

**CITY OF ST. MATTHEWS  
ORDINANCE NO. 20-07  
AN ORDINANCE REVISING CHAPTER 36  
OF THE CODE OF ORDINANCES RELATING TO ETHICS**

**WHEREAS**, the City of St. Matthews current chapter of ordinances dealing with ethics has not been updated for several years and the City asked that Kentucky League of Cities review the ethics chapter and recommend any needed changes,

**AND WHEREAS**, Kentucky League of Cities suggested several changes to update the ethics chapter to and the City Council desires to make the needed revisions to the ethics chapter,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. MATTHEWS, KENTUCKY:**

**SECTION 1:** The City of St. Matthews does hereby amend Chapter 36 of the codified ordinances as follows:

**36.01 TITLE.**

This chapter shall be known and may be cited as the "City of St. Matthews Code of Ethics".  
(Ord. 94-10, passed 11-22-94)

**36.02 FINDINGS.**

The City Council of the City of St. Matthews finds and declares that:

- (A) Public office and employment with the city are public trust;
- (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 or employee, that confidence is imperiled; and
- (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 while conducting their public duties.

(Ord. 94-10, passed 11-22-94)

**36.03 PURPOSES AND AUTHORITY.**

(A) It is the purpose of this chapter 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 chapter to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.  
(Ord. 94-10, passed 11-22-94)

#### 36.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“BOARD OF ETHICS.” The City of St Matthews Board of Ethics which is created and vested by this chapter with the responsibility of enforcing the requirements of the city’s code of ethics.

“BUSINESS.” 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.

“CANDIDATE.” any individual who seeks nomination 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.

“CITY.” The City of St. Matthews, Kentucky.

“CITY AGENCY.” Any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

“CITY BUSINESS.” Any discussion of specific city issues that go beyond general information.

“CONFIDENTIAL INFORMATION.” 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.

“CONSULTANT.” An independent contractor or 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 have access to confidential information.

“CUSTOMER or CLIENT. Any person or entity to which a person or entity has supplied goods or services during the previous 24 months, having a total value greater than one thousand dollars (\$1,000). 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 one thousand (\$1,000), but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

“DOMESTIC PARTNER.” An adult, unrelated by blood, with which an unmarried or separated officer or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

**"EMPLOYEE."** Any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the city. The term "EMPLOYEE" shall not include any contractor or subcontractor or any of their employees.

**"FAMILY-MEMBER."** A spouse, domestic partner, parent, ~~step-parent~~, child, ~~step-child~~, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

**"FINANCIAL BENEFIT."** 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 campaign contributions authorized by law.

**"FINANCIAL INTEREST."** A relationship to something that a direct or indirect financial benefit has been, will be, or might be received because of it.

**"HOUSEHOLD."** Anyone whose primary residence is in the officer's or employee's home, including nonrelatives who are not rent payers or staff.

**"IMMEDIATE FAMILY MEMBER."** A spouse, domestic partner, an unemancipated child, ~~or step-child~~, residing 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, as a dependent for tax purposes.

**"OFFICER."** Any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The Mayor.
- (2) A City Council member.
- (3) The City Clerk.
- (4) The City Treasurer.
- (5) Police Chief.
- (5) ~~The City Manager.~~
- (6) ~~The City Administrator (Administrative Officer).~~
- (7) Any person who occupies a nonelected office created under KRS 83A.080.
- (8) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.

**"OFFICIAL ACT."** Any legislative, administrative, appointive, or discretionary act of any public official or employee of the city or any agency, board, committee, or commission thereof.

**"PERSONAL BENEFIT."** Benefits other than those that are directly financially advantageous. Those 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.

**"PERSONAL INEREST."** A relationship to something such that a personal benefit has been, will be, or might be obtained by certain action of inaction with respect to it.

**"SOCIAL MEDIA"** Content created by individuals, using the internet. Examples of social media include Facebook, blogs, Instagram, RSS, YouTube, Second Life, Twitter, LinkedIn, and Flickr."

**"SUBORDINATE."** Another official or employee over whose activities an official or employee has direction, supervision, or control.

“SUBSTANTIAL DEBTOR OR CREDITOR.” Is any person or business owed more than ten thousand dollars (\$10,000), except for 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.

“TRANSACTION.” 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.

(Ord. 94-10, passed 11-22-94)

## STANDARDS OF CONDUCT

### 36.15 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, herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a 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 his or hers, or of his or her 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 his or hers, or of his or her 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 two hundred dollars (\$200) 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 officer, 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 he or she, or his or her immediate family members, 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 financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in § 36.04, 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.

(Ord. 94-10, passed 11-22-94)

#### 36.16 CONFLICTS OF INTEREST IN CONTRACTS.

(A) Pursuant to KRS 61.252, 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 division (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for the 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 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, the prohibition in division (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in division (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 division (A)(3) of this section are satisfied.

(3) The prohibition in division (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the 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 a 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 because of price, limited supply, or other specific reasons; and

(d) The finding is made 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. Additionally, a violation of this section shall be grounds for removal from office with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

(Ord. 94-10, passed 11-22-94)

### 36.17 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 (1) 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 officer are incompatible with any other public office:

1. Member of the 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 that have been defined by the court. City officer and employment positions are deemed incompatible when one office or position of employment was inherently inconsistent in function with the other 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.

### 36.18 WITHDRAWAL FROM PARTICIPATION.

(A) An officer or employee must refrain from action 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 36.15(C) above. Such an officer or employee should join the public if the withdrawal occurs at a public meeting or leave the room if it is a legally conducted closed meeting (executive session) under KRS 61.810 and KRS 61.815.

(B) Withdrawal at a meeting requires the public announcement, on the records, 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, 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, he or she should not accept the position with the City.

(D) Request to withdraw: If an officer or appointed board member is requested to withdraw from participation in a matter because he or she has a conflict of interest, by:

1. Another member;
2. A party to the current member; or
3. Anyone else who may be affected by a decision relating to this matter, the member must decide whether to withdraw on the official record. If the member decided not to withdraw, the challenging member(s) may file a complaint with the ethics board.

### **36.1719 RECEIPT OF GIFTS.**

(A) No officer or employee of the city 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 relatives.
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 governmental 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 services.
6. Informational, promotional, and educational items.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

### **36.1820 USE OF CITY PROPERTY, EQUIPMENT AND PERSONNEL.**

No officer or employee of the city shall use or permit the use of or any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

- (A) The use is specifically authorized by a stated city policy.

(B) 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.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

### 36.1921 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.

(A) No officer or employee of the city or any city agency shall represent any person 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 the 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 interests.

(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.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

### 36.2022 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.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

### 36.2123 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 no 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 he or she is normally expected to perform services for the city, for which compensation is paid.

### 36.24 PATRONAGE.

No officer or employee may promise an appointment or the use of her or her influence to obtain an appointment to any position as a reward for any political activity or contribution.

### 36.25 OUTSIDE EMPLOYMENT.

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

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

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

(D) Employees or officers holding management level position shall notify the mayor prior to creating, contracting with, or being employed by any agency or business firm other than the city for their 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.

#### 36.26 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 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 year after the 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 agency shall make, participate in making, or use his or her official position to influence a decision involving the interests of a person with whom he or she is 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 during his or her official duties.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

#### 36.22(27) HONORARIA.

(A) No officer or employee of the 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 or city agency and not primarily for the benefit of the officer or employee or any other person.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

### 36.28 ENDORSEMENTS

(A) No officer or employee in his or her official capacity may publicly endorse products or services for his or her own personal or financial interest, or for his or her 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.

### 36.29 COMPLICITY WITH OR KNOWLEDGE OF OTHER'S 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, he or she is required to report it to the Ethics Board pursuant to this ordinance.

### 36.30 FALSELY IMPUGNING REPUTATION

No officer or employee may not falsely impugn the reputation of a city resident, employee, or another officer of the city.

### 36.31 MEETING ATTENDANCE.

All elected city officers and members of city boards and commission are expected to attend their meetings. It is a violation of this code to miss more than one-third (1/3<sup>rd</sup>) of the meetings in a twelve (12) month period.

### 36.32 SOCIAL MEDIA.

(A) City officials, including members of boards, commissions, etc..., 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, 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 city officials who want to interact with the community on social media in their role as city official are required to maintain a separate account. City officials will notify the city clerk of any official pages(s) utilized. The city clerk will maintain an update 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 official shall not conduct city business through their social media sites. If receiving a specific request from a citizen, the city official shall state: "Thank you for your

question. Please email me at (official e-mail address) or contact me at (phone number). I look forward to speaking with you."

(G) City employee are bound by the city's social media policies in the City of St. Matthews Employee Handbook.

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

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

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

## FINANCIAL DISCLOSURE

### 36.35 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) Officers and employees who hold policymaking positions, including members of municipal boards, such as the Board of Ethics, boards of adjustment, code enforcement boards, economic development boards and parks and recreation boards, created by this chapter; and

(D) Nonelected officers and employees of the city or any city agency whose actual duties involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses; the purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these and the obtaining of grants of money or loans, are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$100.00.

(Ord. 94-10, passed 11-22-94)

### 36.36 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) The initial statement of financial interests 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 30 days after the effective date of this chapter. All subsequent statements of financial interest shall be filed no later than January 31 of 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 30 days after the date of the appointment; and

(2) A candidate for city office shall file his or her initial statement no later than 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 interests 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 30 days after becoming aware of the material change, file an amended statement with the Board.

(D) By June 15<sup>th</sup> of each year, the Ethics Board 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 of Ethics will notify the person in writing of the deficiency or possible violation, and of the penalties for failure to comply with this code.

(Ord. 94-10, passed 11-22-94)

### 36.37 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

(A) 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.

(B) The Ethics Board along with the city clerk will annually review the list of official and employees required to file annual disclosure statements to determine whether the lists are complete and accurate. By February 1<sup>st</sup> of each year, the Ethics Board along with the city clerk must create a list of the names and officers, or positions, of all officials and employees and others required to file annual disclosure statements pursuant to this ordinance and notify all such persons of this obligation to file an annual disclosure statement.

(C) 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 January 1 of each year.

(D) 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.

(Ord. 94-10, passed 11-22-94)

### 36.38 CONTROL AND MAINTENANCE OF THE STATEMENTS 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. Until changed by the Board of Ethics, the City Clerk is hereby named the "designated administrative official" and the "custodian" for all purposes under this chapter.

(B) A statement of financial interest shall be retained by the Board or the designated administrative official for such periods as are prescribed by the Kentucky Archives and Records Commission, or in default of such regulation, for a period of ~~three~~ two years.

1. Upon the expiration of two (2) years after a person ceases to be an officer of employee of the city of a city agency, the Board shall cause to be destroyed any statement of financial interest or copies of those statements filed by the person.
2. Upon the expiration of two (2) years after any election at which a candidate for elected city officer was not elected or nominated, the Board of Ethics shall cause to be destroyed any statements of financial interests or copies of those statement filed by the person.

(Ord. 94-10, passed 11-22-94)

### 36.39 CONTENTS OF THE FINANCIAL INTERESTS 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 \$5,000 during the preceding calendar year, and the nature of the income (e.g. salary, commission, dividends, retirement fund distribution, etc.), provided, however, the filer may list for himself/herself and the filer's immediate family, as a single item, dividends and interest on stocks and bonds listed and customarily sold or traded on national or regional stock exchanges;
- (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 \$10,000 at fair market value or 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 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 \$10,000 at fair market value or 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 \$10,000 or more;
- (8) Each source by name and address of gifts or honoraria having an aggregate fair market value of ~~\$100~~ \$200 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, and excluding gifts from sources which have not done any business with the city in the past five years and is not reasonably expected to do business with the city in the next three years;
- (9) Each source by name and address of campaign contributions having an aggregate fair market value of two hundred dollars (\$200) or more from any single source, excluding contributions received from family members, during the preceding calendar year.

~~(9)-(10)~~ The name and address of any creditor owed more than \$10,000, except debts arising from the purchase of a primary residence or the purpose of consumer goods which are bought or used primarily for personal, 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 of income, nor to require the listing under division (A)(5) or (6) of this section of stock or bond ownership of stocks and bonds listed and customarily sold or traded on national or regional stock exchanges where the company has not done business with the city for the past five years and is not reasonably expected to do business with the city in the next three years.

(Ord. 94-10, passed 11-22-94)

#### 36.40 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 division (A) of this section 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 \$25 per day, up to a maximum total civil fine of \$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 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.

(Ord. 94-10, passed 11-22-94)

#### NEPOTISM

#### 36.55 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 a family member to an office or position of employment with the city or a city agency.

(B) No officer or employee of the city or a city agency shall supervise or manage the work of a family member.

(C) No officer or employee shall participate in any action relating to the employment or discipline of a 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 a 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 September 1, 1994, nor to seasonal, temporary, or part-time employment, or where the employment relationship is approved in an open meeting by one more than a majority of the City Commission/City Council.

(Ord. 94-10, passed 11-22-94) Penalty, see § 36.99

## ENFORCEMENT

### 36.70 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 chapter to enforce the provisions of this chapter.

(B) The Board of Ethics shall consist of not less than one nor more than five members who shall be appointed by the Mayor of the city, subject to the approval of the City Council. The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter. 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. The members shall serve for a term of three years; except that when the Board consists of more than one member, appointments shall be made for one, two or three years as designated in the appointment so as to create staggered terms. All terms shall expire on December 31 of the designated year. Each member of the Board of Ethics shall have been a resident of the city for a least one year prior to the date of the appointment 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 executive authority, 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 executive authority and the City Council.

(D) Vacancies on the Board of Ethics shall be filled within 60 days by the executive authority, subject to the approval of the City Council. If a vacancy is not so filled within 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 City Council, 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. Each January the Ethics Board will meet to elect a chair and a vice-chair from among its regular members and set a plan for any obligations for the year, including any annual reports, reviews of disclosures or any training. A majority of the regular members may call a meeting of the Board. The chairperson shall be the presiding officer and a full voting member of the Board.

(G) Meeting of the Board of Ethics shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

(H) The presence of a majority of the members shall constitute a quorum and the affirmative vote of a number of members equal to a quorum 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.

(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.

(Ord. 94-10, passed 11-22-94)

#### 36.71 ALTERNATE MEMBERS.

The executive authority of the city, with the approval of the City Council may appoint two 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 year. Alternate members shall meet all qualifications and be subject to all of the requirements of this chapter that apply to regular members.

(Ord. 94-10, passed 11-22-94)

#### 36.72 FACILITIES AND STAFF.

Within the limits of the funds appropriated by the City Council 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.

(Ord. 94-10, passed 11-22-94)

#### 36.73 POWERS 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 chapter;

(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 to the extent allowed by law;

(D) To refer any information concerning violations of this chapter to the executive authority of the city, 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 chapter;

(F) To enforce the provisions of this chapter 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 chapter;

(G) To control and maintain all statements of financial interests that are required to be filed by this chapter and to insure that the statements are available for public inspection in accordance with the requirements of this chapter and the Kentucky Open Records Act;

(H) To develop and submit any reports regarding the conduct of its business that may be required by the executive authority or City Council of the city; and

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this chapter, provided that the rules, regulations, and actions are not in conflict with the provisions of this chapter or any state or federal law.

(Ord. 94-10, passed 11-22-94)

#### 36.74 FILING AND INVESTIGATION OF COMPLAINTS.

(A) All complaints alleging any violation of the provisions of this chapter 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 under oath, 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 working days from the date of receipt. The Board shall forward within ten working days to each 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 chapter.

(B) Within 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. 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.

(C) 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; and

(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.

(D) 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 chapter. 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 officers or employees against whom the complaint was filed.

(E) 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 a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as, lack of significant economic advantage or gain by the officer or employee, lack of economic loss to the city its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a reprimand to the officer or employee concerning the alleged violation and provide a copy of the reprimand to the executive authority and governing body of the city or city agency.

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

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor.

(G) The Board of Ethics may not investigate itself. If the Ethics Board receives a complaint alleging that the Board of Ethics, or any member or staff has violated any provision of this code, or any other law, the Board of Ethics must promptly transmit to the legislative body a copy of the complaint.

(Ord. 94-10, passed 11-22-94)

### 36.75 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 30 days of the date the order is issued, unless the 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 relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued.

(Ord. 94-10, passed 11-22-94)

### 36.76 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 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 alleged violator, or his or her representative, of any exculpatory evidence of 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 chapter has been proven. Within 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 chapter has occurred it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who files the complaint.

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this chapter, the Board may:

(1) Issue an order requiring the violator to cease and desist the violation.

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body of the city agency with which the violator serves.

(3) In writing, recommend to the executive authority and the governing body that the 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 violator to pay a civil penalty of not more than \$1,000.

(5) Refer evidence of criminal violations of this chapter or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

(Ord. 94-10, passed 11-22-94)

### 36.77 APPEALS.

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the Circuit Court of the county within 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.

(Ord. 94-10, passed 11-22-94)

### 36.78 LIMITATION OF ACTIONS.

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one year after the violation is discovered. (Ord. 94-10, passed 11-22-94)

### 36.79 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 any officer or employee of the city or a city agency who is covered by this chapter.

(B) An advisory opinion shall be requested in writing and shall state relevant facts and ask 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 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; or

(2) By 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 violation of this chapter for actions taken in reliance on that opinion.

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

(Ord. 94-10, passed 11-22-94)

### 36.80 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city or any city agency shall be 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 chapter.

(B) This section shall not be construed as prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(1) To be false or which he or she discloses with reckless disregard for its truth or falsity;

(2) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884; or

(3) Is confidential under any other provision of law.

(Ord. 94-10, passed 11-22-94)

### 36.99 PENALTY.

(A) Except when another penalty is specifically set forth in this chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provisions of this chapter 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 \$1,000, which may be recovered by the city in a civil action in the nature of 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 chapter, any officer or employee of the city or any agency who is found by the Board of Ethics to have violated any provision of this chapter 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 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 chapter, 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 chapter 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 chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

(Ord. 94-10, passed 11-22-94)

**SECTION 2**

This ordinance shall take effect upon enactment and publication according to law.

First Reading: Sept 8, 2020  
Second Reading: Sept 22, 2020  
Passed and Approved: Sept 22, 2020

Richard J. Tonini  
Mayor Richard J. Tonini

ATTEST:

Susan Clark  
City Clerk Susan Clark

In Favor: 7

Opposed: 0