

City of Wilmore

JESSAMINE COUNTY, KENTUCKY

— IN THE HEART OF THE BLUE GRASS —

ALL KENTUCKY CITY 1978

335 East Main Street
Wilmore, Kentucky 40390

HAROLD L. RAINWATER
Mayor

COLLEEN BRANDENBURG
City Clerk

April 20, 1981

RECEIVED

APR 24 1981

SECRETARY OF STATE
COMMONWEALTH OF KY.

Secretary of State
Capitol Building
Frankfort, Kentucky 40601

ATTN: Eugene Harrell

RE: K.R.S. 81.045 (SB 22)

Dear Mr. Harrell:

Pursuant to the requirements of the above cited legislation I am submitting the following information on behalf of the City of Wilmore, Kentucky:

- A. Name of City: Wilmore
- B. Date of Incorporation: The date of original incorporation is unknown although a complete and exhaustive search has been made of all local court records and of all records of the Secretary of State's office. I am submitting therefore a Certificate of the City Attorney relative to this question. This same documentation has previously been submitted to Farmers Home Administration and Housing Urban Development who have accepted same as adequate to verify existence under the circumstances and who have loaned the City the sum of \$1,800,000.00 to up-grade and improve its water system based upon this certificate.
- C. Present Classification: Fourth Class City
- D. Present Boundaries: I am attaching a copy of the official zoning map of Wilmore, Kentucky, prepared by John G. Horne Associates, Inc.

Please feel free to contact me should you require further information or documentation pursuant to K.R.S. 81.045 (SB 22).

Sincerely,

Harold L. Rainwater

Harold L. Rainwater
Mayor

HLR/cb
enc. (6)

Jessamine County
No other records -

Statement from City Attorney

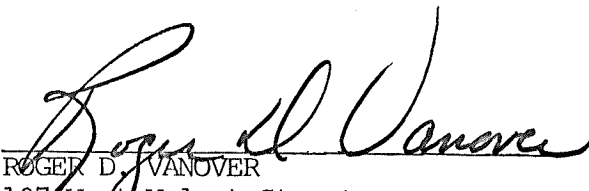
CERTIFICATE

TO: FmHA
367 WALLER AVENUE
LEXINGTON, KENTUCKY 40504

THIS WRITING shall certify that the City of Wilmore, Jessamine County, Kentucky, is a properly constituted public body, being designated as a city of the fourth (4th) class in accordance with KRS 81.010, a copy of which is attached hereto. That further, in accordance with KRS 86.110 and 86.010, copies of which are attached hereto, and other applicable law, said city is authorized to "borrow money for making public improvements, upon the credit of the city, and pledge the revenue for the payment thereof."

As a legally established public body, said city is a corporation and is entitled to a tax-exempt status with full authority to operate a utility, issue bonds, collect money, and pledge revenue. The status of Wilmore as a municipal corporation of the fourth (4th) class was legally established by the legislature of the Commonwealth of Kentucky and the status of Wilmore, so established, continues in full legal existence at the present time.

This the 4th day of April, 1979.


ROGER D. VANOVER
107 West Walnut Street
Nicholasville, Kentucky 40356
ATTORNEY AT LAW
LOCAL COUNSEL FOR WILMORE, KENTUCKY

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
367 Waller Avenue, Lexington, KY 40504
April 17, 1979

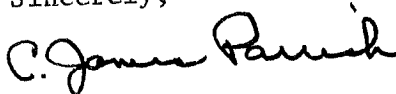
Roger D. Vanover
107 West Walnut Street
Nicholasville, KY 40356

Dear Mr. Vanover:

The State Office has reviewed your legal opinion regarding incorporation and continued legal existence of the City of Wilmore and have determined that it appears adequate to verify the legality of the applicant. However, the opinion will be submitted to the Regional Attorney at the time closing instructions are requested.

If more information is needed at a later date, we will so advise you.

Sincerely,



for RONALD W. RAY
County Supervisor

REPAIR, CLOSING OR DEMOLITION OF
UNFIT STRUCTURES BY CITIES AND
COUNTIES

80.620 to 80.720 Repealed

HISTORY: 1978 H 152, § 19, eff. 6-17-78
1976 ex s, S 15, § 70; 1970 S 303, § 1 to 12, H 132, §
1 to 8; 1966 c 171, c 239, § 35; 1942 c 73, § 1 to 11

80.660 HEARING AS TO UNFITNESS; FINDINGS OF
FACT; ORDER

512 SW(2d) 514 (1974), Johnson v Paducah. The property
owner should be afforded a reasonable time to repair his
property if he so desires, unless there is a threat to the safety of
persons or other property.

80.700 REMEDIES

528 SW(2d) 729 (1975), Jenkins v Lexington. Injunctive re-
lief from a condemnation order is effective only in the proceed-
ing by which the order is being reviewed and does not extend
to proceeding involving a subsequent order.

Chapter 81

CITY CLASSIFICATION, BOUNDARIES, ANNEXATION AND ALTERNATIVE METHOD OF CONSOLIDATING GOVERNMENTAL SERVICES

CLASSIFICATION

- 81.010 Classification of cities
81.015 Fairdale area designated "unincorporated urban
place"

- 81.295 Annexation of impoundments of water by cities of
the fifth class
81.296 Publication of ordinance

INCORPORATION

- 81.050 Proceedings to incorporate
81.060 Judgment establishing town; certification to secretary
of state

CLASSIFICATION

81.010 Classification of cities

Cities are classified as follows:

(1) First class:

Louisville, Jefferson County

(2) Second class:

Ashland, Boyd County

Bowling Green, Warren County

Covington, Kenton County

Frankfort, Franklin County

Lexington, Fayette County

Newport, Campbell County

Owensboro, Daviess County

Paducah, McCracken County

(3) Third class:

Campbellsville, Taylor County

Corbin, Whitley and Knox Counties

Danville, Boyle County

Erlanger, Kenton County

Flatwoods, Greenup County

Florence, Boone County

Glasgow, Barren County

Hazard, Perry County

Henderson, Henderson County

Hopkinsville, Christian County

Mayfield, Graves County

Maysville, Mason County

Middlesboro, Bell County

Murray, Calloway County

Paris, Bourbon County

Richmond, Madison County

- ### ANNEXATION
- 81.110 Protest against annexation of unincorporated terri-
tory or reduction of territory by first-class city;
trial; judgment
81.120 Annexation of another city by a first-class city
81.140 Annexation of unincorporated territory or reduction
of territory by second-class city
81.145 Election on annexation of unincorporated territory
by a city of the second class in a county contain-
ing a city of the second and third class
81.150 Annexation of fifth or sixth-class city by second-
class city
81.160 Annexation of second, third or fourth-class city by
second-class city
81.200 Third-class city takes over rights and obligations of
city annexed
81.210 Annexation or reduction of territory by fourth-class
city
81.220 Protest against annexation by fourth-class city; trial;
judgment
81.230 Annexation or reduction of territory by fifth-class
city
81.240 Annexation or reduction of territory by sixth-class
city
81.280 Annexation of unincorporated territory in which in-
dustrial plants are located; public policy stated;
prerequisites; protest and hearing
81.290 Copy of ordinance proposing annexation or reduc-
tion of territory by city in county containing a city
of first class to be forwarded to fiscal court; pro-
test suit, fiscal court to be made a party

Somerset, Pulaski County
 Winchester, Clark County
 (4) Fourth class:
 Augusta, Bracken County
 Barbourville, Knox County
 Bardstown, Nelson County
 Bellevue, Campbell County
 Benton, Marshall County
 Berea, Madison County
 Calvert City, Marshall County
 Carlisle, Nicholas County
 Carrollton, Carroll County
 Catlettsburg, Boyd County
 Central City, Muhlenberg County
 Columbia, Adair County
 Cumberland, Harlan County
 Cynthiana, Harrison County
 Dawson Springs, Hopkins County
 Dayton, Campbell County
 Douglass Hills, Jefferson County
 Earlington, Hopkins County
 Edgewood, Kenton County
 Elizabethtown, Hardin County
 Elkhorn City, Pike County
 Elkton, Todd County
 Elsmere, Kenton County
 Eminence, Henry County
 Falmouth, Pendleton County
 Flemingsburg, Fleming County
 Fort Mitchell, Kenton County
 Fort Thomas, Campbell County
 Fort Wright, Kenton County
 Franklin, Simpson County
 Fulton, Fulton County
 Georgetown, Scott County
 Grayson, Carter County
 Greenville, Muhlenberg County
 Harlan, Harlan County
 Harrodsburg, Mercer County
 Hickman, Fulton County
 Hillview, Bullitt County
 Hodgenville, Larue County
 Irvine, Estill County
 Jackson, Breathitt County
 Jeffersontown, Jefferson County
 Jenkins, Letcher County
 La Grange, Oldham County
 Lawrenceburg, Anderson County
 Lebanon, Marion County
 Leitchfield, Grayson County
 London, Laurel County
 Ludlow, Kenton County
 Madisonville, Hopkins County
 Manchester, Clay County
 Marion, Crittenden County
 Martin, Floyd County
 Monticello, Wayne County
 Morehead, Rowan County
 Morganfield, Union County
 Mount Sterling, Montgomery County
 Nicholasville, Jessamine County
 Olive Hill, Carter County
 Owingsville, Bath County
 Paintsville, Johnson County
 Park Hills, Kenton County

Pikeville, Pike County
 Pineville, Bell County
 Prestonsburg, Floyd County
 Princeton, Caldwell County
 Providence, Webster County
 Radcliff, Hardin County
 Russell, Greenup County
 Russellville, Logan County
 Saint Regis Park, Jefferson County
 Salyersville, Magoffin County
 Scottsville, Allen County
 Shelbyville, Shelby County
 Shepherdsville, Bullitt County
 Shively, Jefferson County
 Southgate, Campbell County
 Springfield, Washington County
 St. Matthews, Jefferson County
 Stanton, Powell County
 Sturgis, Union County
 Taylor Mill, Kenton County
 Vanceburg, Lewis County
 Versailles, Woodford County
 Villa Hills, Kenton County
 Vine Grove, Hardin County
 Williamsburg, Whitley County
Wilmore, Jessamine County
 (5) Fifth class:
 Adairville, Logan County
 Albany, Clinton County
 Alexandria, Campbell County
 Anchorage, Jefferson County
 Auburn, Logan County
 Audubon Park, Jefferson County
 Bardwell, Carlisle County
 Beattyville, Lee County
 Beaver Dam, Ohio County
 Beechwood Village, Jefferson County
 Benham, Harlan County
 Bloomfield, Nelson County
 Brandenburg, Meade County
 Bromley, Kenton County
 Brooksville, Bracken County
 Brownsville, Edmonson County
 Burgin, Mercer County
 Burkesville, Cumberland County
 Burnside, Pulaski County
 Butler, Pendleton County
 Cadiz, Trigg County
 Calhoun, McLean County
 Cave City, Barren County
 Clay, Webster County
 Clay City, Powell County
 Clinton, Hickman County
 Cloverport, Breckinridge County
 Cold Spring, Campbell County
 Columbus, Hickman County
 Corydon, Henderson County
 Crescent Springs, Kenton County
 Crestview Hills, Kenton County
 Crofton, Christian County
 Drakesboro, Muhlenberg County
 Dry Ridge, Grant County
 Eddyville, Lyon County
 Edmonton, Metcalfe County
 Evarts, Harlan County

86.060 Chairman and clerk of city council; eligibility, discipline and expulsion of members

(1) The mayor, or in his absence the mayor pro tem, shall be chairman of the city council. The council may, by ordinance, confer the function of clerk of the council upon the treasurer to be performed in addition to the duties prescribed by KRS 92.060. If said function is not conferred upon the treasurer, a clerk of the council shall be elected by the council or by the voters if so prescribed by an ordinance enacted not less than sixty (60) days before any general election. Whenever the office is made elective, the city clerk or treasurer shall, within ten days, notify the county clerk in writing for the purposes of placing the office on ballots for future elections.

(2) The council shall judge the eligibility and election returns of its members, adopt rules for its proceedings and government, and enforce the rules by appropriate fines not exceeding ten dollars (\$10) for each offense. By a vote of three-fourths (3/4) of its members, it may, for any good cause, expel a member.

HISTORY: 1976 H 753, § 2, eff. 6-19-76
1952 c 122; KS 3486, 3487

OAG 77-247. Council may remove a member without a hearing provided it has legal cause for removal.

86.090 Ordinances, how passed; veto; publication

OAG 76-564. A two-thirds (2/3) vote of the entire membership of council is necessary to override a mayor's veto of an ordinance.

86.110 General powers of city council

The city council may, within the city:

- (1) Borrow money for making public improvements, upon the credit of the city, and pledge the revenue for the payment thereof;
- (2) Appropriate money to provide for the payment of the debts and expenses of the city;
- (3) Purchase, upon a vote of two-thirds (2/3) of the members of the council, any real estate that it considers necessary for city purposes;
- (4) Provide for the purchase of all personal property necessary for city purposes;
- (5) Sell and dispose of any city property, upon a vote of two-thirds (2/3) of the members of the council;
- (6) Erect a workhouse, poorhouse, station house and house of correction, and provide for their maintenance and regulation, and for the maintenance and government of the inmates;
- (7) Provide, maintain and regulate a public burial ground;
- (8) Declare by ordinance that property is needed for municipal purposes and for the purposes mentioned in subsections (6) and (7) of this section, upon the passage of which ordinance the proper city authorities may, if the compensation for the property cannot be agreed upon, proceed to condemn the property in the manner provided by the Eminent Domain Act of Kentucky;

(9) Erect market houses, and provide for their government and regulation;

(10) Fix by ordinance the penalty for the violation of any provision of the laws relating to cities of the fourth class, or of any city ordinance, and enforce the same by warrant or summons;

(11) Enact ordinances, not in conflict with the constitution or statutes, to carry into effect all the powers of the city, and do all things properly belonging to the police of incorporated cities.

HISTORY: 1976 H 93, § 31, eff. 6-19-76
KS 3490, 3490-1, 3490-4, 3490-5, 3490-11, 3490-22, 3490-24, 3490-28, 3490-29, 3490-33

CROSS REFERENCES

Eminent Domain Act, 416.540 et seq.

OAG 67-362. In the absence of any statutory or ordinance limitation on prosecutions for parking violations none exist, and prosecutions can be made on citations that are more than a year old.

86.160 Fire protection and prevention; building inspection

- (1) The city council may, within the city:
 - (a) Provide for the prevention and extinguishment of fires;
 - (b) Establish and regulate fire companies, and provide for or elect fire fighters, prescribe their duties and fix their compensation;
 - (c) Regulate the storage of all explosives and combustible material;
 - (d) Appoint some suitable person or persons, at reasonable times, to enter and examine such houses as the council designates in order to ascertain whether any such house is in a dangerous condition with respect to fires, and to cause all dangerous conditions to be corrected;
 - (e) Regulate or restrain the erection of wooden buildings, and provide for their removal when erected contrary to ordinance;
 - (f) Require that all new buildings be approved as to their safety by a designated officer or agency of the city, in addition to being approved by the council;
 - (g) Provide for the condemnation and removal of unsafe walls.
- (2) No person shall erect a building without the permission of the city council.

HISTORY: 1978 S 261, § 14, eff. 6-17-78
KS 3490, 3490-16, 3490-17

86.200 Duties and powers of mayor

OAG 70-101. Mayor as a conservator of the peace has the power to arrest, however, such power should be exercised only in emergencies as such power is not the primary function or duty attached to the office.

86.210 Repealed

HISTORY: 1976 ex s, S 15, § 491, eff. 1-2-78
KS 3500

Chapter 86

ORGANIZATION AND GOVERNMENT OF CITIES OF THE FOURTH CLASS

86.010	Incorporation and general powers
86.020	Separation of powers
86.030	Legislative branch; city council
86.040	Wards, how established and altered
86.050	Members of city council; terms; qualifications
86.053	Compensation of councilmen
86.060	Chairman and clerk of city council; eligibility, discipline and expulsion of members
86.070	Quorum and meetings of city council
86.080	Journal of proceedings of city council
86.090	Ordinances, how passed; veto; publication
86.100	Journal to be public record; effect of copy of ordinance
86.110	General powers of city council
86.120	Trades, occupations and professions; amusements; vehicles
86.130	Weights and measures; inspection of commodities; sale of food
86.140	Protection of public health; hospitals
86.150	Nuisances; stock at large
86.160	Fire protection and prevention; building inspection
86.170	Suppression of vice
86.180	Mayor; election; term; qualifications
86.190	Mayor pro tem
86.200	Duties and powers of mayor
86.210	Fines and imprisonment, how remitted or suspended
86.220	Election of city officers
86.230	City officers, when to take office
86.240	Vacancies in city offices
86.250	City officers not to deal in claims against city
86.090	Penalties

CROSS REFERENCES

Population requirement for city of fourth class, Const. 156
 Constitutional provisions relating to cities of fourth class, Const. 100, 161, 165, 187
 Ordinances, penalty for violation and effect of conviction, Const. 168
 Police court, Ch. 26
 Attorney, city, Ch. 69
 Commission and city manager forms of government, Ch. 89
 Waterworks system, 96.355
 Urban renewal projects, 99.520 et seq.
 Municipal improvements, alternate methods, Ch. 107
 Libraries, city, Ch. 173

Police Judge pro tem is an officer of the city when acting as such, and city is authorized to fix his compensation. 1956 OAG 38,728.

The Legislature failed to make provisions for the removal of city officers with the exception of members of the City Council under Chapter 80, KRS with respect to cities of the fourth class. Therefore, the only method of removing an officer of a city of the fourth class for misconduct is by impeachment before the House of Representatives as provided in Section 60-08 of the Constitution and KRS 63.020 et seq. 1956 OAG 39,122.

86.010 [3481] Incorporation and general powers.

Each city of the fourth class shall constitute a corporation with the following powers:

- (1) To sue and be sued;
- (2) To contract and be contracted with;
- (3) To acquire and hold property for municipal purposes;
- (4) To have a common seal and change it at pleasure;
- (5) To receive property of every kind and character for municipal, educational, charitable, or recreational purposes, and to control and distribute same for the purposes of the gift. (1962 c 17, § 1. Eff. 2-19-62)

CROSS REFERENCES

Cities of fourth class enumerated, 81.010

AM JUR AND ALR ANNOTATIONS

Creation, existence and incidents. 37 Am Jur, MUNICIPAL CORPORATIONS §§ 7 et seq.
 Effect on rule as to de jure office as condition of a de facto officer, of doctrine as to collateral attack on existence of municipal corporation. 99 ALR 314.
 Injunction to restrain enforcement of municipal tax upon ground involving attack upon legal existence of municipality. 120 ALR 257.
 Power of district or prosecuting attorney to bring action of quo warranto attacking existence of municipal corporation. 131 ALR 1210.
 Organization sought to be incorporated under unconstitutional statute as a de facto corporation. 136 ALR 103.

City is liable for damages to property from defective construction for a drain. *City of Maysville v. Stanton*, 12 R. 580, 14 S.W. 675.

City is not liable for failure to improve a street that was never under the control of the city council. *City of Maysville v. Stanton*, 12 R. 580, 14 S.W. 675.

Contract by a city of the fourth class creating an indebtedness for water supply did not violate any of the provisions of the Constitution limiting the tax rate and indebtedness of towns and cities; the obligation was not incurred or the contract entered into until the assent of two-thirds of the voters of the city had been regularly obtained at an election held for that purpose. *Shelbyville v. Shelbyville W. & L. Co.*, 16 R. 176, 27 S.W. 85.

Memorandum of sale of town lots in the book of the trustee unless signed is not obligatory on them. *Thomas v. Trustees of Harrodsburg*, 3 Mar. 298; *Martin v. McFadden*, 4 Litt. 240.

Corporations can not be made liable upon implied promises by reason of benefits received. *Trustees of Belleview v. Hohn*, 82 Ky. 1, 5 R. 730.

Failure of town to provide means of abating a nuisance on private property, or the omission of its officers to abate it when the means are furnished gives no right of action against the town to those who are injured by their neglect of duty. Persons injured in consequence of blasting by individual on his property. *James v. Trustees, Harrodsburg*, 85 Ky. 101, 8 R. 899, 3 S.W. 135.

Persons contracting with corporations or their officers must, at their peril, inquire concerning the authority of the contracting agents or officers to bind the corporation. *Trustees of Belleview v. Hohn*, 82 Ky. 1, 5 R. 730; *Owensboro v. Weir*, 95 Ky. 158, 15 R. 506, 24 S.W. 115; *Louisville v. Murphy*, 86 Ky. 53, 9 R. 310, 5 S.W. 194.

Press; not liable for damages in effort to extinguish. *Davis v. City*, 108 Ky. 688, 22 R. 384, 57 S.W. 471.

A city is not immune from tort liability. *Haney v. City of Lexington*, 386 SW(2d) 738 (1964); *Benton v. Somerset City Hospital*, 388 SW(2d) 135 (1965).

86.020 [3482] Separation of powers.

The government of each city of the fourth class shall be divided into a legislative, an executive and a judicial department. Neither of these departments shall exercise any powers properly belonging to either of the others, except as provided by law.

CROSS REFERENCES

Judicial department (police court), Ch. 26
 Commission and city manager forms of government, Ch. 89

OVERSIZE MAP INCLUDED WITH
SUBMISSION.

To research the map, contact the
Office of Secretary of State
or the County Clerk.