

**CITY OF SHIVELY  
CERTIFIED SUMMARY  
ORDINANCE NO. 6, SERIES 2022**

**AN ORDINANCE AMENDING SHIVELY ORDINANCE NO. 18, SERIES 1994  
(CHAPTER 38, SHIVELY CODIFIED ORDINANCES) ESTABLISHING A CODE  
OF ETHICAL CONDUCT FOR SHIVELY OFFICERS, EMPLOYEES AND  
AGENCIES**

Pursuant to KRS 83A.010(12), I certify that the effect of the above-styled ordinance is to amend Shively Ordinance No. 18, Series 1994 establishing a code of ethical conduct for City of Shively Officers, Employees and Agencies.

Amendments to the Shively Code of Ethics ordinance include but are not limited to additional definitions, additions to incompatible offices, withdrawal from participation if financial benefits, gift exclusions, political solicitations, post-employment restrictions, endorsements, social media, email, additions to financial statements and enforcement, annual meeting requirement, and additions to filing and investigation of complaints,

Additionally, pursuant to KRS 83A.060(9)(c), the following full text is included in this summary:

**SECTION 6. Conflicts of Interest in Contracts – KRS 61.252.**

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered in violation of this section and **KRS 61.252**. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

**SECTION 29 ~~18~~. Noncompliance With Filing Requirement.**

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of a debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

**SECTION 39 [26].** Hearing Procedure.

(H) If the Board concludes in its report that in consideration of the evidence produces at the hearing there is clear and convincing proof of a violation in this ordinance, the Board **shall within fifteen (15) days [may]:**

- (1) Issue an order requiring the **respondent [violator]** to cease and desist the violation.
- (2) In writing, publicly reprimand the **respondent [violator]** for the violations and provide a copy of the reprimand to the mayor and city council **or governing body of the city agency to which the respondent serves.**
- (3) In writing, recommend to the mayor and city council, **or governing body of the city agency,** that the **respondent [violator]** be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.
- (4) Issue an order requiring the **respondent [violator]** to pay a civil penalty of not more than \$1,000.00.
- (5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

**SECTION 44 [31].** Penalties.

- (A) Except when another penalty is specifically set forth in this ordinance **or by state or federal law,** any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand (\$1,000), which may be recovered by the city in a civil action in the nature of a debt if the offender fails to pay the penalty within a prescribed period of time.
- (B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of a debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.
- (C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension,

demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

A complete copy of this ordinance may be reviewed at Shively City Hall, 3920 Dixie Highway, Shively, KY 40216.

Introduced and first reading: October 17, 2022  
Second reading and Passage: November 7, 2022  
Date of Publication

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**CITY OF SHIVELY  
ORDINANCE NO. 6, SERIES 2022**

**AN ORDINANCE AMENDING SHIVELY ORDINANCE NO. 18, SERIES 1994  
(CHAPTER 38, SHIVELY CODIFIED ORDINANCES) ESTABLISHING A CODE OF  
ETHICAL CONDUCT FOR SHIVELY OFFICERS, EMPLOYEES AND AGENCIES**

**WHEREAS**, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring this city to enact and enforce a code of ethics governing the conduct of city officers, **[and]** employees **and board and commission members** beginning no later than January 1, 1995; and

**WHEREAS**, the officials of this city are committed to the operation of a city government that manifests the highest moral and ethical standards among its officers, **[and]** employees, **and board and commission members** and desire to comply with all requirements of the Commonwealth's local governments ethics law.

**NOW THEREFORE**, be it ordained by the City of Shively, Kentucky:

**SECTION 1. Title.** This ordinance shall be known and may be cited as the "City of Shively Code of Ethics."

**SECTION 2. Findings.** The City of Shively finds and declares that:

- (A) Public office and employment with the city are public trusts.
- (B) The vitality and stability of the government of this city depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer and employee, that confidence is imperiled.
- (C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with conducting their public duties.

**SECTION 3. Purpose and Authority.**

- (A) It is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.
- (B) It is the further purpose of this ordinance to meet the requirements of KRS 65.003, as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

**SECTION 4. Definitions.** As used in this ordinance, unless the context clearly requires a different meaning:

(A) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

(B) “Board of Ethics” means the City of Shively Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city’s code of ethics.

(C) “Candidate” means any individual who seeks nomination, appointment or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

(D) “City” refers to the City of Shively, Kentucky.

(E) “City agency” means any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

(F) **“City business” means any discussion of specific city issues that go beyond general information.**

(G) **“Confidential information” means information obtained in the course of holding public office or employment, or as a contractor to the city, which is not available to members of the public and which the officer or employee is not authorized to disclose, except to designated individuals or bodies, including written and non-written information. When such information is also available through channels open to the public, officers and employees are not prohibited from disclosing the availability of those channels.**

(H) **“Consultant” means an independent contractor, professional person, or entity engaged by the city or advising a city officer, and in a position to influence a city decision or action or having access to confidential information.**

(I) **“Customer or client” means:**

- (1) Any person or entity which has supplied goods or services during the previous 24 months, having a total value greater than \$10,000; or
- (2) Any person or entity to which an officer or employee's outside employer or business has supplied goods or services during the previous 24 months, having a total value greater than \$10,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.
- (J) "Domestic partner" is an adult, unrelated by blood, with whom an unmarried or separated officer or employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.
- (K) "Employee" means any person, whether full-time or part-time, or seasonal and whether paid or unpaid, who is employed by or provides services to the city. The term "employee" shall not include any contractor or subcontractor or any of their employees.
- (L) "Family member" means a spouse, domestic partner, and, whether by blood, adoption, marriage, guardianship, or domestic partnership, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparents, spousal grandparents or grandchild.
- (M) "Immediate family member" means a spouse, domestic partner whether by blood, adoption, marriage, guardianship, or domestic partnership, a child who is not emancipated and who resides in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse or domestic partner, as a dependent for tax purposes.
- (N) "Financial benefit" includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include legal campaign contributions.
- (O) "Financial interest" is a relationship to something where a direct or indirect financial benefit has been, will be, or might be received as a result of the relationship.
- (P) "Household" includes anyone whose primary residence is in the officer's or employee's home, including nonrelatives who are not paying rent or staff.
- (Q) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:
- (1) The mayor.

- (2) A member of the city council.
- (3) The city clerk.
- (4) The assistant to the mayor.
- (5) The police chief.
- (6) The fire chief.
- (7) Any person who occupies a nonelected office created under KRS 83A.080; ~~or~~+
- (8) Any member of the governing body of any city agency who has been appointed to that agency by the city.

(R) “Official act” means any legislative, administrative, appointive, or discretionary act of any public official or employee of the city or any agency, board, committee or commission thereof.

(S) “Personal benefit” includes benefits other than those that are directly financially advantageous. These include financial benefits to immediate family members, business associates, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one’s career.

(T) “Personal interest” means a relationship to something where a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.

(U) “Social media” is understood to be content created by individuals using the internet. Examples of social media include Facebook, Instagram, YouTube, Twitter, LinkedIn, Snapchat, Reddit, and blogs.

(V) “Subordinate” means another official or employee over whose activities an official or employee has direction, supervision, or control.

(W) “Substantial debtor or creditor” means any person or business owed more than \$10,000, except from debts arising from the purchase of a primary residence or the purchase of consumer goods, which are bought or used primarily for person, family, or household purposes.

(X) “Transaction” means any matter, including but not limited to, contracts, work, or business with the city, the sale or purchase of real estate by the city, and any request for zoning amendments, variances, or special permits pending before the city, upon which a public officer or employee performs an official act or action.

## STANDARDS OF CONDUCT

**SECTION 5. Conflicts of Interest in General.** Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

- (A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's or employee's public duties.
- (B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted **(or unsolicited)** privileges or advantages for himself or herself or others.
- (C) No officer or employee shall intentionally take, **fail to take,** or refrain from taking any discretionary action, or agree to take, **fail to take,** or refrain from taking any discretionary action, or induce **or influence** or attempt to induce **or influence** any other officer or employee to take, **fail to take,** or refrain from taking any discretionary action, on any matter before the city in order to obtain a **personal or** financial benefit for any of the following:
  - (1) The officer or employee.
  - (2) A family member.
  - (3) An outside employer.
  - (4) Any business in which the officer or employee, or any family member has a financial interest, **including, but not limited to: [-]**
    - a. **An outside employer or business of theirs, or of their family member, or someone who works for such outside employer or business;**
    - b. **A customer or client; or**
    - c. **A substantial debtor or creditor of theirs, or of their family member.**
  - (5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.
  - (6) **A person or entity from whom the officer or employee has received an election campaign contribution of a total of more than \$100.00 during the past election cycle (this amount includes contributions from a person's immediate family, or business, as well as contributions from an entity's owners, directors, or officers, as well as contributions to the officer, or employee's party committee, or noncandidate political committee).**
  - (7) **A nongovernmental civic group, social, charitable, or religious organization of which they, or their immediate family member, is an officer or director.**
- (D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction,



no **personal or** financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C) (4) and (C) (5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

- (E) Every officer or employee who has a prohibited financial interest which the officer or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure **pursuant to Section 8 of this ordinance.**

**SECTION 6. Conflicts of Interest in Contracts – KRS 61.252.**

- (A) No officer or employee of the city or any city agency shall directly or through others undertake, execute, hold or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, except as follows:

- (1) The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or a city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract **unless the disclosures required by subpart 3 below are satisfied.**
- (2) The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.
- (3) The prohibitions in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:

- (a) The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.
  - (b) The disclosure is made part of the official record of the governing body of the city or city agency before the contract is executed.
  - (c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interests of the public and the city or city agency **before the contract is executed and** because of, **among other things**, price, limited supply, or other specific reasons.
  - (d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.
- (B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section **and KRS 61.252**. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

#### **SECTION 7. Incompatible Offices.**

**(A) Pursuant to Section 165 of the Kentucky Constitution, no officer or employee of the city may also be a state officer, deputy state officer, or member of the General Assembly, or may fill more than one municipal office at the same time, whether in the same or a different city.**

**(B) Pursuant to KRS 61.080, no city officer may also hold a county office. In addition, the statute also states that the following city and consolidated local government offices are incompatible with any other public office:**

1. **Member of a legislative body of cities of the first class;**
2. **Mayor and member of the legislative council of a consolidated local government; and**
3. **Mayor and member of the legislative body in cities of the home rule class.**

**(C) In addition to the constitution and statutory provisions, there are common law incompatibilities defined by the courts. City officers and employment positions are deemed incompatible when one office or position of employment was inherently inconsistent in function with the other. This incompatibility occurs when there arises an implication that the duties and responsibilities of both cannot**

be performed at the same time with a necessary degree of impartiality and honesty.

- (D) KRS 61.090 provides that the acceptance of an incompatible office operates to vacate the first office.

#### **SECTION 8. Withdrawal from Participation.**

- (A) An officer or employee must refrain from acting on, or discussing, formally or informally, a matter before the city, if acting on the matter, or failing to act on the matter, may personally or financially benefit any of the persons, or entities listed in Section 5(C) above. Such an officer or employee should leave the room if it is a public meeting conducted under KRS 61.810 and KRS 61.815.

- (B) Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.

- (C) Ongoing conflict: An officer or employee whose outside employment, or other outside activity or relationship, can reasonably be expected to require more than sporadic withdrawal must resign, or cease such outside employment or activity. An officer or employee should not begin employment, or an activity or relationship that can reasonably be expected to require more than sporadic withdrawal. If a prospective officer or employee is in such a situation, they should not accept the position with the city.

#### **SECTION 9 [7]. Receipt of Gifts.**

- (A) No officer or employee of the city or any agency shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred dollars (\$100), whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his or her public duties.

- (B) Certain items are typically excluded from this provision. Examples of these items include:

1. Gifts received from family member.
2. Gifts accepted on behalf of the city and transferred to the city.
3. Reasonable travel and travel-related expenses, cost of admission, food and beverages, and entertainment furnished in connection with certain specified

**public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.**

4. **Usual and customary loans made in the ordinary course of business.**
5. **Awards, including certificates, plaques, and commemorative tokens presented in recognition of public service.**
6. **Informational, promotional, and educational items.**

**SECTION 10 [8]. Use of City Property, Equipment, and Personnel.**

- (A) No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personnel or real property for the private use of any person unless:
- (1) The use is specifically authorized by a stated policy.
  - (2) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

**SECTION 11 [9]. Representation of Interests Before City Government.**

- (A) No officer or employee of the city or any city agency shall represent any person, **group** or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.
- (B) Nothing in this section shall prohibit an employee from representing another employee or employees where representation is within the context of official labor union or similar representational responsibilities.
- (C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interest.
- (D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

**SECTION 12 [10]. Misuse of Confidential Information.** No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act [~~KRS 61.872 to 61.884,~~] at the time of its use or disclosure.

**SECTION 13. Political Solicitation.**

(A) An officer, employee, or municipal candidate may not request, or authorize anyone else to request that any subordinate, or potential future subordinate, participate, or not participate, in any political activity, including the making of a campaign contribution.

(B) An officer, employee, or municipal candidate may not engage in any political activity for the city: while on duty; or in uniform; using city funds, supplies, vehicles, or facilities, in uniform; or during any period of time during which they are normally expected to perform services for the city, for which compensation is paid.

SECTION 14. Patronage. No officer or employee may promise an appointment, or use their influence to obtain an appointment, to any position, as a reward for any political activity or contribution.

SECTION 15. Outside Employment.

(A) An officer or employee shall not accept any employment, or enter into any contracts, that result in a conflict of interest with their duties as an officer or employee of the city.

(B) An employee of the city may be self-employed, or may take occasional or part-time jobs, if, in the opinion of their supervisor and the mayor, there is no conflict with working hours, the employee's efficiency in their city work, or other interest in the city.

(C) Employees wishing to take off-duty employment shall have the written approval of their supervisor and the mayor.

(D) Employees or officers holding management-level positions shall notify the mayor prior to creating, contracting with, or being employed by any agency or business firm other than the city for the mayor's written approval.

(E) City employment shall remain the first priority, and if at any time the outside employment interferes with an employee's job requirements or performance for the city, the employee shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or his or her city employment.

SECTION 16 [H]. Post-Employment Restriction.

(A) No officer or employee of the city or any city agency shall appear or practice before the city or any city agency, or receive compensation for services rendered on behalf of any person in relation to any particular matter with respect to any matter on which the officer or employee personally worked while in the service of the city or city

agency for a period of one (1) year after termination of the officer's or employee's service with the city or city agency.

**(B) No officer or employee of the city, or any city or agency, shall make, participate in making, or use their official position to influence a decision involving the interests or a person with whom they are seeking, negotiating, or securing an agreement concerning future employment.**

**(C) No officer or employee of the city or any city agency shall disclose, or use, without appropriate authorization, any confidential information acquired in the course of their official duties.**

#### **SECTION 17 [12]. Fees and Honoraria.**

(A) No officer or employee of the city or city agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's or employee's activities outside of municipal service and is unrelated to the officer's or employee's service with the city.

(B) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or city agency and primarily for the benefit of the city agency and not primarily for the benefit of the officer or employee or any other person.

#### **SECTION 18. Endorsements.**

**(A) No officer or employee in their official capacity may publicly endorse products or services for their own personal or financial interest, or for their family member's personal or financial interest.**

**(B) However, this does not prohibit an officer or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.**

**SECTION 19. Complicity with or Knowledge of Others' Violations. No officer or employee may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an officer or employee knows, or has reasonable suspicion to believe, that someone has violated this code, they are required to report it to the ethics board pursuant to Section 37 of this ordinance.**

**SECTION 20. Falsely Impugning Reputation. An officer or employee may not falsely impugn the reputation of a city resident, employee, or another officer of the city. If**

an officer or employee believes their accusation to be true, and then learns that it was false, even in part, they should apologize in the same forum and manner where the accusations were made. A failure to apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was intentional.

SECTION 21. Meeting Attendance. All elected city officers, and members of the city boards and commissions, are expected to attend their meetings. It is a violation of this code to miss more than eight of the meetings in a 12-month period.

## SECTION 22. Social Media

(A) City officials including members of city agencies, boards and commissions can maintain a personal presence on social media. However, to be considered personal, there can be no mention of their status as a city official. Any mention of their status as a city official potentially changes the nature of the page to one for a public agency, requiring record keeping in accordance with the Kentucky Department of Library and Archives retention schedule and subjecting the entire page to Open Records requests.

(B) Elected officials who want to interact with the community on social media in their role as a city official are required to maintain a separate social media account from their personal account if they have one. City officials will notify the city clerk of any official page(s) utilized. The city clerk will maintain an updated list of official pages of city officials.

(C) City officials shall conduct themselves professionally and as a representative of the city.

(D) Elected city official pages shall clearly indicate that any content posted, or submitted for posting, is subject to public disclosure. Additionally, guidelines, if any, shall be posted conspicuously on the page.

(E) No comments shall be deleted unless in violation of posted guidelines. Deleted comments shall be provided to the city clerk and must be saved for one year.

(F) City officials shall not conduct city business through their social media sites. If receiving a specific request from a citizen, the city official shall state words to the effect of: "Thank you for your question. Please email me at (official email address) or contact me at (phone number). I look forward to speaking with you."

(G) Elected officials shall not discuss issues pending before the city council. Elected officials may seek public input but shall not respond to comments. Engaging in substantive conversations on social media could require retention of the posts and

may violate the Open Meetings Act if other elected officials are also engaging in the discussion.

(H) City employees shall be bound by any and all social media policies promulgated by the city.

#### **SECTION 23. Email.**

(A) City officials shall maintain an official email address and shall provide the email address to the city clerk. This must be separate from their personal email account.

(B) No city business shall occur through a personal email account.

(C) City officials shall retain emails according to the Kentucky Department of Library and Archives schedule for emails. City officials shall direct any record keeping questions to the city clerk.

### **FINANCIAL DISCLOSURE**

**SECTION 24 [13]. Who Must File.** The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

(A) Elected city officials.

(B) Candidates for elected city office.

(C) Assistant to the Mayor, Police Chief and Fire Chief.

(D) Members of the Board of Ethics created by this ordinance.

(E) Nonelected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than two thousand five hundred dollars (\$2,500), or whose job descriptions or whose actual duties involve:

1. The negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses;
2. The purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these; and
3. The obtaining of grants of money or loans.



**SECTION 25 ~~{14}~~. When to File Statements; Amended Statements.**

(A) The initial statement of financial interest required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4:00 p.m. March 1, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on January 1 each year, provided that:

- (1) An officer or employee newly appointed to fill an office or position of employment with the city or a city agency shall file his or her initial statement no later than thirty (30) days after the date of the appointment.
- (2) A candidate for city office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected city office.

(B) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interest for good cause shown.

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

**(D) By June 15 of each year, the Board of Ethics must review all annual financial disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has a deficient statement, or has filed a statement that reveals a possible or potential violation of this code. If the Board of Ethics determines that an annual, or transactional, disclosure statement is deficient, or reveals a possible or potential violation of this code, the Board will notify the person in writing of the deficiency, or possible or potential violation, and of the penalties for failure to comply with this code.**

**SECTION 26 ~~{15}~~. Form of the Statement of Financial Interest.**

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than December 1 of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

**SECTION 27 ~~{16}~~. Control and Maintenance of the Statement of Financial Interests.**

- (A) The Board of Ethics shall be the “official custodian” of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics, or the administrative official designated by the Board of Ethics as the “custodian,” as public documents, available for public inspection immediately upon filing.
- (B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five (5) years after filing, provided that:
- (1) Upon the expiration of three (3) years after a person ceases to be an officer or employee of the city or a city agency, the Board shall cause to be destroyed any statements filed by the person.
  - (2) Upon the expiration of three (3) years after any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

**SECTION 28 [17]. Contents of the Financial Interest Statement.**

- (A) The statement of financial interests shall include the following information for the preceding calendar year:
- (1) The name, current business address, business telephone number, and home address of the filer.
  - (2) The title of the filer’s office, office sought, or position of employment.
  - (3) The occupation of the filer and the filer’s spouse **or domestic partner**.
  - (4) Information that identifies each source of income of the filer and the filer’s immediate family members exceeding five thousand dollars (\$5,000) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.).
  - (5) The name and address of any business located within the state in which the filer or any member of the filer’s immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.
  - (6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer’s immediate family had at any time

during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.

(7) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of ten thousand (\$10,000) or more.

(8) Each source by name and address of gifts or honoraria having an aggregate fair market value of one hundred dollars (\$100) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

(9) **Each source, by name and address, of campaign contributions having an aggregate fair market value of \$100.00 or more from any single source, excluding contributions received from family members, during the preceding calendar year.**

(10) The name and address of any creditor owed more than ten thousand (\$10,000), except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or use primarily for person, family or household purposes.

(B) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources income.

**SECTION 29 [18]. Noncompliance With Filing Requirement.**

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of a debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

- (C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

## **NEPOTISM**

### **SECTION 30 ~~19~~. Nepotism Prohibited.**

- (A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) employment;
- (2) appointment;
- (3) promotion;
- (4) transfer; or
- (5) advancement

of an immediate family member to an office or position of employment with the city or a city agency in which officer or employee will have responsibility, directly or indirectly, to supervise, manage, or control the work of the immediate family member.

- (B) No officer or employee of the city or a city agency shall supervise or manage the work of an immediate family member with the exception of an immediate family member's employment preceding the election of a city officer.

- (C) No officer or employee shall participate in any action relating to the employment or discipline of an immediate family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for an immediate family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

- (D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to the effective date of this ordinance.

## **ENFORCEMENT**

### **SECTION 31 ~~20~~. Board of Ethics Created.**

- (A) There is hereby created a Board of Ethics which shall have the authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.
- (B) The Board of Ethics shall consist of three (3) members who shall be appointed by the mayor subject to the approval of the city council. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. **No member of the Board of Ethics may be or have been with the two (2) years prior to the appointment, an officer or employee, consultant, or contractor of the city; an officer in a political party or political committee; a candidate or active member of the campaign of a candidate, for any office within the Board's jurisdiction; or a lobbyist. Nor should a member, nor any member of their immediate family, have within the two (2) years prior to appointment, sought any special benefits from the city, directly or indirectly. A member of the Board of Ethics, or staff member, or a member of their immediate family, may not directly or indirectly, seek any special benefits from the city, make campaign contributions, nor participate in any way in the campaign of a candidate for any office within the ethics board's jurisdiction, or of an individual currently within the Board's jurisdiction.** The members shall service for a term of three (3) years; except that with respect to the members initially appointed, one (1) member shall be appointed for a term of one (1) year, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. No more than two (2) of the members shall be of the same political party. Each member of the Board of Ethics shall have been a resident of the city for at least three (3) years prior to the date of the appointment, be 18 years of age and not related to the mayor or any council member **or any city officer or employee** and shall reside in the city throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.
- (C) A member of the Board of Ethics may be removed by the mayor, subject to the approval of the city council for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the mayor and city council.
- (D) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the mayor, subject to the approval of the city council. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

- (E) Members of the Board of Ethics shall serve without compensation, unless otherwise approved by the legislative body, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.
- (F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.
- (G) Meetings of the Board of Ethics shall be held, as necessary, upon the call of the chairperson of the Board of Ethics at the written request of a majority of the members.  
**The Board of Ethics shall follow the Open Meetings Act for all meetings.**
- (H) The presence of two (2) or more members shall constitute a quorum and the affirmative vote of two (2) or more members shall be necessary for any official action to be taken. Any member of the Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum **by removing themselves from the meeting room for the duration of the consideration of the matter.**
- (I) Minutes shall be kept for all proceedings of the Board of Ethics, and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

**SECTION 32 {21}.** Alternative Members. The mayor with the approval of the city council may appoint two (2) alternate members of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties. An alternate member shall be appointed for a term of one (1) year. Alternate members shall meet all qualifications and be subject to all of the requirements of this ordinance that apply to regular members.

**SECTION 33 {22}.** Facilities and Staff. Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

**SECTION 34. Annual Meeting.** **The Board of Ethics will meet the third Tuesday of each January to elect a chair and vice-chair, from among its regular members, and set a plan for any obligations for the year, including any annual reports, reviews or disclosures, etc. A majority of the regular members is required for the ethics board to take any action. The chair, or a majority of the regular members, may call a meeting of the Board of Ethics.**

**SECTION 35 {23}.** Power and Duties of the Board of Ethics. The Board of Ethics shall have the following powers and duties:

- (A) To initiate on its own motion, receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.
- (B) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.
- (C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.
- (D) To refer any information concerning violations of this ordinance to the mayor, the city council, the governing body of any city agency, the county attorney or other appropriate person or body, as necessary.
- (E) To render advisory opinions to city and city agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this ordinance.
- (F) To enforce the provisions of this ordinance with regard to all officers and employees of the city and city agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.
- (G) To control and maintain all statements of financial interests that are required to be filed by this ordinance and to ensure that the statements are available for public inspection in accordance with the requirements of this ordinance and the Kentucky Open Records Act.
- (H) To prepare and submit an annual report and any recommended changes to this code to the city council and t<sup>[T]</sup>o develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the city.
- (I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provision of this ordinance or any state or federal law.
- (J) The Board of Ethics, along with the city clerk, will annually review the list of officials and employees required to file annual disclosure statements to determine whether the lists are complete and accurate.

- (K) The Board of Ethics through the city will prepare forms for financial disclosure statements and will make these forms available at the city clerk's office, and by June 15 of each year, the Board of Ethics must review all annual financial disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this code. If the Board of Ethics determines that an annual, or transactional, disclosure statement is deficient, or reveals a possible or potential violation of this code, the Board will notify the person in writing of the deficiency, or possible, or potential violation, and of the penalties for failure to comply with this code.

### **SECTION 36. Annual Reports and Annual Review of Ethics Code**

- (A) The Board of Ethics must prepare and submit an annual report to the legislative body, summarizing activities, decisions, and advisory opinions of the Board. The report may also recommend changes to the text or administration of this ethics code. The report must be submitted no later than October 31 of each year, covering to the year ended August 31, and must be filed with the city clerk and made available on the city website.
- (B) The Board of Ethics will periodically (no less than every five years) review this ethics code, the enforcement of the ethics code and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in city government, and whether they set forth clear and enforceable, common-sense standards of conduct.

### **SECTION 37 [24]. Filing and Investigation of Complaints.**

- (A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The Board shall forward within ten (10) working days to each individual officer or employee of the city or city agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.
- (B) The Board of Ethics may, on its own initiative, determine through an inquiry into informal allegations, or information provided directly to the Board, by referral, by coverage in the public news media, or otherwise that a violation of this code may exist and prepare a complaint of its own. The Board of Ethics may also



amend a complaint that has been filed with it by adding further allegations, by adding respondents involved in the same conduct, directly or indirectly and by action or inaction, or by deleting allegations that have been made against persons or entities not covered by this code, or by deleting allegations that do not appear to be supported by the facts. The Board of Ethics may also consolidate complaints where the allegations are materially related. Amended complaints must be sent to the complainant and respondent by the Board of Ethics.

- (C) Within thirty (30) days of the receipt of a proper complaint, the Board of Ethics shall conduct a preliminary inquiry concerning the allegations contained in the complaint. If a complaint is accepted pursuant to subsection (A), the Board of Ethics must conduct an investigation and, from this point on, the complainant may not withdraw their complaint, although they may request that the Board either make a finding of no probable cause or no violation. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.
- (D) The person, who is the subject of the complaint (respondent), may file with the Board of Ethics a response, in writing and signed by respondent, to the complaint within thirty (30) days after their receipt of the complaint. The response, if any, must be sent to the person filing the original complaint (complainant) by the Board of Ethics within five (5) days after its filing. Within fifteen (15) days after receipt, the complainant may also file with the Board of Ethics a response to the respondent's response, which the Board of Ethics must send to the respondent within five (5) days after its filing.
- (E) Extensions of time to any of the time limitations specified in this section may be granted by the Board of Ethics upon a vote of the majority of the members. If no meeting can be held before such time limit runs, the chair may extend the time frame until the following meeting. The Board of Ethics must give written notice of any extension(s) of time to the respondent and the complainant.
- (F) In conducting an investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The police department and all city agencies, bodies, officials, and employees are required to respond fully and truthfully to all inquiries and cooperate with all requests of the Board or its agents relating to an investigation. It is a violation of this code for any official or employee to deny access to information requested by the Board of Ethics in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.

**(G) Nothing in this section may be construed to permit the Board of Ethics to conduct an investigation of itself or any of its members or staff. If the Board of Ethics receives a complaint alleging that the Board of Ethics or any of its members, or staff has violated any provisions of this code, or any other law, the Board of Ethics must promptly transmit to the city council a copy of this complaint.**

(H) All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except:

(1) The Board may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.

(2) If the complainant or alleged violator publicly disclose the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.

(I) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all individuals against whom the complaint was filed.

(J) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute **probable cause as to** a violation, the Board shall notify the individual who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as, lack of significant economic advantages or gain by the individual, lack of economic loss to the city and its taxpayers, or lack of significant impact upon public confidence in city government issue, in writing, a confidential reprimand to the individual concerning the alleged violation and provide a copy of the confidential reprimand to the mayor and city council.

(2) Initiate a hearing to determine whether there has been a violation.

(K) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this ordinance shall be guilty of a Class A misdemeanor.

**SECTION 38 [25]. Notice of Hearings.** If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within thirty (30) days of the date the order is issued, unless the **respondent** ~~**alleged violator**~~ petitions for and the Board consents to a later date. The

order setting the matter for hearing, along with a copy of any pertinent regulations of the Board related to the hearing shall be sent to the respondent ~~{alleged-violator}~~ within twenty-four (24) hours of the time the order setting a hearing is issued.

**SECTION 39** ~~[26]~~. Hearing Procedure.

- (A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.
- (B) Prior to the commencement of the hearing, the respondent ~~{alleged-violator}~~, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in connection with the matter to be heard. The Board shall inform the respondent ~~{alleged-violator}~~, or his or her representative, of any exculpatory evidence in its possession.
- (C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.
- (D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.
- (E) All hearings of the Board of Ethics shall be public unless the members vote to go into executive session in accordance with KRS 61.810.
- (F) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.
- (G) If the Board concludes in its report that no violation of this ordinance has occurred, it shall immediately send written notice of this determination to the respondent and complainant ~~{individual who was the subject of the complaint and to the party who filed the complaint}~~.

(H) If the Board concludes in its report that in consideration of the evidence produces at the hearing there is clear and convincing proof of a violation in this ordinance, the Board **shall within fifteen (15) days** ~~{may}~~:

- (1) Issue an order requiring the **respondent** ~~{violator}~~ to cease and desist the violation.
- (2) In writing, publicly reprimand the **respondent** ~~{violator}~~ for the violations and provide a copy of the reprimand to the mayor and city council **or governing body of the city agency to which the respondent serves.**
- (3) In writing, recommend to the mayor and city council, **or governing body of the city agency,** that the **respondent** ~~{violator}~~ be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.
- (4) Issue an order requiring the **respondent** ~~{violator}~~ to pay a civil penalty of not more than \$1,000.00.
- (5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

**SECTION 40** ~~{27}~~. Appeals. Any person who is found guilty of a violation of any provision of this ordinance by the Board of Ethics may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

**SECTION 41** ~~{28}~~. Limitation of Actions. Except when the period of limitations is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

**SECTION 42** ~~{29}~~. Advisory Opinions.

- (A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by an officer or employee of the city or a city agency who is covered by this ordinance.
- (B) An advisory opinion shall be requested in writing and shall state relevant facts and ask for specific questions. ~~{The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.}~~
- (C) ~~{The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions.}~~  
All ~~{other}~~ advisory opinions shall be public documents, except that before an advisory

opinion is made public, it shall be redacted ~~{modified}~~ so that the identity of any person associated with the opinion shall not be revealed.

~~(D) [The confidentiality of an advisory opinion may be waived either:~~

~~(1) In writing by the person who requested the opinion.~~

~~(2) By the majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.]~~

(E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the Board if they had existed at the time the opinion was rendered. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion, the Board shall not be bound by the opinion.

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this ordinance for actions taken in reliance upon that opinion.

**(G) Advisory opinions will be indexed and maintained on file by the Board of Ethics and city clerk with unnecessary financial, and personal details redacted and will also be available on the city website. Officers, employees, and businesses should be notified about advisory opinions that may directly affect their conduct.**

**SECTION 43 ~~[30]~~. Reprisals Against Persons Disclosing Violations Prohibited.**

(A) No officer or employee of the city or city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the city, pr any city agency discloses information which he or she knows:

- (a) To be false or which he or she discloses with reckless disregard for its truth or falsity.
- (b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (c) Is confidential under any provisions of law.

**SECTION 44 ~~{31}~~. Penalties.**

- (A) Except when another penalty is specifically set forth in this ordinance **or by state or federal law**, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand (\$1,000), which may be recovered by the city in a civil action in the nature of a debt if the offender fails to pay the penalty within a prescribed period of time.
- (B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of a debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.
- (C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

**SECTION 45 ~~{32}~~. Severability.** If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

**SECTION 46 ~~{33}~~. Conflicting Ordinances Repealed.** All other ordinances and parts of ordinances (specifically Ordinance No. 1, Series 1984) in conflict with this ordinance are hereby repealed to the extent of the conflict.

**SECTION 47 ~~{34}~~. Effective Date.** This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

First Reading: October 17, 2022

Second Reading: November 7, 2022

Passed and Approved: November 7, 2022

Introduced by: Ms. Burton-McBroom

*Beverly Chester-Burton*

Attest: *Mitzi R. Kasitz*

**Beverly Chester-Burton, Mayor**

**Mitzi R. Kasitz, City Clerk**

<b>Council</b>	<b>Yea</b>	<b>Nay</b>
Ms. Baker	Absent	
Mr. Burrell		X
Ms. Burton-McBroom	√	
Ms. Johnson	√	
Ms. Thompson	√	
Mr. Vincent		X