

## CHAPTER 38: CODE OF ETHICS

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### **GENERAL REGULATIONS**

#### **§ 38.01 DEFINITIONS.**

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

**BOARD OF ETHICS.** The Joint Board of Ethics of the Cities of Meadow Vale, Rolling Hills and Westwood of Jefferson County, Kentucky which is created and vested by this chapter with the responsibility of enforcing the requirements of the cities' 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.

**CITY.** Refers respectively to the City of Meadow Vale, Rolling Hills or Westwood of Jefferson County, Kentucky.

**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 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, Boards and employees are not prohibited from disclosing the availability of those channels.

**FINANCIAL DISCLOSURE STATEMENT.** An annual statement filed on a form supplied by the City Clerk which discloses a person's personal and financial interests required to be reported under this chapter.

**FINANCIAL INTEREST.** Any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than one's duly authorized salary or compensation for services to the city) to the officer, official, or employee or to any person employing or retaining the services of the official or employee.

**IMMEDIATE FAMILY MEMBER.** A spouse, a child or step-child who is not emancipated and who resides in the officer's or employee's household, a domestic partner who is 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, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

**OFFICER, OFFICIAL OR EMPLOYEE.** Any person elected or appointed to, or employed by, any public body of the city, whether paid or unpaid and whether part-time or full-time.

**PERSONAL BENEFIT.** Includes benefits other than those that are directly financially advantageous. These include financial benefits to family members and 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 INTEREST.** Any interest arising from blood or marital relationships or from close business or political association whether or not any financial interest is involved.

**PUBLIC BODY.** Any agency, board, body, commission, committee, department, or office of the city.

**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.

**TWELVE MONTH PERIOD.** Calendar year, January through December.  
(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### § 38.02 ETHICAL DUTIES AND STANDARDS OF CONDUCT.

It shall be the duty of officers, officials, and employees to comply with Federal and state constitutional law; the statutes and administrative regulations of the federal government and the Commonwealth of Kentucky; and ordinances of the city with respect to the proper and appropriate conduct of their positions. Mindful of these laws, each officer, official, and employee shall:

- (A) Perform all mandatory, nondiscretionary, and ministerial duties of their positions within the time and manner required by law.
- (B) Devote adequate attention to one's duties and conduct any commission business with fairness, integrity, and professionalism in full regard of the public trust of the office.
- (C) All elected city officers and members of city boards and commissions are expected to attend their meetings. It is a violation of this code to miss more than three of the regular monthly meetings in a twelve-month period. Absences shall be deemed excused or unexcused by the Commission. Any absence not reported to the Mayor or Clerk prior to the start of any regular meeting shall be unexcused, with a possible exception of a dire emergency.
- (D) Accept only that amount of salary, benefits, or reimbursements for services or goods as authorized pursuant to a commission contract, ordinance, resolution, or other official city action.
- (E) Act within the confines of their lawful authority or official capacity.
- (F) Prepare and keep all commission accounts, records, certificates, reports, and other documents in an accurate and honest manner, avoiding any intentional and knowing falsification of the same.
- (G) No Board of Ethics member 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 \$200, 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.

(H) Use city property, facilities, or resources only as authorized in their official capacity, not for the personal benefit, convenience, or gain, monetary or otherwise, of themselves or any others.

(I) 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.

(J) Act in what is perceived, in their opinion, to be the best interest of all the citizens of the city, granting no special consideration or treatment to any citizen or group of citizens which is not available to all citizens.

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### § 38.03 CONFLICTS OF INTEREST.

(A) No officer, official, or employee either on his or her own behalf or any other person's, shall have any financial interest in any business or transaction in conflict with the proper discharge of the officer or employee's public duties unless he shall first make full public disclosures of the nature and extent of such interest.

(B) Whenever the performance of one's official duties shall require any officer, or official, to deliberate and vote on any matter involving one's financial or personal interest, such interest shall be publicly disclosed and the officer, or official, shall be disqualified from participating in the deliberation or voting.

(C) *Outside employment.* No officer, official, or employee shall engage in private employment with, or render services for, any private person who has business transactions with any public body unless he shall first make full public disclosure of the nature and extent of such employment or services.

(D) *Representation of interests before city government.*

(1) 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.

(2) 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.

(3) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interests.

(4) 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 office, whether directly or indirectly, in return for the inquiry.

(E) *Nepotism prohibited.*

(1) No immediate family member of any elected or appointed city officer or city employee shall be appointed to any office or hired as an employee of the city.

(2) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to June 20, 2016.

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

**§ 38.04 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 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 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 the contract performance after the contract is awarded. If the officer or employee has any of the authorities as 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 (3) below 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 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 the employee is in the best interests of the public and the city or city agency before the contract is executed.

(d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### **§ 38.05 FINANCIAL DISCLOSURE STATEMENTS.**

(A) Any officer, official, or employee who makes or participates in the making of commission-based decisions which may foreseeably have a material effect on a personal or financial interest of such person shall file an annual financial disclosure statement with the board designated by the Commission as the "Board of Ethics." Such statements shall be available for public inspection.

(B) An initial financial disclosure statement shall be filed within 30 days after the effective date of this chapter. All subsequent statements of financial interest shall be filed no later than 12:00 p.m., March 1 of each year.

(C) The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board of Ethics, 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, email or hand delivery, no later than January 30 of each year, provided that:

(1) An officer or employee newly appointed to fill an office of 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 appointment.

(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 office.

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

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

(D) The failure of the Board of Ethics, 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.

(E) The City Clerk 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 City Clerk, or the administrative official designated by the Board of Ethics as the “custodian,” as public documents, available for public inspection immediately upon filing.

(F) A statement of financial interests shall be retained by the City Clerk or the designated administrative official pursuant to the Kentucky Department of Libraries and Archives schedule as follows:

(1) Upon the expiration of two years after a person ceases to be an officer or employee of the city or a city agency, the Board of Ethics shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of two years after any election at which a candidate for elected city office was not elected or nominated, the Board of Ethics shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person. Financial disclosure statements shall contain the following information:

(a) The name, current business address, business telephone number, and home address of the filer.

(b) 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) Investments or interests within the county in real property reports where the individual fair market value of each investment or real property interest is over \$10,000 or 5% ownership interest or more. For such investments of real property interests, the statement shall contain a description of the nature of the investment is held; and the address or other precise location of the real property.

(5) Personal income reports within the state detailing the name and address of each source of income aggregating \$10,000 or more in value, or \$200 or more in value if the income was a gift and such gift creates or may create the appearance of intended influence on the performance of official duties. A general description of the business activity, if any, of each source and description of consideration, if any, for which the income was received shall also be stated. Gifts from members of the immediate family need not be reported.

(6) Business entity income reports detailing the names and addresses of all in state businesses, including sole proprietorships, in which the filer holds at least 5% ownership interest or has \$10,000 or more ownership interest, and detailing the names and address of all out-of-state businesses in which the filer has such interests and which have done business with the commission within the last three years or expect to do business with the commission in the next preceding year.

(7) The name and address of any creditor owed more than \$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.

(H) 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.

(I) Persons required to file financial disclosure statements under division (A) of this section must disqualify themselves from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any reportable interest of that person.

(J) Persons required to disqualify themselves shall notify the Board of Ethics in writing of their disqualification. The Board of Ethics shall record their disqualification. In the alternative, persons required to disqualify themselves may give notice of their disqualification at the meeting or proceeding during which consideration of the decision takes place. Such notice shall be made part of the record of the meeting or proceeding.

(K) 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 of Ethics. 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.

(L) 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) 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 of Ethics 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 of Ethics 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.

(M) 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. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )



*ENFORCEMENT AND PENALTIES***§ 38.20 BOARD OF ETHICS CREATED.**

(A) There is hereby created a Board of Ethics which shall have the authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this chapter. The Board of Ethics shall consist of seven members, three appointees for the City of Meadow Vale, two appointees for the City of Rolling Hills and two appointees for the City of Westwood.

(B) The Board of Ethics member shall be appointed by the Mayor with approval of the City Commission. The Board of Ethics member shall serve for a term of three years.

(C) The Board of Ethics member will serve until his or her successor has been appointed, in the same manner as the original appointment. Consecutive service as a Board of Ethics member may not exceed two full terms. However, once a member has not served for one full term, they may be appointed to return to the Board of Ethics.

(D) No Board of Ethics member shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. No Board of Ethics member may be, or have been within the three years prior to appointment, an officer or employee, consultant or contractor of the city; an officer in a political party or political committee; a candidate or an active member of the campaign of a candidate for any office within the city's jurisdiction; or a lobbyist. Nor should neither the Board of Ethics member or their immediate family, have, within the three years prior to appointment, sought any special benefits from the city, directly or indirectly. A Board of Ethics or staff member, or a member of his or her immediate family, may not, directly or indirectly, seek any special benefits from the city, make campaign contributions, nor participate in any way in the campaign of a candidate for any office within the city's jurisdiction, or of an individual currently within the city's jurisdiction.

(E) The Board of Ethics member shall have been a resident of the city for at least two years prior to the date of the appointment and shall reside in the city throughout the term in office. The Board of Ethics member shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs.

(F) The Board of Ethics member may be removed by the City Commission for misconduct, inability, or willful neglect of duties. Before any Board of Ethics member is removed pursuant to this section, the member shall be afforded the opportunity for a hearing before the City Commission.

(G) Vacancy of a Board of Ethics position shall be filled within 60 days by the City Commission. All vacancies shall be filled for the remainder of the unexpired term.

(H) The Board of Ethics shall serve without compensation, unless otherwise approved by the City Commission, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

(I) Ethics meetings shall be held, annually in March and as necessary, upon the call of the Board of Ethics.

(J) Meetings called by the Board of Ethics will follow special meetings requirements KRS 61.823. The Board of Ethics shall provide written notice of the special meeting. The notice shall consist of:

(1) Date;

(2) Time;

(3) Place of the special meeting;

(4) Agenda\* - discussions and action at the meeting shall be limited to items listed on the agenda in the notice.

(K) If a Board of Ethics member has a conflict of interest with respect to any matter to be considered by the Board of Ethics, he/she shall disclose the nature of the conflict to the City Commission. The City Commission will decide as to whether or not the Board of Ethics can handle the matter or if appointment of a Special Board will be appointed to handle the specific matter.

(L) Minutes shall be kept for any Board of Ethics meeting.  
(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Serifes 2019-2020, passed - - )

### **§ 38.21 POWERS AND DUTIES OF BOARD OF ETHICS.**

(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 of Ethics 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 of Ethics.

(D) To refer any information concerning violations of this ordinance to the City Commission, 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, the Board of Ethics must:

(1) Cause to be filed with the City Clerk a list of the names and offices, or positions, of all officials and employees and others required to file annual disclosure statements; and

(2) Notify all such persons of their obligation to file an annual disclosure statement.

(F) The Board of Ethics will prepare forms for complaints and for financial disclosure statements, and will make these forms available at the City Clerk's Office and on the city's website, for easy downloading.

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

## **§ 38.22 FILING AND INVESTIGATION OF COMPLAINTS.**

(A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten working days from the date of receipt. The Board of Ethics 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) The Board of Ethics may, on its own initiative, determine through an inquiry into informal allegations or information provided directly to the Board of Ethics, by referral, in the public news media, or otherwise that a violation of this code may exist, and prepare a complaint of its own. The Board of Ethics may also amend a complaint that has been filed with it by adding further allegations, by adding respondents involved in the same conduct, directly or indirectly, by action or inaction, or by deleting allegations that would not constitute a violation of this code, have been made against persons or entities not covered by this code, or do not appear to be supported by the facts. The Board of Ethics may also consolidate complaints where the allegations are materially related. Amended complaints must be sent to the complainant and respondent by the Board of Ethics.

(C) Within 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 of Ethics shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.

(D) The person who is the subject of the complaint (respondent) may file with the Board of Ethics a response to the complaint within 30 days after his or her receipt of the complaint. The response, if any, must be sent to the person filing the original complaint (complainant) by the Board of Ethics within five days after its filing. Within 15 days after receipt, the complainant may also file with the Board of Ethics a response to the respondent's response, which the Board of Ethics must send to the respondent within five days after its filing.

(E) Extensions of time to any of the time limitations specified in this section may be granted by the Board of Ethics. The Board of Ethics must give written notice of any extension(s) of time to the respondent and the complainant.

(F) 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 of Ethics, except:

(1) The Board of Ethics 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 of Ethics may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.

(G) The Board of Ethics shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this ordinance. If the Board of Ethics concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board of Ethics 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.

(H) 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 of Ethics shall notify the officer or employee who is the subject of the complaint and may initiate a hearing to determine whether there has been a violation.

(I) If a complaint is accepted or prepared pursuant to division (A), the Board of Ethics must conduct an investigation. From this point on, the complainant may not withdraw his or her complaint, although he or she may request that the Board of Ethics either make a finding of no probable cause or no violation.

(J) In conducting an investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The Police Department and all city agencies, bodies, officials, and employees are required to respond fully and truthfully to all enquiries and cooperate with all requests of the Board of Ethics or its agents relating to an investigation. It is a violation of this code for any official or employee to deny access to information requested by the Board of Ethics in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.

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

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### **§ 38.23 NOTICE OF HEARINGS.**

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board of Ethics 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 of Ethics consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the ethics ordinance relating to the hearing all be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued.

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### **§ 38.24 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 of Ethics so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the respondent, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board of Ethics in connection with the matter to be heard. The Board of Ethics shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.

(C) All testimony in a hearing shall be taken under oath, administered by the Board of Ethics. 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 of Ethics, 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 Ethics hearings shall be public, unless Board of Ethics votes 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 of Ethics shall issue a written report of its findings and conclusions.

(G) If the Board of Ethics concludes in its report that no violation of this ordinance 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 of Ethics 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 of Ethics shall within 15 days:

(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 City Commission or city agency with which the violator serves.

(3) In writing, recommend to the City Commission that the violator be sanctioned as recommended by the Board of Ethics, 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 ordinance or state laws to the County Attorney or commonwealth's attorney of the jurisdiction for prosecution.

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

**§ 38.25 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 of Ethics. The Board of Ethics shall transmit to the Clerk of the Court all evidence considered by the Board of Ethics at the public hearing.

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

**§ 38.26 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. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

**§ 38.27 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 of Ethics 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 the Board of Ethics, 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 of Ethics may vote to make public the advisory opinion request and related materials.

(E) A written advisory opinion issued by the Board of Ethics shall be binding 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 of Ethics if they had existed at the time the opinion was rendered. However, if any fact determined by the Board of Ethics to be material was omitted or misstated in the request for an opinion, the Board of Ethics shall not be bound by the opinion.

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

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### **§ 38.28 REPRISALS AGAINST PERSON DISCLOSING VIOLATIONS PROHIBITED.**

(A) No Board member, 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 Board of the city or the Commonwealth of Kentucky 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.

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

### **§ 38.99 PENALTY.**

(A) Any person, firm, or corporation convicted of violating any provision of this chapter shall be guilty of a misdemeanor, and shall be fined not less than \$50 nor more than \$500 for each offense; and/or



(B) Except when another penalty is specifically set forth in this ordinance, any Board member, officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed \$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.

(C) 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 of Ethics 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.

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

(Ord. 11, Series 2018 - 2019, passed 10-15-2018; Am. Ord. 20, Series 2019-2020, passed - - )

