

ORDINANCE NO. 523-1994

AN ORDINANCE OF THE CITY OF DRY RIDGE, KENTUCKY, ESTABLISHING A CODE OF ETHICS AND ETHICAL CONDUCT APPLICABLE TO THE OFFICERS AND EMPLOYEES OF THE CITY OF DRY RIDGE, KENTUCKY, AND AGENCIES OF THE CITY OF DRY RIDGE, KENTUCKY.

SECTIONS 1-2.

Set forth the title of the ordinance; and definitions of words and phrases as used in the code of ethics ordinance.

STANDARDS OF CONDUCT

SECTION 3.

Sets forth standards of conduct related to conflicts of interest in general.

SECTION 4.

Subsection (A). Sets forth standards of conduct related to conflicts of interests in contracts between officers and employees of the city and the city itself.

Subsection (B). Establishes a penalty and reads in full as follows:

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 due accordance with any applicable provisions of state law, and ordinances, rules and regulations of the city.

SECTIONS 5-9.

Set forth standards of conduct of officers and employees concerning the receipt of gifts; the receipt of honoraria; the use of city property, equipment and personnel; the representation of interests before the city government; and the misuse of confidential information.

FINANCIAL INTERESTS DISCLOSURE

SECTIONS 10-15(A).

Set forth who must file a financial interest statement; when statements and amended statements must be filed; the form of the financial interest statement and when and by who provided to the filer; the contents of the financial interest statement; and procedures for notifying those who fail to file or fail to file properly.

SECTION 15 within Subsection (B) establishes a penalty and reads in full as follows:

Any person who fails or refuses to file a statement or who fails or refuses to remedy any deficiency as to the filing identified in the notice under subsection (A), supra, within the time period established in the notice, shall be guilty of a civil offense and shall be subject to a civil fine as 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 th penalty within the prescribed period of time.

SECTION 15 within Subsection (C) establishes a penalty and reads in full as follows:

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

NEPOTISM

SECTION 16.

Sets forth provisons and guildelines concerning the employment of family members and other persons related by blood or marriage to officers and employees of the city; and provisions and guidelines concerning the supervision of and matters regarding the promotion of and compensation paid to family members and other persons related by blood or marriage to officers and employees of the city who may become employees of the city; and provisions applicable to persons who may be family members or persons related by blood or marriage to officers or employees of the city at present or before the enactment of this ordinance.

ENFORCEMENT

SECTIONS 17-20(E).

Set forth provision for the creation of the Board of Ethics; budget and funding appropriations by the city for the Board's facilities and staff; the powers and duties of the Board; filing and investigation of complaints alleging violations of the ethics ordinance by the Board, including provisional actions by the Board.

SECTION 20 within Subsection (F) establishes a penalty and reads in full as follows:

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

SECTIONS 21-24.

Set forth provisions, as to the Board of Ethics, concerning notice of hearings; hearing procedures; reports and entries of the Board's findings, conclusions and recommendations as to violations and offenders, including the alternative to refer matters, information and evidence to the offices of the county attorney or Commonwealth's attorney for possible prosecution; provisions concerning appeals of the Board's decisions; and providing a term or period to time and limitation in which action concerning alleged violations of this ordinance must be brought.

ADDITIONAL PROVISIONS

SECTION 25.

Sets forth provisions concerning taking reprisals against persons who disclose possible violations of the ethics code and this ordinance; and setting forth provisions regarding actions against persons disclosing false information or information which is confidential.

SECTION 26 establishes penalties and sanctions and reads in full as follows:

(A) Except when another penalty is specifically set forth in this ordinance, any official, officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any pro-

visions of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand 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 the prescribed period of time.

(B) In addition to all other penalties which may be imposed under this ordinance, any official, officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provisions of this ordinance, shall forfeit to the city an amount equal to the economic benefit or gain which the official, 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 ordinance, a finding by the Board of Ethics that an officer or employee of the city or 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 by any other official so having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance, shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

SECTION 27.

Sets forth a severability clause germane to and concerning the several provisions of this ordinance.

SECTION 28.

Sets forth provisions concerning and regarding the repeal of all other ordinances or parts of ordinances of the City of Dry Ridge which may be in conflict with the provisions of this ordinance.

SECTION 29.

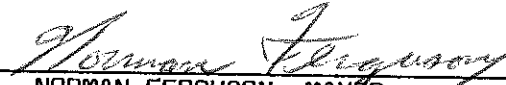
Sets forth provisions concerning and regarding the publication of this ordinance, including a provision specific that this ordinance may be duly published in summary mode or form.

SECTION 30.

Establishes an effective date for this ordinance.

The herein Ordinance, No. 523-1994, was given a First Reading on the 7th day of November, 1994.


The herein Ordinance, No. 523-1994, was given a Second Reading and duly enacted and ordained by the Dry Ridge City Council on the 23rd day of November, 1994, and duly approved and ordered published.


NORMAN FERGUSON, MAYOR

ATTEST:


CINDY L. HARRIS, CITY CLERK

IT IS HEREBY CERTIFIED that the above summary of Ordinance No. 523-1994 of the City of Dry Ridge, Kentucky, has been prepared in accordance with the requirements of KRS 83A.060(9) by the undersigned, who is an attorney licensed to practice law in the Commonwealth of Kentucky and the attorney for the City of Dry Ridge, Kentucky.


MICHAEL S. MULVEY, ESQ.
DRY RIDGE CITY ATTORNEY

ORDINANCE NO. 523-1994

AN ORDINANCE OF THE CITY OF DRY RIDGE, KENTUCKY, ESTABLISHING A CODE OF ETHICS AND ETHICAL CONDUCT APPLICABLE TO THE OFFICERS AND EMPLOYEES OF THE CITY OF DRY RIDGE, KENTUCKY, AND AGENCIES OF THE CITY OF DRY RIDGE, KENTUCKY.

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

WHEREAS, the Mayor and the City Council of the City of Dry Ridge have found and determined that public office and employment are a public trust and that government has a duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties and discharging the public trust;

WHEREAS, it is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct for city officials, officers and employees shall be clear, consistent and uniform in application, and to provide city officials, officers and employees with advice and information concerning possible conflicts of interest which might arise and are to be avoided in the conduct and discharge of their public duties; and

WHEREAS, the City Council of the City of Dry Ridge, Kentucky, is duly authorized and empowered under KRS Chapter 65, by ordinance, to establish a code of ethics governing and concerning city officials, officers and employees, and so hereby desires and intends to establish and ordain such a code of ethics together with provisions governing enforcement of same and penalties and sanctions for violations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRY RIDGE, KENTUCKY, FOR AND ON BEHALF OF THE CITY AS FOLLOWS, TO-WIT:

Section One

Title.

This ordinance shall be known and may be cited as the "City of Dry Ridge Code of Ethics".

Section Two

Definitions. As used in this ordinance, unless the context clearly requires a different meaning, the following words and terms have the following definitions or meanings:

(A) "Business" means any person, private employer, firm, corporation, partnership, general partner, limited partner, joint venture, proprietorship, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trustee, fiduciary, trust, professional service corporation, or any legal entity through which business is conducted for profit.

(B) "Board of Ethics" means the City of Dry Ridge Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirements and provisions of the city's code of ethics.

(C) "Candidate" means 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" means the City of Dry Ridge, Kentucky.

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

(F) "Employee" means 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 providing goods, materials or services to the city per contract, oral or written, duly authorized, approved and ratified by record action official and proper had by the city council and the mayor, or as may be allowed or permitted by law or statute unto the mayor alone.

(G) "Filer" means any person required by this ordinance to complete, execute and lodge timely with the City of Dry Ridge Board of Ethics such financial interest statement as hereinafter provided.

(H) "Family member" means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild of a city official, officer, employee or a candidate.

(I) "Immediate family member" means 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.

(J) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following: (1) The mayor; (2) A councilperson/legislative body member; (3) The city clerk; (4) The city treasurer; (5) The city's chief maintenance officer; (6) The chief of the city police department; (7) The chief of the city fire department; (8) Any person who occupies a nonelected office created under KRS 83A.080; and (9) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.

(K) "Financial interests statement" means that document and report of financial/pecuniary assets and interests upon the form adopted which must be periodically made, executed, acknowledged and lodged for record with the City of Dry Ridge Board of Ethics.

(L) "Rule of necessity" means that the city may make or enter into a contract with a city officer or employee, or member of his immediate family, or with a business association/entity in which such city officer or city employee or his/their immediate family member has an economic or pecuniary interest if (a) the nature of the transaction and the nature of the interest is publicly disclosed on the record prior to the time it is engaged in, and (b) a specific finding by the city's legislative body and entered within the official record of the proceedings of the city's legislative body that, notwithstanding the conflict, it is in the best interests of the city because of limited supply, price, similar factors, or because of and due to a documented emergency.

STANDARDS OF CONDUCT

Section Three

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 offic-

er 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 herein, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

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

Section Four

Conflicts of Interest in Contracts.

(A) No officer or employee of the city or 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 the 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 governing body of the city or city agency. (c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interest of the public and the city or city agency because of price, limited supply, or other specific reasons, including the finding of an emergency. (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 misde-

meanor, 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 due accordance with any applicable provisions of state law, and ordinances, rules or regulations of the city.

Section Five

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.

Section Six

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 one hundred dollars (\$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.

Section Seven

Use of City Property, Equipment, and Personnel.

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

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

(2) The use is available to the general public, and then only to the extent and upon terms that such use is available to the general public.

Section Eight

Representations 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.

Section Nine

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 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, or if such information was acquired by an officer or employee during an executive session of an official meeting of the city or any city agency, or such information was disclosed to an officer or employee of the city or any city agency at conference with the city's attorney or other legal counsel engaged by the city, city council or city agency.

FINANCIAL/INTEREST DISCLOSURE

Section Ten

Who Must File. The following classes of officers and employees of the city and city agencies and specifically enumerated city officers and employees shall file an annual statement of financial interests with the City of Dry Ridge Board of Ethics:

- (A) Elected city officials.
- (B) Candidates for elected city office.
- (C) Members of the city's board of zoning adjustments.
- (D) Members of the Board of Ethics created by this ordinance.
- (E) The Dry Ridge City Clerk/Treasurer.
- (F) The city's Chief Maintenance Officer.
- (G) The chief of the city police department.
- (H) The chief of the city fire department.
- (I) Nonelected officers and employees of the city who are authorized to make purchase of materials or services involving total expenditures of more than three hundred dollars (\$300).

Section Eleven

When to File Statement; Amended Statements.

(A) The initial statement of financial interests required by this section, shall be filed with the Board of Ethics no later than 3:00 p.m. on the second Thursday of March, 1995. All subsequent statements of financial interests shall be filed no later than 3:00 p.m. on the second Thursday of March in each subsequent calendar-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 fill his or her initial statement no later than thirty (30) day after the date of his or her 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.

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

Section Twelve

Form of Statement of Financial Interests.

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer, employee or filer required to file the statement, by first class mail or hand deliver, no later than the 15th day of December of each calendar-year. The failure of the Board, or

the designated administrative official, to deliver a copy of the form to any official, officer, employee or filer, shall not relieve the official, officer, employee or filer of the obligation to file the statement.

Section Thirteen

Control and Maintenance of the Statement of Financial Interests.

(A) The Board of Ethics shall be the "official custodian" of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics, or the administrative official designated by the Board of Ethics as the "custodian", as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five (5) years after filing, provided that:

(1) Upon the expiration of three (3) years after a person ceases to be an official, 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 any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the candidate.

Section Fourteen

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 and telephone number of the filer.

(2) The title of the filer's position, 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, 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 a five percent (5%) ownership interest therein or more.

(6) The name and address of any business located outside of this 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 a five percent (5%) ownership interest therein or more.

(7) A designation as commercial, residential or rural and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had, during the preceding calendar-year, an interest of ten thousand 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 so received from any single source, excluding gifts received from family members, so received by the filer or any member of the filer's immediate family during the preceding calendar-year.

(9) The name and the 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 and used primarily for person, family or household purposes.

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

Section Fifteen

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 on a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file a statement or who fails or refuses to remedy any deficiency as to the filing identified in the notice under subsection (A), supra, within the time period established in the notice, shall be guilty of a civil offense and shall be subject to a civil fine as 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 the prescribed period of time.

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

NEPOTISM

Section Sixteen

Nepotism Concerning Employment By the City.

(A) No relationship, by consanguinity or affinity of any degree, of a person to any elected official, officer or employee of the city, shall prevent, prohibit or be grounds alone to deny to any such person the right to make written application for employment by the city.

(B) No relationship, by consanguinity or affinity of any degree, of a person to any elected official, officer or employee of the city, shall prevent, prohibit or be grounds alone to deny to any such person the right to be considered for employment with the city and, thereafter, being employed by the city, provided that:

(1) Such person discloses on his or her written application for employment, the name and position of the city official, officer or employee to whom the applicant is related by blood or marriage and further discloses the exact nature and degree of such relationship.

(2) Such relationship, at an open, public and regular proceeding of the city, is disclosed for public and official record by both the job applicant and the city official, officer or employee to whom the applicant is related by blood or marriage, and the said city official, officer or employee, thereafter, announces for the record official, his or her potential conflict of interest, disqualification as to any matters or procedures germane to employment with or by the city, and so thereafter actually removes and withdraws his or her person from the premises, close or room wherein proceedings are conducted or ongoing, and continues such disqualification and withdrawal and removal actual in the event such proceedings concerning the related job applicant be continued to another date and time.

(C) No official, officer or employee of the city or a city agency shall advocate, recommend, cause, induce or influence the: (1) employment; (2) appointment; (3) promotion; (4) transfer; or (5) advancement of a family member, immediate family member, or any other person to whom such official, officer or employee of the city or a city agency is related to any degree by blood or marriage to an office or position of employment with the city or a city agency.

(D) No official, officer or employee of the city or a city agency, shall be prohibited from supervising or managing the work, duties and activities of a family member, immediate family member or other related person engaged or employed by the city or a city agency.

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

(F) The status, position or employment of a present employee of the city or city agency alone, shall not be affected by having a family member, immediate family member or any other person related in any degree by blood or marriage to a present employee of the city or a city agency so elected or appointed to a city office.

(G) Any prohibitions provided for in this section, shall not apply to any relationship or situation that would violate any such prohibitions, but which existed prior to the effective date of this ordinance.

ENFORCEMENT

Section Seventeen

Board of Ethics Created.

(A) There is hereby created a Board of Ethics which shall have the authorities, duties and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.

(B) The Board of Ethics shall consist of five (5) members who shall be appointed by the mayor, subject to the approval of city council. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any agency of the city. The members shall serve for a term of three (3) years, except with respect to the members initially appointed, whose term or terms, shall be as follows: one (1) member shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of two (2) years; and two (2) members 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 three (3) 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 governmental affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the mayor, subject to the approval of city council, for misconduct, inability, disability, or willful neglect of duties. Before any member of the Board of Ethics is re-

moved from office under this section, the member shall be afforded the opportunity of a hearing before the mayor and city council.

(D) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the mayor, subject to the approval of 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 city council, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. 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 three (3) or more members shall constitute a quorum and the affirmative vote of three (3) 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 duly recorded in the minutes.

Section Eighteen

Facilities and Staff.

Within the limits of the funds so appropriated by 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.

Section Nineteen

Powers and Duties of the Board of Ethics: The Board of Ethics shall have the following powers and duties:

(A) To initiate on its own motion, receive and investigate complaints, hold hearings and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.

(B) To issue orders in connection with its investigations and hearings requiring persons to submit, in writing and under oath, reports and answers to questions that are relevant to the proceedings and to order testimony to be taken, by deposition, before the designee of the Board, who has the power to administer oaths.

(C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

(D) To refer any information concerning violations of this ordinance to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other person or body, as necessary.

(E) Rendering advisory opinions to persons or any city personnel regarding whether a given set of facts and circumstances would constitute a violation of any provisions of this ordinance, shall not be a power/duty of the Board of Ethics.

(F) To enforce the provisions of this ordinance with regard to all officials, officers and employees of the city and city agencies who are subject to its terms, by issuing appropriate orders and imposing penalties so authorized by this ordinance.

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

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

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

Section Twenty

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 and 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) days from the date of receipt. The Board shall, forward within ten(10) working days, to each official, officer or employee of the city or city agency who is the subject of the complaint, a copy of the complaint and a general statement of the applicable provisions of this ordinance germane or covering the complaint or alleged violation.

(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 legal 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 disclose the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal, factual basis to constitute a violation of this ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusions to writing, and transmit a copy of its decision to the complainant and to all officials, 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 official, 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 official, 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 official, officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the city or city agency.

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

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

Section Twenty-One

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 shall be sent, along with a copy of any pertinent regulations of the Board relating to the hearing and conduct of hearings to the alleged violator within twenty-four (24) hours of the time the order setting the hearing is issued.

Section Twenty-Two

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 counsel, shall so have the 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 ordinance has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of this ordinance has occurred, it shall immediately send written notice of this determination to the official, 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 ordinance, the Board may:

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

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

(3) In writing, recommend to the executive authority and the governing body that the violator be sanctioned as recommended by the Board, which may include therein 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).

(5) Refer evidence or information of criminal violations of this ordinance or state laws to the county attorney or the Commonwealth's attorney of the jurisdiction for prosecution.

Section Twenty-Three

Appeals.

Any person who is found guilty of a violation of any provisions of this ordinance by the Board of Ethics, may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Board of Ethics by filing a petition with the circuit court against the Board. The Board shall transmit to the clerk of the circuit court all evidence considered by the Board at the public hearing and, if requested by the person perfecting an appeal, a duplicate of the record of the public hearing as made stenographically or by electromagnetic recordings, the cost of which being so payable by the person perfecting the appeal.

Section Twenty-Four

Limitation of Actions.

Except when the period of limitation is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year from the date on which such violation occurred or within one (1) year of the date when such violation should have been discovered by due diligence by a reasonable and prudent person cognizant of relevant and material facts and circumstances.

ADDITIONAL REQUIRED PROVISIONS

Section Twenty-Five

Reprisals Against Persons Disclosing Violations Prohibited.

(A) No official, 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 agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as prohibiting disciplinary or punitive action, if an officer or employee of the city or city agencies discloses information which he or she knows (a) to be false or which he or she discloses with reckless disregard for its truth or falsity; (b) to be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884; or (c) is confidential under any other provision of law.

Section Twenty-Six

Penalties.

(A) Except when another penalty is specifically set forth in this ordinance, any official, officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provisions of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand 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 the prescribed period of time.

(B) In addition to all other penalties which may be imposed under this ordinance, any official, officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provisions of this ordinance, shall forfeit to the city an amount equal to the economic benefit or gain which the official, 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 ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city, or by any other official so having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance, shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

Section Twenty-Seven

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

Section Twenty-Eight

Conflicting Ordinances Repealed. All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

Section Twenty-Nine

Mode of Publication. It is hereby provided that this ordinance, due to its length, shall be published in an allowed summary form in the prescribed manner within the newspaper local of official record.

Section Thirty

Effective Date. This ordinance shall take full force and effect the due passage of same and publication, thereafter, as required by law.

First Reading: November 7, 1994

Second Reading: November 23, 1994

PASSED, ADOPTED, APPROVED, ORDAINED AND ORDERED PUBLISHED ON THIS THE
23rd DAY OF November, 1994 .

Norman Ferguson
NORMAN FERGUSON, MAYOR

ATTEST:

Cindy L. Harris
CINDY L. HARRIS, CITY CLERK