

ORDINANCE NO. ____-2018

AN ORDINANCE ENACTING ARTICLE XLIX OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO AUTHORIZE THE CREATION OF THE LEXINGTON-FAYETTE URBAN COUNTY INDUSTRIAL AUTHORITY, A NON-PROFIT INDUSTRIAL DEVELOPMENT AUTHORITY CREATED PURSUANT TO KRS 154.50-301, ET SEQ. TO ACT AS AN AGENCY OF THE URBAN COUNTY GOVERNMENT FOR THE PURPOSE OF AIDING IN THE ACQUISITION, RETENTION AND DEVELOPMENT OF LAND FOR INDUSTRIAL AND COMMERCIAL PURPOSES IN FAYETTE COUNTY, TO AID IN THE DEVELOPMENT AND PROMOTION OF INDUSTRIAL SITES, PARKS AND SUBDIVISIONS FOR ACCOMMODATING INDUSTRIAL AND COMMERCIAL NEEDS, AND TO PROMOTE AND STIMULATE THE ACQUISITION, RETENTION AND DEVELOPMENT OF LAND FOR INDUSTRIAL AND COMMERCIAL PURPOSES IN FAYETTE COUNTY BY OTHER LOCAL DEVELOPMENT ORGANIZATIONS; AND ESTABLISHING POWERS AND DUTIES, LIMITATIONS OF POWERS, APPOINTMENT OF MEMBERS, OFFICERS, QUORUM, FREQUENCY OF MEETINGS, BYLAWS AND DISSOLUTION; ALL EFFECTIVE UPON DATE OF PASSAGE.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Article XLIX of Chapter 2 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created and enacted to read as follows:

Sec. 2-513 Created; purpose.

(1) Pursuant to KRS 154.50-301, *et seq.* (the “Local Industrial Development Authority Act” or the “Act”), the Lexington-Fayette Urban County Government is authorized to create a local non-profit industrial development authority for the purpose of aiding in the acquisition, retention and development of land for industrial and commercial purposes in Fayette County; to aid in the development and promotion of industrial sites, parks and subdivisions for accommodating industrial and commercial needs; and to promote and stimulate the acquisition, retention and development of land for industrial and commercial purposes in Fayette County by other local development organizations, both public and private.

(2) Pursuant to the Act, the Lexington-Fayette Urban County Government, through its Urban County Council, hereby authorizes and directs the formation of a non-profit industrial development authority to be named the “Lexington-Fayette Urban County Industrial Authority (the “Industrial Authority” or “Authority”), which is a body politic and corporate, with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to carry out the duties prescribed by the Act and this Article.

Sec. 2-514. Powers and duties.

The Authority shall have the purpose, duties and powers provided in KRS 154.50-301 through 154.50-350, including, but not limited to:

(1) Acquiring, retaining and developing land for industrial and commercial purposes in Fayette County; aiding in the development and

promotion of industrial sites, parks, and subdivisions to meet industrial and commercial needs in Fayette County.

(2) Encouraging the acquisition, retention, and development of land for industrial and commercial needs in Fayette County by other local development organizations, both public and private.

(3) Acquiring by contract, lease, purchase, gift, condemnation, or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks, or subdivisions. The Authority may dispose of any real or personal property, or rights therein, which in the opinion of the Authority are no longer needed to carry out the purposes of KRS 154.50-301 to 154.50-346. The Authority may lease, sell, or convey any or all industrial sites, parks, and subdivisions owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing and/or operating any manufacturing, industrial, or commercial facility. Provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed a written contract with the Authority providing that if no actual construction of a manufacturing, industrial, or commercial facility, as set forth in the executed contract, is commenced within five (5) years, the organization or industry shall offer to re-convey the land, free and clear of liens and encumbrances, to the Authority, and should the Authority accept the offer of re-conveyance, it shall return to the organization or industry ninety-five percent (95%) of the purchase price paid therefor.

(4) Eminent Domain by and through the Lexington-Fayette Urban County Government and in accordance with the applicable state statute and laws.

Sec. 2-515. Limitations of powers.

The Authority's power is subject to the following:

(1) The Authority shall not incur indebtedness in excess of its operating budget, which must be approved by the Urban County Council.

(2) The Authority shall have a fiscal year from July 1 to June 30, with its first year to run from the time it is organized through the following June 30.

(3) The Authority shall maintain business records of its management, operation, receipts, disbursements and acquisition and disposition of realty in the manner provided by KRS 154.50-336. The Authority shall be subjected to annual audit as part of the Lexington-Fayette Urban County Government's audit.

(4) The Authority shall prepare an operating budget for each fiscal year. The Authority shall submit its proposed budget to the Urban County Council for review and approval not less than sixty (60) days prior to the commencement of the fiscal year.

(5) The Authority shall operate consistent with public policies provided by:

(a) The comprehensive plan;

(b) Zoning designated to identify potential industrial and commercial sites and protect them against types of development that would lessen their attractiveness or their compatibility with surrounding uses; and

- (c) Provision of adequate governmental facilities to serve industrial sites.

Sec. 2-516. Appointment of members.

- (1) The Authority shall consist of seven (7) members appointed by the Mayor.
- (2) Pursuant to KRS 154.50-326, the initial terms of its members shall be staggered so that two (2) members are appointed for two (2) years; two (2) members are appointed for three (3) years; and three (3) members are appointed for four (4) years. All subsequent appointments shall be for four (4) year terms. Vacancies shall be for the unexpired term in the manner prescribed for in the original appointment.
- (3) An Authority member may be replaced by the Mayor upon a showing to the Mayor of that Authority member's misconduct, including ineffective service, or upon conviction of a felony.
- (4) No Authority member shall be eligible for service while a candidate for or holder of public office. Upon filing for public office a current Authority member shall be deemed to have vacated his or her office.
- (5) The Mayor shall appoint the members and designate the initial term to be served by each member on the Authority, subject to the foregoing provisions.

Sec. 2-517. Officers; quorum; frequency of meetings; bylaws.

- (1) The members of the Authority shall elect such officers, hold such meetings and establish such rules and regulations as they deem necessary and proper to carry out the Authority's functions under the Local Industrial Development Authority Act, KRS 154.50-301 through KRS 154.50-350. The Authority shall adopt by-laws covering, among other appropriate matters, election of officers, including, at minimum, a chair, vice-chair, secretary and treasurer, hiring of staff, establishment of the place and time of regular meetings, which must occur at least once per year, the procedure for special meetings, compliance with open meetings and records requirements set out in KRS Chapter 61, standards of conduct for Authority members and staff; and operation procedures for conducting Authority business. The bylaws may be adopted or amended at any regular meeting or special meeting by a vote of at least a majority of the voting members.
- (2) A majority of the membership shall constitute a quorum for conducting business at a regular or duly noticed special meeting. Meetings of the Authority may be called by the chairman or by a majority of the members. In case of tie voting by the Authority, the issue shall be deemed to have failed passage.
- (3) The Authority chair shall have supervisory authority over the Authority director and staff.

Sec. 2-518. Dissolution.

The Urban County Council may dissolve the Authority by appropriate ordinance or resolution. Upon such dissolution, all funds, property and other assets held by the Authority shall be delivered to the Lexington-Fayette Urban County Government. No dissolution, however, shall be effective until provision is made for all legal obligations of the Authority.

Section 2 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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