

CHAPTER 38: CODE OF ETHICS

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GENERAL PROVISIONS

§ 38.01 PURPOSE; 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 elected and appointed officers and employees of the city shall be clear, consistent and uniform in their applications, and to provide city officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduction 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.

(Ord. 147, passed 12-12-94)

§38.02 TITLE

This chapter shall be known and may be cited as the “City of Muldraugh Code of Ethics”
(Ord. 147, passed 12-12-94)

§38.03 FINDINGS

The legislative body of the city finds and declares that:

(A) Public office and employment with the city are public trusts.

(B) The vitality and stability of the government of this city depend 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.

(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 that the citizenry rightfully expects them to comply with while conducting their public duties.

(Ord. 147, passed 12-12-94)

§38.04 DEFINITIONS

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

APPOINTED OFFICER: The City Clerk/Treasurer, any person appointed in a non-elected office created under KRS 83A.080, or any member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.

BOARD OF ETHICS OR BOARD: The City of Muldraugh Board of Ethics which is created and vested by this chapter with the responsibility for enforcing the requirements of the city's code of ethics.

BUSINESS: (per KRS 6.611(4)) 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 government office.

CITY: The City of Muldraugh, Kentucky

CITY AGENCY: Any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this city.

CITY COUNCIL: The governing body of the city.

COMMONWEALTH: The Commonwealth of 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 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.

COUNTY: Meade County of Kentucky

CUSTOMER or CLIENT:

- (A) Any person or entity to which a person or entity has supplied goods or services during the previous twenty-four months, having a total value greater than \$1,000., or
- (B) Any person or entity to which an officer or employee's outside employer or business has supplied good or services during the previous twenty-four

months, having a total value greater than \$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, whether paid or unpaid, who is employed by or provides service to the city; but shall not include any contractor or subcontractor or any of their employees.

ETHICS COMMISSION or COMMISSION: The city of Muldraugh Ethics Commission which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city's code of ethics.

FAMILY MEMBER: A spouse, domestic partner, parent, step=parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, daughter-in-law, grandparent, or grandchild.

IMMEDIATE FAMILY MEMBER: A spouse, domestic partner, a child or step-child who is not emancipated and who resides in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes. (KRS 6.611(20))

FINANCIAL BENEFIT: Includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

OFFICER: Any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following: Mayor, legislative body member (e.g. city council), city clerk, deputy city clerk, Police chief, Fire chief, or any other person that occupies a non-elected office created by pursuant to KRS 83A.080, a member of the governing body of the city agency who has been appointed to the governing body of the agency by the city.
(Ord. 147, passed 12-12-94) (Ordinance 335, passed 09-08-14)

STANDARDS OF CONDUCT

§38.10 CONFLICTS OF INTEREST IN GENERAL

All officers and employees of this city will comply with the following standards of conduct.

- (A) No elected official or appointed city officer or employee, or any immediate family member of any officer or employee, shall have any interest in a business or engage in any business, transactions, or activity, which is in conflict with the proper discharge of the officer's or employee's public duties.
- (B) No elected or appointed city 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 elected or appointed 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 employee; a family member; an outside employer; any business in which the officer or employee, or any family member has a financial interest; 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 elected or appointed 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) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession or other group.
- (E) Every elected or appointed officer or employee who has a prohibited financial interest which he or she 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 City Council, and the disclosure shall be entered on the official record of the proceedings of the City Council. The officer or employee shall refrain from taking any action with respect to the matter that is subject to disclosure.

(Ord. 147, passed 12-12-94)

(A) No elected or appointed officer or employee 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 city agency. However, if any contract entered into by the 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 City Council 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 that the contract within the officer or employee is in the best interests of the public and the city because of price, limited supply, or other specific reasons.
 - (d) The finding is made a part of the official record of the City Council 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 provision of state law and ordinances, and/or regulations of the city.

(Ord. 147, passed 12-12-94)

§ 38.12 RECEIPT OF GIFTS

No elected or appointed city officer or employee shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment or other article of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other article of value was given or offered for the purpose of influencing him or her, directly or indirectly, in the discharge of his or her official duties.

(Ord. 147, passed 12-12-94)

§ 38.13 USE OF CITY PROPERTY, EQUIPMENT, AND PERSONNEL

No elected or appointed 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 the Mayor.
- (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. 147, passed 12-12-94)

§ 38.14 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 that of 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 any officer or employee from representing himself or herself in matters concerning his or her own interests.
- (C) 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 article of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

(Ord. 147, passed 12-12-94)

§ 38.15 MISUSE OF CONFIDENTIAL INFORMATION

No elected or appointed city officer or employee 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 61.882.

(Ord. 147, passed 12-12-94)

§ 38.16 POLITICAL SOLICITATION

An officer, employee, or municipal candidate may not knowingly request, or authorize anyone else to request, that any coordinate or potential future subordinate participate, or not participate, in any political activity, including the making of a campaign contribution. Nor may he or she engage in any political activity while on duty for the city, with the use of 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.

(Ord. 335, passed 09-08-14)

§ 38.17 COMPLICITY WITH OR KNOWLEDGE OF OTHERS' VIOLATIONS

No officer or employee may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an officer or employee suspects that someone has violated this code, he or she is required to report it to the Ethics Commission pursuant to Section 38.42 of this ordinance.

(Ord. 335, passed 09-08-14)

§ 38.18 FALSELY IMPUGNING REPUTATION

An officer or employee may not falsely impugn the reputation of a city resident, employee or another officer of the city. If an officer or employee believes his or her accusation to be true, and then learns that it was false, even in part, he or she should apologize in the same forum the accusations were made. A failure to so apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was fully intentional.

(Ord. 335, passed 09-08-14)

§ 38.19 MEETING ATTENDANCE

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 one-third of the meetings in a twelve-month period unless there are extenuating circumstances for the absences.

(Ord. 335, passed 09-08-14)

FINANCIAL DISCLOSURE

§ 38.20 WHO MUST FILE:

The following classes of officers and employees of the city and city agencies shall file an annual statement of financial disclosure with the Board of Ethics:

- (A) Elected city officials
- (B) Candidates for elected city office
- (C) Members of the city planning and zoning commission and board of adjustment
- (D) Members of the Board of Ethics created by this chapter.
- (E) Non-elected officers and employees of the city or any city agency who are authorized to make purchases or services, or award contracts, leases or agreements involving the expenditure of more than \$100.00 per purchase

(Ord. 147, Passed 12-12-94) (Ord. 335, passed 09-08014)

§ 38.21 CONTENTS OF THE FINANCIAL DISCLOSURE STATEMENT

- (A) The name, current home address and the current business address of filer
- (B) The occupation of the filer and his or her spouse or domestic partner
- (C) The title of the filer's public office, office sought, or position of employment or appointment with the city.
- (D) Information that identifies each source of income of the filer and the filer's spouse/domestic partner exceeding five thousand dollars (\$5,000.00) during the previous calendar year, and the nature of the income(e.g. salary, commission, dividends, retirement fund distribution, etc.).
- (E) The name, address, and telephone number of any business located within the Commonwealth in which the filer or any member of his or her immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000.00) or more at market value or five percent (5%) ownership interest or more.
- (F) The location and designation of the type (commercial, residential, or rural) of all real property within the county, other than the filer's primary residence, in which the filer or any member of his or her immediate family had an interest of ten thousand dollars (\$10,000.00) or more during the previous calendar year.
- (G) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amount nor the names of individual clients, customers, businesses listed as sources of income.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§ 38.22 WHEN AND WHERE TO FILE STATEMENTS, AMMENDED STATEMENTS

- (A) The initial financial disclosure statement required by this section shall be filed with the Board of Ethics at a date specified by the Board in a written letter. All subsequent financial disclosure statements shall be filed annually with the Board of Ethics on a form prescribed by the Board no later than the 31st of August of each year. Financial Disclosure Statements may be obtained from the Board of Ethics.
- (B) Candidates, nominees, and/or appointees shall file their initial statement no later than twenty-one (21) day after the date of filing, nomination, or appointment.
- (C) In the event there is a material change in any information contained in a financial disclosure statement that has been filed with the Board, the officer or employee shall no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.
- (D) The Board of Ethics may grant a reasonable extension of time for filing a statement for good cause shown. The request for extension shall be in writing.
- (E) 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 appointment.
- (F) Financial Disclosure Statements are to be mailed or taken to Muldraugh City Hall, 202 Wendell St. Muldraugh, Ky. 40155. They should be in a sealed envelope with “ATTN: Board of Ethics” clearly visible on the front of the envelope.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§ 38.23 CONTROL AND MAINTENANCE OF THE FINANCIAL DISCLOSURE STATEMENTS

The Board of Ethics shall be the official custodian of the financial disclosure statements and shall have control over the maintenance of the statements. The Board of Ethics shall ensure the statements are maintained as public documents, available for public inspection immediately upon filing. Open record requests can be obtained from City Hall..

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§ 38.24 NONCOMPLIANCE WITH FILING REQUIREMENT

- (A) Each officer, employee, or candidate, as stated in § 38.20, is required to file a timely, complete, and accurate financial disclosure statement. Any person who does not file a statement by the due date, or files any incomplete statement, or files a statement on a form other than the one prescribed by the Board of Ethics, shall be notified by certified mail. The notice shall specify the filer’s 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 of the financial disclosure requirements set forth in the code of ethics.

- (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 prescribed in subsection (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 twenty-five dollars (\$25.00) per day, up to a maximum total fine of five-hundred dollars (\$500.00). 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. 147, passed 12-12-94)

NEPOTISM

§ 38.30 NEPOTISM PROHIBITED

- (A) No officer or employee shall advocate, recommend, or cause the employment, appointment, promotion, transfer, or advancement of a family member to a position of employment with the city.
- (B) Generally, employees' relatives will be eligible for employment with the city as long as no conflicts in supervision, safety, security or morale, or potential conflicts of interest exist. No officer or employee shall supervise or manage the work of a family member. For the purpose of this policy, "relative" includes: parent, grandparent, child, spouse, domestic partner, brother, sister, in-laws, and step relationships.
- (C) The provisions in subsection (A) of this section shall not apply to any person appointed in a city office or employed by the city prior to the effective date of this chapter.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

ENFORCEMENT

§ 38.40 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 this chapter.
- (B) The Board of Ethics shall consist of three (3) members who shall be appointed by the City Council. 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. The members shall serve a term of three (3) years. The members may be reappointed for any number of consecutive terms. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity.
- (C) A member of the Board of Ethics may be removed by action 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 City Council.
- (D) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and full voting member of the Board. Meetings of the Board shall be held, as necessary, upon the call of the chairperson or at the request of a majority or the Board members.
- (E) Members of the Board of Ethics shall serve without compensation, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.
- (F) 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.
- (G) Each member of the Ethics Commission 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.
- (H) Vacancies on the Ethics Commission shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If the vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the Commission shall fill the vacancy.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§ 38.41 POWERS AND DUTIES OF THE BOARD OF ETHICS

The Board of Ethics shall have the following powers and duties.

- (A) To 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 refer any information concerning violations of this chapter to the City Council, County Attorney, or any other appropriate person or body, as necessary.
- (C) To render advisory opinions to city officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.
- (D) To enforce the provisions of this chapter with regard to all officers and employees of the city who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.
- (E) To receive, control and maintain all financial interest statements 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.
- (F) To develop and submit any reports regarding the conduct of its business that may be required by the City Council.
- (G) 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.
- (H) To issue orders in connection with its investigations and hearing 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.
- (I) 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.

(Ord. 147, passed 12-12-94)

§ 38.41.A Annual Reports, Annual Review of Ethics Code

- (A) The Ethics Commission must prepare and submit an annual report to the legislative body, summarizing the activities, decisions, and advisory opinions of the Commission. The report may also recommend changes to the text or administration of this code. The report must be submitted no later than August 31 of each year, covering to the year ended June 30, and must be filed with the City Clerk and made available on the city website.

- (B) The Ethics Commission will periodically (not less than every five years) review this code, the enforcement of the code, and the Commission's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in city government, and whether they set forth clear and enforceable, common-sense standards of conduct.

(Ord. 335, passed 09-08-14)

§38.42 FILING, INVESTIGATION OF COMPLAINTS

- (A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board of Ethics. All complaints shall be in writing, signed by the complainant. The Board of Ethics shall acknowledge receipt of a complaint within ten (10) working days from the date of receipt. The Board shall forward within ten (10) working days to each officer or employee who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this chapter. Forms for complaints may be obtained from the Board of Ethics.
- (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 allegation 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 the City Council.

(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 shall be guilty of a Class A misdemeanor.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§ 38.43 NOTICE OF HEARINGS

If the Board of Ethics determines 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. 147, passed 12-12-94)

§ 38.44 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, and/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.

- (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 processing.
- (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 the Board 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 the 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 the City Council.
 - (3) In writing, recommend to the Mayor and the City Council 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 one thousand dollars (\$1,000.00) which may be recovered by the city in a civil action in the nature of debt, if the violator fails to pay the penalty within a period of time prescribed by the Board.
 - (5) Refer evidence of criminal violations of this chapter of state laws to the County Attorney or Commonwealth's Attorney for prosecution.

(Ord. 147, passed 12-12-94)

§38.45 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 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. 147, passed 12-12-94)

§ 38.46 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 to the Board of Ethics within one (1) year after the violation is discovered.

(Ord. 147. Passed 12-12-94)

§ 38.47 ADVISORY OPINIONS

- (A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, 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 regulation, 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 vote of the member 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 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 of that opinion.

(Ord. 147, passed 12-12-94) (Ord. 335, passed 09-08-14)

§38.48 REPRISALS

- (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 a city agency disclosed 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. 147, passed 12-12-94)

PENALTIES

§ 38.99 PENALTIES

- (A) Except when another penalty is specifically set forth in this chapter, any city officer or employee 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 (\$1,000.00), which may be recovered by the city in a civil action in the nature of debt, if the violator fails to pay the penalty within a period of time prescribed by the Board.
- (B) In addition to all other penalties which may be imposed under this chapter, any city officer or employee who is found by the Board of Ethics to have violated any provision of this chapter shall forfeit to the city an amount equal to the economic benefit or gain which the officer or employee is determined by the city in a civil action in the nature of debt, if the violator fails to pay the penalty within a period of time prescribed by the Board.
- (C) In addition to all other penalties which may be imposed under this chapter, a finding of the Board of Ethics that a city officer or employee is guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the City Council. 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. 147, passed 12-12-94)