

## CHAPTER 32: CITY COUNCIL

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### **GENERAL PROVISIONS**

#### **§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.**

(A) *Election; term of office.* Each Councilmember shall be elected at-large by the voters of the city at a regular election. A candidate for a legislative body shall be a resident of the city for not less

than one year prior to his or her election. Terms of office begin on the first day of January following 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 term of office.

(KRS 83A.040(4))

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

### § 32.02 VACANCIES.

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

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

(KRS 83A.040(7))

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

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

*Statutory reference:*

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

### § 32.03 POWERS AND DUTIES.

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

(B) The Council shall establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare. (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 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 designee on behalf of any department, office, or agency in the course of any investigation.  
(KRS 83A.130(13))

### ***RULES OF PROCEDURE***

#### **§ 32.20 MAYOR AS PRESIDING OFFICER.**

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

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

***Cross-reference:***

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

#### **§ 32.21 MEETINGS.**

***(A) Regular Meetings.***

(1) Regular meetings of the Council shall be held on the third Monday of each month at 5:00 p.m. (prevailing time) in the council room at City Hall.

(2) If the regular meeting falls on a legal holiday, the meeting shall take place on the next regular day at the same hour. In the event that a change of meeting place is necessary or required, notice shall be given in accordance with KRS Chapter 424.

(3) Adjourned meetings may be held at such times and places as the City Council may determine.

(4) For the purpose of this section, *LEGAL HOLIDAYS* shall include the first Monday in April, otherwise known as Tater Day.  
(Ord. passed - -49; Am. Ord. passed 12-7-81; Am. Ord. passed 5-6-85; Am. Ord. passed 9-16-85)

(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)) (Am. Ord. 16-02-02, passed 2-15-16)

#### § 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))

### *ORDINANCES*

#### § 32.35 ONE SUBJECT; TITLE.

Each ordinance shall embrace only one subject and shall have a title that clearly states the subject.  
(KRS 83A.060(1))

#### § 32.36 INTRODUCTION; ENACTING CLAUSE.

Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of Benton."  
(KRS 83A.060(2))

**§ 32.37 FORM OF AMENDMENT.**

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

(KRS 83A.060(3))

**§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.**

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

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

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

**§ 32.39 APPROVAL, DISAPPROVAL BY MAYOR.**

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

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

(KRS 83A.130(6))

**§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.**

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

(KRS 83A.060(5))

**§ 32.41 OFFICIAL CITY RECORDS.**

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

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

(KRS 83A.060(8))

**§ 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.**

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

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

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

(KRS 83A.060(8))

**§ 32.43 PUBLICATION REQUIREMENTS.**

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

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

(1) The title of the ordinance;

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

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

(C) Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.  
(KRS 83A.060(9))

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

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

#### **§ 32.45 PERIODIC REVIEW REQUIRED.**

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

#### **§ 32.46 MUNICIPAL ORDERS.**

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

(B) In lieu of an ordinance, municipal orders may be used for matters relating to the internal operation and functions of the city and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the Council has control.  
(KRS 83A.060(12),(13))

#### **§ 32.47 PROVED BY CITY CLERK; RECEIVED IN EVIDENCE.**

(A) All ordinances and orders of the city may be proved by the signature of the City Clerk; the City Clerk is authorized and directed to annually place enacted ordinances into the Code of Ordinances by submitting the ordinances which relate to matters addressed in the Code of Ordinances to the publishing company for printing and publishing the printed/published copy shall be received in evidence by any state court without further proof of such ordinances.

(B) Once the ordinance is printed/published in the "Code of Ordinances of the City of Benton," the printed/published copy shall be the official reference to the ordinance.

(C) All previously printed/published ordinances in the “Code of Ordinances of the City of Benton,” as of January 2021 are adopted herein as being the official reference to the ordinance and shall be received in evidence by any state court without further proof of such ordinances.  
(KRS 83A.060(14)) (Am. Ord. 21-12-02, passed 12-20-21)

**§ 32.48 LEGISLATIVE IMMUNITY.**

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

(KRS 83A.060(15))

***Statutory reference:***

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