

Powers and Duties of the Mayor and Legislative Body Members under the Mayor-Council Plan

A. The Mayor-Council Plan

1. The mayor-council form is the most prevalent form of city government throughout the United States and in Kentucky. The majority of Kentucky cities operate under the mayor-council plan, including most third, fourth, and fifth class cities.
2. Each city organized under the mayor-council plan must have an elected executive, who is called the mayor, and an elected legislative body called the city council. [KRS 83A.130(2) and 83A.030(1)].
3. The number of members on the city council depends on the class of the city. KRS 83A.030(1) sets forth the following requirements regarding the number of city councilmembers:
 - a. Twelve (12) members in first class cities.
 - b. Six (6) to twelve (12) members in cities of the second, third and fourth class (the exact number must be set by ordinance).
 - c. Six (6) members in fifth and sixth class cities.
 - d. The distinguishing characteristic of the mayor-council form of city government is the clear separation of powers between the executive (mayor) and the legislative (city council) branches of government. All of the executive and administrative authority is vested by statute in the mayor. [KRS 83A.130(3)]. The city council is expressly prohibited from performing any executive (or administrative) functions unless those functions have been assigned to it by statute. [KRS 83A.130(11)]. With a few exceptions, the council is restricted to performing the legislative function. The executive branch (mayor) and the legislative branch (council) are intended to be separate, but co-equal, branches of government. It is very similar to the structure of the state government where the executive/administrative authority is vested in the Governor and the legislative authority is vested in the General Assembly. It is also the same structure as required for first class cities by KRS 83.430.

1. Powers and Duties of the Legislative Body

- a. KRS 83A.130(11) provides that the " legislative authority of the city shall be vested in and exercised by the elected council of the city." City councils may not perform any executive or administrative function, unless specifically authorized by statute. [KRS 83A.130(11)]. For instance, council members may not supervise the day-to-day operations of city government or exercise supervisory authority over city employees.
- b. NOTE: Although the city council and individual council members may not supervise city employees who are under the executive authority of the mayor, the council may have its own employees. These employees may be supervised as determined by the council. KRS 83A.130(9) gives the mayor the power to hire and supervise all city employees "except for employees of the council." This statute clearly envisions that a city council may hire its own employees to assist it

and its individual members in the performance of the functions that the council may legally engage in, e.g., legislative, investigative, etc. If the council hires its own employees, it may do so in whatever manner it decides.

- c. KRS 83A.130 and other sections in KRS Chapter 83A set forth the specific powers and authorities of the city council as follows:
 - a. Establish, by ordinance, all appointed offices and the duties and responsibilities of those offices.
 - b. Enact all codes, rules, and regulations for the general public's health, safety and welfare.
 - c. Provide sufficient revenues to operate city government through the adoption of an annual budget ordinance and by levying all taxes and establishing all fees and charges for city services.
 - d. Establish, by ordinance, the compensation to be paid to all elected and appointed officers and employees of the city. [KRS 83A.070].
 - e. May investigate all activities of city government and may require any city officer or employee to prepare and submit sworn statements regarding the performance of his official duties. If an office, department or agency under the jurisdiction of the mayor is involved, written notice of the council's action must be provided to the mayor, who then has the right to review any statement before its submission to the council, and to appear on behalf of the office, department or agency in the course of the investigation. [KRS 83A.130(13)].
 - f. May disapprove regulations promulgated by the mayor.
 - g. May override mayoral vetoes by the affirmative vote of one more than a majority of the membership of the entire council. If the council wishes to override a veto, it must do so by the second regular meeting following the return of the ordinance.
 - h. May appoint a new mayor or councilmember if a vacancy occurs in the office. [83A.040].
 - i. May remove elected officers for misconduct, inability, or willful neglect of office. [83A.040(9)].
 - j. May change the manner of electing city officers by adopting the nonpartisan primary election process. [83A.050(2)].
 - k. May divide the city into wards for the purpose of electing council members. [83A.100].
 - l. Approve the appointment of nonelected city officers. [83A.080(3)].
 - m. May call special meetings, upon written request of a majority of the council.