
20	11-26-2002	35.04, 35.05
2-2003	4-22-2003	35.04
5	6-24-2003	34.02
3,2003	6-27-2003	70.01, 70.99
6	6-27-2003	35.05
7	8-26-2003	35.05
8	8-26-2003	35.04
11,2003	11-11-2003	34.01
12,2003	11-11-2003	T.S.O. III
13,2004	1-13-2004	150.60, 150.99
1,2004	1-27-2004	38.01
3,2004	3-15-2004	35.05

Ord. No.	*Date Passed*	*Code Section*
5,2004	4-19-2004	51.03, 52.09
6	5-17-2004	35.05
7	5-17-2004	35.05
8	6-7-2004	35.05
9	6-7-2004	35.05
10,2004	7-19-2004	T.S.O. V
14,2004	8-19-2004	155.01
15,2004	8-19-2004	T.S.O. V
16,2004	8-19-2004	T.S.O. V
13,2004	9-20-2004	35.04
17,2004	9-23-2004	T.S.O. V
20-2004	12-13-2004	151.01 - 151.12, 151.30 - 151.36, 151.50 - 151.52, 151.65 - 151.72, 151.99
21-2004	1-17-2005	35.04
21	1-17-2005	35.05
2	6-8-2005	154.01 - 154.14, 154.99
5,2005	6-20-2005	35.05
3	8-1-2005	71.99, Ch. 72, Sch. II
6	8-1-2005	32.21
7	8-1-2005	90.11
11	12-12-2005	35.04
12	12-12-2005	150.11

Ord. No.	***Date Passed***	***Code Section***
1,2006	3-27-2006	35.05
3	6-26-2006	35.05
4,2006	7-17-2006	T.S.O. IX
5,2006	7-17-2006	T.S.O. IX
1,2007	2-26-2007	50.06
2,2007	4-23-2007	153.01 - 153.08
3,2008	6-25-2008	35.05
4	6-25-2008	35.04
5,2008	7-28-2008	52.07
6,2008	9-22-2008	118.25 - 118.37, 118.99
10,2008	9-24-2008	155.01
11	1-12-2009	35.05
7,2008	2-25-2009	39.01 - 39.14
3	6-22-2009	35.05
4,2009	6-22-2009	35.05
6,2009	10-28-2009	118.02 - 118.04
7,2009	12-10-2009	35.05
8,2009	12-10-2009	118.02 - 118.04
6-2010	5-17-2010	93.04
7, 2010	5-17-2010	Adopting Ordinance
9, 2010	6-28-2010	35.04
11	6-30-2010	35.05

Ord. No.	***Date Passed***	***Code Section***
12, 2010	7-19-2010	35.05
13-2010	8-23-2010	90.20 - 90.25
14	7-19-2010	35.05
16-2010	11-29-2010	90.20 - 90.25
1, 2011	5-31-2011	91.03, 91.99
2, 2011	5-31-2011	52.07, 52.08
5	6-27-2011	35.05
3, 2012	6-25-2012	50.06
5	6-25-2012	152.95 - 152.97
7, 2012	6-25-2012	35.05
12	11-26-2012	T.S.O. II
1, 2013	2-25-2013	154.30 - 154.73, 154.99
2	4-22-2013	35.05
5, 2013	6-24-2013	35.04
6, 2013	6-24-2013	35.05
9, 2013	10-28-2013	35.05
10, 2013	11-25-2013	35.04
11, 2013	12-23-2013	35.04
12, 2013	1-27-2014	35.04
1, 2014	3-24-2014	52.07, 52.08
2, 2014	3-24-2014	51.02

Ord. No.	***Date Passed***	***Code Section***
3, 2014	4-28-2014	35.05
5, 2014	5-31-2014	35.05
7, 2014	9-22-2014	151.07
13, 2014	11-17-2014	119.01 - 119.11, 119.25 - 119.38
2-2015	5-18-2015	155.01
3-2015	5-18-2015	35.05
4-2015	5-18-2015	50.10, 50.99
6, 2015	6-29-2015	35.05