

Ethics Policy

City of Murray, Kentucky

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GENERAL PROVISIONS**39.01 PURPOSE AND AUTHORITY**

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.

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

This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

(Ord. #94-1032, dated 9-22-94)

39.02 DEFINITIONS

As used in this chapter, unless the context clearly requires a different meaning.

- A. 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.
- B. Board of Ethics or Board-The City of Murray 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.
- C. 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.
- D. City- The City of Murray, Kentucky.
- E. City Agency-Any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this city.
- F. 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.
- G. Family Member- A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.
- H. Immediate Family Member- A spouse, an unemancipated 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.

- I. 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 Administrator;
 5. The Chief of Police;
 6. The Fire Chief;
 7. Any person who occupies a non-elected office created under KRS 83A.080, or
 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.

(Ord. #94-1032, passed 9-22-94)

STANDARDS OF CONDUCT

39.10 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 privileges or advantages for himself or 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, or
 - 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.
- 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 subsection (C) (4) and (C) (5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent that 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. This officer or employee

shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

(Ord. #94-1032, passed 9-22-94)

39.11 CONFLICTS OF INTEREST IN CONTRACTS.

- 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 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.
 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 prohibition 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 a part of the official record of the City Council or city agency before the contract is executed.
 - (c) A finding is made by the City Council 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 reason.
 - (d) The finding is made a part of the official record of the City Council 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 or employment with the city in accordance with any applicable provisions of state law and chapters, rules or regulations of the city.

(Ord. #94-1032, passed 9-22-94)

39.12 RECEIPT OF GIFTS

No officer or employee of the city or any 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.

(Ord. #94-1032, passed 9-22-94)

39.13 USE OF CITY PROPERTY, EQUIPMENT AND PERSONNEL

No officer or employee of the city shall use or permit the use of 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. #94-1045, passed 1-12-95)

39.14 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. #94-1045, passed 1-12-95)

39.15 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. #94-1032, passed 9-22-94)

39.16 POST-EMPLOYMENT RESTRICTION

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

(Ord. #94-1032, passed 9-22-94)

39.17 HONORARIA

- A. No officer or employee of the city or a 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. #94-1032, passed 9-22-94)

FINANCIAL DISCLOSURE

39.20 PERSONS 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 city elective offices;
- C. Members of the city planning and zoning commission and board of adjustment;
- D. Members of the Board of Ethics created by this chapter, and
- E. Non-elected 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 ten thousand dollars (\$10,000).

(Ord. #94-1032, passed 9-22-94)

Cross-reference:

Code of ethics for city officials and employees, see KRS 65.003

39.21 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 5:00 p.m., January 31, 1995. All subsequent statements of financial interest shall be filed no later than 5:00 p.m. on January 31 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 interests for good cause shown.

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.

(Ord. #94-1032, passed 9-22-94)

39.22 FORM OF THE STATEMENT OF FINANCIAL INTERESTS

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics or the administrative office 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 January 10 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.

(Ord. #94-1032, passed 9-22-94)

39.23 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.
- 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 of financial interests or copies of those statements filed by the person.
 2. Upon the expiration of three (3) years after the 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.

(Ord. #94-1032, passed 9-22-94)

39.24 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;
 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 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 dollars (\$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, and/or
 9. The name and address of any creditor owed more than ten thousand dollars (\$10,000), except 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.
- 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.

(Ord. #94-1032, passed 9-22-94)

39.25 NONCOMPLIANCE WITH FILING REQUIREMENTS

- 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 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 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. #94-1032, passed 9-22-94)

NEPOTISM

39.30 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 his 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 30, 1994.

(Ord. #94-1032, passed 9-22-94)

ENFORCEMENT**39.40 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 three (3) members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The initial members of the Board of Ethics shall be appointed within sixty (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 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. Thereafter, all appointments shall be 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 one (1) 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 Mayor and the 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 Mayor 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 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 member 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 or at the written request of a majority of the members.

- 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.
- 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. #94-1032, passed 9-22-94)

39.41 ALTERNATE MEMBERS

The Mayor of the city, 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 chapter that apply to regular members.

(Ord. #94-1032, passed 9-22-94)

39.42 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. #94-1032, passed 9-22-94)

39.43 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, 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.

- D. To refer any information concerning violations of this chapter 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 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, Chapter 36 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 Mayor or the City Council of the city.
- 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. #94-1032, passed 9-22-94)

39.44 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, 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 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 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. 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.
 2. If the complainant or alleged violator publicly discloses 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 and its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the Mayor and City Council or city agency.
 2. Initiate a hearing to determine whether there has been a violation.

(Ord. #94-1045, passed 1-12-95)

- 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.

(Ord. #94-1032, passed 9-22-94)

39.45 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 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 twenty-four (24) hours of the time the order setting a hearing is issued.

(Ord. #94-1032, passed 9-22-94)

39.46 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 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 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 chapter 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 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 filed 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 Mayor and City Council or city agency with which the violator serves.

3. In writing, recommend to the Mayor 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 \$1000.
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. #94-1032, passed 9-22-94)

39.47 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 thirty (30) days after the date of the final action of 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. #94-1032, passed 9-22-94)

39.48 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 (1) year after the violation is discovered.

(Ord. #94-1032, passed 9-22-94)

39.49 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 ordinance.
- 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.

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 fact 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 chapter for actions taken in reliance on that opinion.

(Ord. #94-1032, passed 9-22-94)

39.50 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED

- A. No officer or employee of the city or any 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 chapter.
- B. This section shall not be construed as:
 1. Prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses what 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 other provision of law.

(Ord. #94-1032, passed 9-22-94)

39.99 PENALTIES

- 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 provision 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 one thousand dollars (\$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 city 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 Mayor or city agency or by any other office 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 laws of the Commonwealth.

(Ord. #94-1032, passed 9-22-94)