***Under KRS 65.003 all cities shall adopt, by ordinance, a code of ethics which shall apply to all elected officials, and if desired, the appointed officials and employees of the city. Each code of ethics shall include, but may not be limited to the following requirements:***

* ***Standards of conduct;***
* ***Requirements for financial disclosure;***
* ***Nepotism policy; and***
* ***Creation of an Ethics Board for enforcement of the code.***

***The Kentucky League of Cities model code of ethics is provided only for general informational purposes and to assist Kentucky cities in identifying issues to address in a local ethics ordinance. In addition to the above required elements, we have included optional provisions that the city may choose to include. All sections highlighted are notes and should be removed before enacting the ordinance. The ordinance is not and should not be treated as legal advice. You should consult with your legal counsel before drafting or adopting any ordinance and before taking any action based on this sample.***

**KLC Model Code of Ethics (July 2021)**

City of \_\_\_\_\_\_\_\_\_\_\_\_

Ordinance No. \_\_\_\_\_\_

An ordinance establishing an ethical conduct code applicable to the officers and employees of the city and city agencies.

**COMMENT:** The requirement that city employees, as well as board and commission members, be covered under the city code of ethics is optional, but we recommend that all persons working and serving within the city be covered.

**WHEREAS**, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring the city to enact and enforce a code of ethics governing the conduct of city officers and employees; and

 **WHEREAS**, the officials of this city are committed to the operation of a city government manifesting the highest moral and ethical standards by its officers and employees and complying with all requirements of the Commonwealth’s local government ethics law.

**NOW, THEREFORE**, be it ordained by the legislative body of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Kentucky:

**SECTION 1.** Title.

This ordinance shall be known and may be cited as the “City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Kentucky Code of Ethics.”

**COMMENT SECTION 2**: The central point of an ethics code is that city officers and employees should not place or prefer, over the public interest, their own interests or the interests of their family or business associates. The general rule is: If it looks to others as if you might be giving someone special treatment, or if it would look that way to others if they knew about the relationship, then you should not act with preferential respect to that person or entity, and instead recuse yourself and withdraw from participation in the matter by following SECTION 8 below. It is important to give city residents confidence that their officers and employees are treating everyone the same, even when you, as a city officer or employee, believe that you can be totally impartial.

The findings will be specific to each city. Each city should develop findings that are important to their city. Below is an example.

**SECTION 2.** Findings.

The legislative body of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ finds and declares that:

1. Public office and employment by the city are public trusts.
2. The vitality and stability of the government of this city depends upon the public’s confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer or employee, that confidence is compromised.
3. 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 in the conduct of their public duties that the citizenry rightfully expects them to comply.

**SECTION 3.**  Purpose and Authority.

1. It is the purpose of this ordinance to provide assurance that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established, uniform in their application, and enforceable. This ordinance also provides the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.
2. It is the further purpose of this ordinance to meet the requirements of KRS 65.003.
3. This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to the requirements of KRS 65.003.

**COMMENT SECTION 4:** Definitions will be specific to each city ethics ordinance. Cities should make sure that all terms within their ethics ordinance are defined appropriately within this section.

**SECTION 4.**  Definitions.

As used in this ordinance, unless the context clearly requires a different meaning:

1. “Business” means 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.
2. “Candidate” means any individual who seeks appointment, 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 the 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.
3. “City” refers to the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Kentucky.
4. “City agency” means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this city.

(E) “City Business” any discussion of specific city issues that go beyond general information.

(F) "Confidential information" means 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](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) 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](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) are not prohibited from disclosing the availability of those channels.

(G) "Consultant" means an independent contractor, professional person, or entity engaged by the city or advising a city officer, and in a position to influence a city decision or action or having access to confidential information.

**COMMENT SECTION 4 (H):** An employee of a large corporation may not know many of the customers or clients of their employer and should not be penalized for that understandable ignorance. For that reason, the "knows or has reason to know" language is included.

(H) "Customer or client" means:

1. Any person or entity which has supplied goods or services during the previous 24 months, having a total value greater than $\_\_\_\_\_\_\_; or
2. Any person or entity to which an [officer or employee's](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) [outside employer or business](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC110) has supplied goods or services during the previous \_\_\_\_\_\_\_\_\_\_\_ months, having a total value greater than $\_\_\_\_\_\_\_\_, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

**COMMENT SECTION 4(I):** Many cities have decided to include a definition of “domestic partner” within their ordinance to include any person that is not married but in a committed relationship with a city officer or employee. This decision is based on the concept that many of the same issues that come up with blood family members or spouses are also issues for someone considered a “domestic partner.”

 (I) "Domestic partner" is an adult, unrelated by blood, with whom an unmarried or separated [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

(J) “Employee” means any person, whether full-time, part-time, seasonal, or temporary, and whether paid or unpaid, who is employed or provides service to the city. The term “employee” shall not include any contractor or subcontractor or any of their employees.

(K) “Ethics Board” means the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Ethics Board which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city’s code of ethics.

(L) “Family member” means a spouse, domestic partner, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(M) “Immediate family member” means 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 or domestic partner, as a dependent for tax purposes.

(N) "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 legal campaign contributions.

(O) "Financial interest" is a relationship to something where a direct or indirect financial benefit has been, will be, or might be received as a result of the relationship.

(P) “Household" includes anyone whose primary residence is in the [officer's or employee's](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) home, including non[relatives](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC112) who are not paying rent or staff.

**COMMENT SECTION 4(Q):** Tailor this section to fit your form of government, and the titles of those within your city. For example, a legislative body member in a mayor-council form of government would be listed as “council member” and a city without a city manager, would not list that position in the definition below.

(Q) “Officer” means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

1. Mayor;

2. Legislative Body Member *(council or commission member)*;

3. City Clerk;

4. City Manager;

5. City Administrator;

6. Police Chief;

7. Fire Chief *(other than volunteer)*;

**COMMENT SECTION 4(Q)8:** This would be any position created as a nonelected office by specific city ordinance.

8. Any other person that occupies a nonelected office created pursuant to KRS 83A.080; or

**COMMENT SECTION 4(Q)9:** This would be any position that serves on a board or commission that is created by the city. For example, a planning and zoning member.

9. A member of the governing body of any city agency who has been appointed to that agency by the city.

(R) “Official Act” means any legislative, administrative, appointive, or discretionary act of any public official or employee of the city or any agency, board, committee, or commission thereof.

(S) “Personal benefit" includes benefits other than those that are directly financially advantageous. These include [financial benefits](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC104) to immediate family members, business associates, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

(T) "Personal interest" means a relationship to something where a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.

(U) “Social media” is understood to be content created by individuals, using the internet. Examples of social media include Facebook, blogs, Instagram, RSS, YouTube, Twitter, LinkedIn, and Flickr.

(V) "Subordinate" means another [official or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) over whose activities an official or employee has direction, supervision, or control.

(W) “Substantial debtor or creditor” means any person or business owed more than $\_\_\_\_\_\_\_\_\_, except from debts arising from the purchase of a primary residence or the purchase of consumer goods, which are bought or used primarily for person, family or household purposes.

(X) “Transaction” means any matter, including but not limited to, contracts, work, or business with the city, the sale or purchase of real estate by the city, and any request for zoning amendments, variances, or special permits pending before the city, upon which a public officer or employee performs an official act or action.

**COMMENT SECTION 5**: Sometimes inaction benefits an official or their close associates; for example, when a code enforcement official fails to cite their brother for a zoning violation. That is why this subsection prohibits an official's inaction, as well as action, in certain circumstances. In such an instance, the enforcement official should ask someone else to handle the matter. Another example would include a legislative body member that remains as part of a meeting and abstains. In that instance, the legislative body member’s vote will go with the majority, which could potentially result in an affirmative vote regarding an issue that is considered a conflict.

**STANDARDS OF CONDUCT**

**SECTION 5.** Conflicts of Interest in General**.**

Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

1. 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.
2. No officer or employee shall intentionally use, or attempt to use, their official position with the city to secure unwarranted (or unsolicited) privileges or advantages for themselves or others.
3. No officer or employee shall intentionally take, or fail to take, any discretionary action, or agree to take, or fail to take, any discretionary action, or influence, or attempt to influence, any other officer or employee to take, or fail to take, any discretionary action, on any matter before the city in order to obtain a personal, or financial benefit, for any of the following:
	1. The officer or the employee.
	2. A family member.
	3. An outside employer.
	4. Any business in which the officer or employee, or any family member, has a financial interest, including, but not limited to:
		* 1. An [outside employer or business](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC110) of theirs, or of their family member, or someone who works for such outside employer or business;
			2. A [customer or client](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC102); or
			3. A substantial debtor or creditor of theirs, or of their family member.
	5. Any business with which the officer or employee or any family member is negotiating, or seeking prospective employment, or other business or professional relationship.
	6. A person or entity from whom the [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) has received an election campaign contribution of a total of more than $\_\_\_\_\_\_\_ during the past election cycle (this amount includes contributions from a person's immediate family, or business, as well as contributions from an entity's owners, directors, or officers, as well as contributions to the [officer, or employee's](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) party committee, or noncandidate political committee).

**COMMENT SECTION 5(C)7:** For example, rotary club, boy scouts, church board member.

* 1. A nongovernmental civic group, social, charitable, or religious organization of which they, or their immediate family member, is an officer or director.
1. 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 personal or financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C)(4-5) 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.
2. 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 their participation, vote, decision or other action taken within the scope of their public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure pursuant to Section 8 of this ordinance.

**COMMENT SECTION 6:** The following including the penalty is based on the statute KRS 61.252.

**SECTION 6**. Conflicts of Interests in Contracts - KRS 61.252.

1. No officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, with the following exceptions:
	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 unless the disclosures required by subpart 3 below are satisfied.
	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, or awarding, or managing the contract. If the officer or employee has any of the authorities as set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the disclosures required by 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:
		1. 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.
		2. The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.
		3. A finding is made by the governing body of the city or city agency that the contract with the officer or the employee is in the best interests of the public and the city or city agency before the contract is executed.
		4. 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.
2. 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 KRS 61.252. Additionally, violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

**COMMENT SECTION 7:** Sections 165 and 237 of the Kentucky Constitution and KRS 61.080 establish specific prohibitions against holding incompatible offices. In addition to the specific offices made incompatible by the cited laws, instances of incompatibility may also arise under the common law. *Knuckles v. Board of Education of Bell County*, 114 S.W.2d 511, 514 (Ky. 1938). KRS 61.090 provides that the acceptance of an incompatible office operates to vacate the first office. Actually, entering upon the duties of the second office constitutes "acceptance" of the office. *Adams v. Commonwealth*, 268 S.W.2d 930, 932 (Ky. 1954). See Chapter 10 of the 2021 City Officials Legal Handbook for more information on what is an incompatible office.

 **SECTION 7.** Incompatible Offices.

1. Pursuant to Section 165 of the Kentucky Constitution, no officer or employee of

 the city may also be a state officer, deputy state officer, or member of the General Assembly, or may fill more than one municipal office at the same time,

 whether in the same or a different city.

1. Pursuant to KRS 61.080, no city officer may also hold a county office. In

 addition, the statute also states that the following city and consolidated local

 government offices are incompatible with any other public office:

1. Member of the legislative body of cities of the first class;
2. Mayor and member of the legislative council of a consolidated local government; and
3. Mayor and member of the legislative body in cities of the home rule class.
4. In addition to the constitution and statutory provisions, there are common law

 incompatibilities defined by the courts. City officers and employment positions are deemed incompatible when one office or position of employment was inherently inconsistent in function with the other. This incompatibility occurs when there arises an implication that the duties and responsibilities of both cannot be performed at the same time with a necessary degree of impartiality and honesty.

1. KRS 61.090 provides that the acceptance of an incompatible office operates to

 vacate the first office.

**COMMENT SECTION 8:** In this section, "Refrain from acting on and discussing, formally or informally" means that the official should withdraw from any involvement with the matter, including conversations, appearances at meetings, or portions of meetings, concerned with the matter, and voting on the matter, except, of course, in a public referendum at the polls.

See OAG 88-35 “the rule is that a member who passes, or does not vote, acquiesces with the majority. In order to prevent the problematic circumstance, the member with the conflict should be absent either from the entire meeting or from the discussion and the vote on the issue in which he or she has the conflict.” OAG 87-38, OAG 84-299, *Pierson-Trapp Co. v. Knippenberg*, 387 S.W.2d 587; as well as OAG 82-409 “If a conflict does occur, the fire chief should not merely abstain from voting on the matter but should remove himself from the meeting while the board is considering and voting on that particular matter. One who merely abstains, or passes is considered to have voted with whichever side secures a majority on that particular issue.” See [*Payne v. Petrie, Ky*., 419 S.W.2d 761 (1967)](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1967133567&pubNum=713&originatingDoc=Ifd731f91085e11db91d9f7db97e2132f&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)).

**SECTION 8.** Withdrawal from Participation.

1. An [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) must refrain from acting on, or discussing, formally or informally, a matter before the city, if acting on the matter, or failing to act on the matter, may [personally](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC111) or [financially benefit](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC104) any of the persons, or entities, listed in Section 5(C) above. Such an officer or employee should leave the room if it is a public meeting conducted under KRS 61.810 and KRS 61.815.
2. Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.
3. Ongoing Conflict: An [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) whose outside employment, or other outside activity or relationship, can reasonably be expected to require more than sporadic withdrawal must resign, or cease such outside employment or activity. An [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) should not begin employment, or an activity, or relationship that can reasonably be expected to require more than sporadic withdrawal. If a prospective [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) is in such a situation, they should not accept the position with the city.

**COMMENT SECTION 9**: The statute on local government ethics law does not require a prohibition on gifts. However, the inclusion of a gift policy in a city's ethics code clearly advises officers and employees what is, and is not, acceptable.

Most ethics laws contain a provision prohibiting officers and employees from accepting gifts and favors. The reasons for such a restriction are obvious and need not be stated. Some ethics codes prohibit gifts above a specific value (e.g., $50, $100, etc.). The purpose of this type of threshold is to allow small gifts, the receipt of which is not likely to sway or corrupt the officer or employee. Other ethics codes prohibit all gifts of any value on the theory that such a prohibition is easier to administer and creates a better appearance. There are a few ethics codes (e.g., the Kentucky Executive Branch Ethics Code) which do not prohibit gifts at all, but rely on mandatory disclosure to control the receipt of gifts and limit the potential for undue influence. The dollar amount limitations permitted within this section should be determined by each city based upon the standards of each city.

Several examples that can be used as guidance appear below.

**SECTION 9**. Receipt of Gifts.

1. 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 $\_\_\_\_\_\_\_, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or any other form, under circumstances where 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 their public duties.
2. Certain items are typically excluded from this provision. Examples of these items

include:

* 1. Gifts received from family members.
	2. Gifts accepted on behalf of the city and transferred to the city.
	3. Reasonable travel and travel-related expenses, cost of admission, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.
	4. Usual and customary loans made in the ordinary course of business.
	5. Awards, including certificates, plaques, and commemorative tokens, presented in recognition of public service.
	6. Informational, promotional, and educational items.

**OR**

**SECTION 9**. Receipt of Gifts.

1. 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 without first notifying the city in writing of such a gift.

1. Certain items are typically excluded from this provision. Examples of these items

include:

1. Gifts received from family members.
2. Gifts accepted on behalf of the city and transferred to the city.
3. Reasonable travel and travel-related expenses, cost of admission, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.
4. Usual and customary loans made in the ordinary course of business.
5. Awards, including certificates, plaques, and commemorative tokens, presented in recognition of public service.
6. Informational, promotional, and educational items.

**OR**

**SECTION 9**. Receipt of Gifts.

1. No officer, employee, or appointee of the city shall, directly or indirectly, solicit any gift, or accept or receive any gift, having a value of $\_\_\_\_\_\_\_\_or more, whether in the form of money, service, loan, travel, entertainment, hospitality, 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, employee, or appointee in the performance of their official duties, or was intended as a reward, for any official action.
2. Certain items are typically excluded from the prohibition. Examples of these items include:
	1. Gifts received from family members.
	2. Gifts accepted on behalf of the city and transferred to the city.
	3. Reasonable travel and travel-related expenses, cost of admission, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.
	4. Usual and customary loans made in the ordinary course of business.
	5. Awards, including certificates, plaques, and commemorative tokens, presented in recognition of public service.
	6. Informational, promotional, and educational items.

**COMMENT SECTION 10:** Every city ethics ordinance should contain a complete prohibition against personal use of city equipment, personnel, funds, etc. KRS 522.050 treats this type of abuse as a felony punishable with jail time.

**SECTION 10**. Use of City Property, Equipment and Personnel.

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

**COMMENT SECTION 11:**  This section sets out the requirements for the employment of family members. The statutes do not forbid the hiring of family members, but do require that each city have a policy on the subject. This policy is something that each city needs to determine based on its particular needs. Variations of this section are listed below.

**SECTION 11**. Nepotism Prohibited.

(A) No officer or employee of the city, or a city agency, shall advocate, recommend, or cause the employment, appointment, promotion, transfer, or advancement of a family member to an office, or position of employment, with the city or a city agency.

 (B) No officer or employee of the city, or a city agency, shall supervise or manage

 the work of a family member.

1. No officer or employee shall participate in any action relating to the

employment, or discipline of a family member, except that this prohibition shall not prevent an elected or appointed officer from voting on, or participating in, the development of a budget, which includes compensation for a family member, provided that the family member is included only as a member of a class of persons, or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

 (D) The prohibitions in this section shall not apply to any relationship or situation

 that would violate the prohibition, but which existed prior to *(insert the*

 *effective date of the ordinance, if necessary)*.

**OR**

 **SECTION 11**. Nepotism Prohibited.

1. No family member of any elected or appointed city officer or city employee shall

 be appointed to any office or hired as an employee of the city.

1. The prohibitions in this section shall not apply to any relationship or situation

that would violate the prohibition, but which existed prior to *(insert the effective date of the ordinance, if necessary)*.

**OR**

**SECTION 11**. Nepotism Prohibited.

1. No family member of any elected or appointed city officer, who has any authority

to make any decision regarding the employment, appointment, promotion, transfer, discipline, or dismissal of any officer or employee at any level of city government, shall be appointed to any office or position of employment with the city.

1. The prohibitions in this section shall not apply to any relationship or situation

that would violate the prohibition, but which existed prior to *(insert the effective date of the ordinance, if necessary)*.

**COMMENT SECTION 12**: This section is included to prevent another abuse of office. The most common form of this abuse is also known as bribery or accepting money to promote another’s interest. Bribery of a public servant is specifically addressed in KRS 521.020.

**SECTION 12**. Representation of Interests Before City Government.

1. No officer or employee of the city, or any city agency, shall represent any person, group, 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 any officer or employee from representing themselves 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 thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

**COMMENT SECTION 13:** This is a relatively simple provision intended to prevent officers and employees from disclosing or using information gained in the course of performing their public duties for their own personal or financial benefit, or for the benefit of another private person. Misuse of confidential information is specifically addressed in KRS 522.040.

**SECTION 13.** 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 their official duties, if the primary purpose of the use, or disclosure, is to further their personal or financial interest, or the personal or financial interest of another person, group, or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act at the time of its use or disclosure.

**COMMENT SECTION 14**: Political solicitation of subordinates by an officer fosters the appearance of, if not actual, coercion. Candidates are barred from soliciting from appointed officials and employees who may fear reprisal, such as being fired, if they refuse to aid the candidate's campaign, even if they do not currently work under that candidate.

Note that this code does not restrict voluntary political contributions or political activity by any officer or employee.

**SECTION 14**. Political Solicitation.

1. An officer, employee, or municipal candidate may not request, or authorize, anyone else to request that any [subordinate](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC113), or potential future subordinate, participate, or not participate, in any political activity, including the making of a campaign contribution.
2. An officer, employee, or municipal candidate may not engage in any political activity for the city: while on duty; or in uniform; using city funds, supplies, vehicles, or facilities, in uniform; or during any period of time during which they are normally expected to perform services for the city, for which compensation is paid.

**COMMENT SECTION 15**: Patronage involves the most basic conflict of interest in government: the conflict between holding power and acting in the public interest. A city government based on patronage cannot have a truly ethical environment, because most of its officers and employees are there on the basis of a quid pro quo/special consideration relationship, which is inconsistent with ethical governance.

**SECTION 15**. Patronage.

No [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) may promise an appointment, or use their influence to obtain an appointment, to any position, as a reward for any political activity or contribution.

**COMMENT SECTION 16**: This, like many of the provisions, is optional. Keep in mind that outside employment not only leads to conflicts of interest, as defined in this code, but can interfere with doing one's job by affecting the officer’s or employee's time, energy, and focus. Volunteers are expected to have other jobs, and it may not be advisable to prevent low-paid employees from having evening, weekend, or holiday jobs, but many cities have rules limiting the amount and type of outside employment. Such provisions should include procedural requirements – for example: applying for formal, written permission from one's supervisor or department head (including disclosure of any officers, employees, or contractors involved) and the written acceptance of limitations on time and place of outside employment. If included, this policy should also be included in the city personnel policy.

Specifically, regarding police officers, KRS 95.015 and KRS 61.310 address outside employment restrictions. These statutes clearly authorize a police officer to obtain private employment provided that the employment is after hours and it does not interfere with their official duties as a police officer. However, OAG 81-358 and *Puckett v. Miller, Ky.*, 821 S.W.2d 791 (1992), state that a city can prevent an officer from working in an establishment that sells alcoholic beverages.

**SECTION 16.** Outside Employment.

* 1. An officer or employee shall not accept any employment, or enter into any contracts, that result in a conflict of interest with their duties as an officer or employee of the city.
	2. An employee of the city may be self-employed, or may take occasional or part-time jobs, if, in the opinion of their supervisor and the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*, there is no conflict with working hours, the employee's efficiency in their city work, or other interest of the city.
	3. Employees wishing to take off-duty employment shall have the written approval of their supervisor and the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*.
	4. Employees or officers holding management level positions shall notify the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* prior to creating, contracting with, or being employed by any agency or business firm other than the city for the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* written approval.
	5. City employment shall remain the first priority and if at any time the outside

employment interferes with an employee's job requirements or performance for the city, the employee shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or his or her city employment.

**COMMENT SECTION 17**: This issue does not typically present a problem for city governments, particularly small city governments.

**SECTION 17.**  Post-Employment Restriction.

1. No officer or employee of the city, or any city agency, shall appear before the city, or any city agency, or receive compensation for services rendered on behalf of any person in relation to any particular matter with respect to any matter on which the officer or employee personally worked while in the service of the city, or city agency, for a period of one year after the termination of the officer's or employee's service with the city, or city agency.
2. No officer or employee of the city, or any city agency, shall make, participate in making, or use their official position to influence a decision involving the interests of a person with whom they are seeking, negotiating, or securing an agreement concerning future employment.
3. No officer or employee of the city or any city agency shall disclose, or use, without appropriate authorization, any confidential information acquired in the course of their official duties.

**COMMENT SECTION 18**: Ethics codes typically address the issue of compensation for speeches, appearances, etc., in a separate provision. The receipt of this type of compensation is usually not an issue in small cities.

**SECTION 18.** Fees and Honoraria.

1. An officer or employee shall not accept any compensation, or honorarium, in consideration for an appearance, speech, or article unless the appearance, speech, or article is both related to the officer's or employee's employment or activities outside of municipal service and is unrelated to the officer's or employee's service with the city.
2. This section shall not preclude an officer or an employee from obtaining reasonable travel and travel-related expenses.

**SECTION 19**. Endorsements.

1. No [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) in their official capacity may publicly endorse products or services for their own personal or financial interest, or for their family member’s personal or financial interest.
2. However, this does not prohibit an officer or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.

**COMMENT SECTION 20**: A principal reason why ethics programs are ineffective is that officers and employees feel they can get away with unethical conduct because no one will turn them in. Instead of having a culture based on ethics, their city has a culture based on loyalty to unethical officers and/or employees. People in such a city ignore conflicts of interest because they feel protected.

###  SECTION 20. 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](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) knows, or has reasonable suspicion to believe, that someone has violated this code, they are required to report it to the Ethics Board pursuant to Section 38 of this ordinance.

**COMMENT SECTION 21**: A common way for officials to intimidate residents, employees, and other officers who speak out, and to prevent others from similarly speaking out, is to use their positions of respect to falsely attack people who lack such positions, destroying their reputation and the perceived legitimacy of their arguments, so that opposition will lessen. This misuse of office is central to undermining free debate as well as citizen oversight of executive and legislative actions.

### SECTION 21. Falsely Impugning Reputation.

### An [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) may not falsely impugn the reputation of a city resident, employee, or another officer of the city. If an [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) believes their accusation to be true, and then learns that it was false, even in part, they should apologize in the same forum and manner where the accusations were made. A failure to apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was intentional.

**COMMENT SECTION 22**: It is impossible to conduct business effectively when members do not attend meetings. Lackadaisical meeting attendance can make quorums difficult and undermine the functioning of the legislative body. If an officer, city board member, or commission member has health problems, or has ongoing scheduling problems, the responsible thing to do is resign. If circumstances change in the future, the member can ask to be appointed when the next position opens or they can run for reelection.

Failing to follow this provision would lead to the Ethics Board issuing an opinion of removal for the habitually absent member to the remainder of the elected officials. At that point, it would be advisable for the body to send a letter to the elected official advising them of the process to resign as stated under KRS 83A.040(7). If the elected official does not resign, and fails to appear for the following meeting, the elected officials must follow KRS 83A.040(9) to remove under the neglect of office provision, or even the incapacity provision, if illness is the reason for failing to attend.

 **SECTION 22**. 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 \_\_\_\_\_\_ of the meetings in a 12 month period.

**COMMENT SECTION 23**: Once a city official identifies themselves as a city official on a social media account, their page is likely an “official” page subject to any and all record keeping requirements of the Kentucky Department of Library and Archives. If a city official is going to maintain an official page, they need to understand the requirements of the KDLA retention schedules.

 **SECTION 23**. Social Media.

1. City officials [*including members of boards, commissions, etc.*] can maintain a personal presence on social media. However, to be considered personal, there can be no mention of their status as a city official. Any mention of their status as a city official potentially changes the nature of the page to one for a public agency, requiring record keeping in accordance with the Kentucky Department of Library and Archives retention schedule and subjecting the entire page to Open Records requests.
2. Elected city officials who want to interact with the community on social media in their role as a city official are required to maintain a separate social media account from their personal account, if they have one. City officials will notify the city clerk of any official page(s) utilized. The city clerk will maintain an updated list of official pages of city officials.
3. City officials shall conduct themselves professionally and as a representative of the city.

**COMMENT SECTION 23(D)**: An example of appropriate guidelines to be posted:

In regard to comments placed on the social media site, the following guidelines are in force:

1. As a public entity the city must abide by certain standards to serve all its constituents in a civil and unbiased manner.
2. The city’s social media sites prohibit the posting of content and/or comments containing any of the following:
3. Comments not topically related to the particular site or blog article being commented upon;
4. Profane language or content;
5. Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
6. Sexual content or links to sexual content;
7. Advertisements, solicitations, phishing;
8. Conduct or encouragement of illegal activity;
9. Information that may tend to compromise the safety or security of the public;
10. Campaign ads or related content advocating for or against a candidate for office;
11. Comments unrelated to a topic or post as well as multiple off-topic posts or spam by a single person; or
12. Content that violates a legal ownership interest of any other party.

The city reserves the right to deny access to city’s social media sites for any individual who violates the City’s Social Media Policy, at any time and without prior notice.

1. Elected city official pages shall clearly indicate that any content posted, or submitted for posting, is subject to public disclosure. Additionally, guidelines, if any, shall be posted conspicuously on the page. [*Alternative language: “Additionally, the following guidelines shall be posted conspicuously on the page” followed by required guidelines*]
2. No comments shall be deleted unless in violation of posted guidelines. Deleted comments shall be provided to the city clerk and must be saved for one year.
3. City officials shall not conduct city business through their social media sites. If receiving a specific request from a citizen, the city official shall state words to the effect of: “Thank you for your question. Please email me at [official email address] or contact me at [phone number]. I look forward to speaking with you.”
4. Elected officials shall not discuss issues pending before the [council/commission]. Elected officials may seek public input but shall not respond to comments. Engaging in substantive conversations on social media could require retention of the posts and may violate the Open Meetings Act if other elected officials are also engaging in the discussion.
5. City employees are bound by the city’s social media policies in the City of \_\_\_\_\_\_\_\_\_\_\_\_ Employee Handbook.

**SECTION 24**. Email.

1. City officials shall maintain an official email address and shall provide the email address to the city clerk. This must be separate from their personal email account.
2. No city business shall occur through a personal email account.
3. City officials shall retain emails according to the Kentucky Department of Library and Archives schedule for emails. City officials shall direct any record keeping questions to the city clerk.

**FINANCIAL DISCLOSURE**

**COMMENT SECTIONS 25-30:** Annual financial disclosure reveals potential conflicts of interest before they arise and thus alerts the officer - and the citizenry - to those potential conflicts. Annual disclosure identifies potential ethical pitfalls, which the official can then take steps to avoid.

Financial disclosure must be as comprehensive as possible to effectively reveal any potential conflicts of interest to the public. But disclosure requirements must also balance the rights of the officer against the public disclosure necessary to guard against conflicts of interest. Since the objective of disclosure is not to determine a person's net worth, categories of value usually are sufficient to determine potential conflicts while avoiding being unnecessarily intrusive.

The financial disclosure requirement will likely be the most controversial element of the city's ethics code and, consequently, the most difficult to construct.

**COMMENT SECTION 25**: The recommendation that financial disclosure requirements should be applied to members of planning and zoning commissions and boards of adjustment can be controversial, since these persons are strictly "volunteer" officials in the overwhelming majority of Kentucky cities. However, the decisions made by these types of board members, as well as some other city boards and commissions, can have a major impact on property and business values and therefore the potential for conflict of interest is great. The bottom line, however, is that KRS 65.003 leaves the decision whether or not to apply financial disclosure requirements to any nonelected (appointed) officers or employees to each city, while requiring disclosure by elected officials and candidates for elected city office. Tailor section (A)3. to coincide with the boards and commissions that you currently have in your city.

**SECTION 25**. Who Must File.

1. The following classes of officers and employees of the city, and city agencies,

 shall file an annual statement of financial interests with the Ethics Board:

1. Elected city officers.
2. Candidates for elected office.
3. [Officers and employees](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) who hold policymaking positions, including members of municipal boards, such as ethics boards, planning and zoning boards, boards of adjustment, code enforcement boards, economic development boards, and parks and recreation boards.
4. Officers or employees whose job descriptions or whose actual duties involve:
5. The negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses;
6. The purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these; and
7. The obtaining of grants of money or loans.

**COMMENT SECTIONS 26 AND 27**: The ethics ordinance should include filing procedures for the financial disclosure statements. Statements should be filed annually on a form developed by the Ethics Board, or by regulations promulgated by the enforcement agent, no later than the date specified by the ordinance, with a provision for an extension of the deadline for good cause shown. Candidates for elected city office should be required to file within a specified period after the filing date or the date of nomination. New officers and employees should be required to file their initial statements within a specific period after the date of appointment or employment. Also consider a date for the Ethics Board to review to be certain all forms have been received and filled out properly (See section (D) below).

**SECTION 26**. When to File Statements and Amended Statements.

1. The initial statement of financial interests required by this section shall be filed

with the Ethics Board, or the administrative official designated as the custodian of its records by the Ethics Board, no later than \_\_\_\_\_ p.m. \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_. All subsequent statements of financial interest shall be filed no later than \_\_\_\_\_ p.m. \_\_\_\_\_\_\_\_\_\_\_\_\_ each year, provided that:

* 1. An officer or employee newly appointed to fill an office or position of employment with the city, or a city agency, shall file their initial statement no later than 30 days after the date of the appointment.
	2. A candidate for city office shall file their initial statement no later than 30 days after the date on which the person becomes a candidate for elected office.
1. The Ethics Board may grant a reasonable extension of time for filing a statement

of financial interests for good cause shown.

1. In the event there is a material change in any information contained in a financial

statement that has been filed with the Ethics Board, the officer or employee shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Ethics Board.

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

**COMMENT SECTION 27**: For examples of Financial Disclosure Forms contact the KLC Municipal Law Department.

**SECTION 27.** Form of the Statement of Financial Interests.

1. The statement of financial interests shall be filed on a form prescribed by the Ethics Board, or the administrative official designated by the Ethics Board.
2. The Ethics Board, along with the city clerk, will annually review the list of [officials and employees](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) required to file annual disclosure statements, to determine whether the lists are complete and accurate. Within 90 days after it has been formed, and by February 1 each year thereafter, the Ethics Board, along with the city clerk, must create a list of the names and offices, or positions, of all officials and employees and others required to file annual disclosure statements pursuant to Section 25 (*this should correspond to the “Who Must File” section)* of this code; and notify all such persons of their obligation to file an annual disclosure statement.
3. The Ethics Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail, email, or hand delivery, no later than \_\_\_\_\_\_\_\_\_\_\_\_\_ of each year.
4. The failure of the Ethics Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

**COMMENT SECTION 28**: KRS 65.003 requires the annual financial disclosure statements to be filed "with the person or group responsible for enforcement of the code of ethics." This should not, however, prevent the statements from being filed with and maintained by the city clerk, so long as the enforcement agent has full access to and ultimate control over the statements. The enforcement agent should, however, be designated the "official custodian" of the records for Kentucky Open Records Act purposes.

**SECTION 28.** Control and Maintenance of the Statements of Financial Interests.

(A) The Ethics Board *(change to city clerk if the city clerk is designated as the official custodian of these records)* 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 Ethics Board, or the administrative official designated by the Ethics Board as the “custodian” of public documents and be available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Ethics Board, or the designated administrative official, pursuant to the Kentucky Department of Libraries and Archives schedule as follows:

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

**COMMENT SECTION 29**: The financial disclosure requirement should be narrowly drawn to require disclosure only of information necessary to determine whether there is a real potential for conflict. Nothing in the example below requires the disclosure of specific dollar amounts or the names of individual clients or customers of businesses listed as sources of income. In addition, the amounts listed below are examples of what can be required.

**SECTION 29**. Contents of the Financial Interests Statement.

(A) The statement of financial interests shall include the following information for the preceding calendar year:

1. The name, current business address, business telephone number, and home address of the filer.
2. The title of the filer's office, office sought, or position of employment.
3. The occupation of the filer and the occupation of the filer's spouse or domestic partner.
4. Information that identifies each source of income of the filer and the filer’s immediate family members exceeding $\_\_\_\_\_\_\_\_\_\_\_ during the preceding calendar year, and the nature of the income (e.g. salary, commission, dividends, retirement fund distribution, etc.).
5. The name and address of any business located within the state in which the filer, or any member of the filer’s immediate family, had at any time during the preceding calendar year an interest of $\_\_\_\_\_\_\_\_\_\_ at fair market value or \_\_\_\_% ownership interest or more.
6. The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three years, or which is anticipated to engage in any business transactions with the city, in which the filer, or any member of the filer's immediate family, had at any time during the preceding calendar year an interest of $\_\_\_\_\_\_\_\_\_\_\_ at fair market value or \_\_\_\_\_% ownership interest or more.
7. A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer, or any member of the filer's immediate family, had during the preceding calendar year an interest of $\_\_\_\_\_\_\_\_\_\_\_\_ or more.
8. Each source, by name and address, of gifts or honoraria having an aggregate fair market value of $\_\_\_\_\_\_\_\_\_\_\_\_ or more from any single source, excluding gifts received from family members, received by the filer, or any member of the filer's immediate family, during the preceding calendar year.
9. Each source, by name and address, of campaign contributions having an aggregate fair market value of $\_\_\_\_\_\_\_\_\_ or more from any single source, excluding contributions received from family members, during the preceding calendar year.
10. The name and address of any substantial debtor or creditor owed more than $\_\_\_\_\_\_\_\_\_\_\_\_\_\_, excluding debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for person, family, or household purposes.

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

**SECTION 30**. Noncompliance with Filing Requirement.

1. The Ethics Board, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Ethics 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.
2. Any person who fails, or refuses, to file the statement, or who fails, or refuses, to remedy a deficiency in the filing identified in the notice under subsection (A) within the time established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Ethics Board in an amount not to exceed $25 per day, up to a maximum civil fine of $500. Any civil fine imposed by the Ethics 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.
3. Any person who intentionally files a statement of financial interests which they know to contain false information, or intentionally omits required information, shall be guilty of a Class A misdemeanor.

**ENFORCEMENT**

**COMMENT SECTION 31**: Five is not a magic number for an Ethics Board. In large cities, if there is a lot of activity, it would be best to have a larger number of members, and then allow five-member panels for proceedings, and three-member panels for advisory opinions, purely as an example. When there is little activity, it is often difficult to get a quorum at ethics board meetings, so it is best to keep the number of members low.

In addition, smaller cities may choose to form joint ethics boards through an interlocal agreement. Since, in smaller cities, many politically active residents have personal biases and relationships with those most likely to be brought before an ethics board - a joint ethics board can provide a truly neutral, independent solution. The decisions of a regional ethics board will demand more respect and make people more certain that ethical matters are not being decided based on local loyalties and biases. Note that under KRS 65.003(2), if the city enters into an interlocal agreement with other cities, or the county, they must all share the same ethics ordinance. In addition, the requirements of the Interlocal Cooperation Act (KRS 65.210-65.300 would apply.

**SECTION 31.** Ethics Board Created.

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

**COMMENT SECTION 31(B) and (C)**: Under KRS 65.003 there are no requirements as to who makes the appointments to the Ethics Board, so keep in mind that the process set out below is an example of how that could occur.

Also note that it is a good idea that the terms of office of Ethics Board members should be staggered, to provide continuity in the work and philosophy of the Ethics Board. Cities may wish to increase, or decrease, the length of the term of office, or establish a different year of service than the calendar year. However, terms of office should be sufficiently long to ensure that the members acquire expertise, but not so long as to discourage people from serving on the Ethics Board. In addition, Ethics Board members should not be allowed to become entrenched on the Ethics Board; the model code therefore contains a term limitation. However, the model does provide that interested and experienced members may return to the Ethics Board after a term off.

1. The Ethics Board shall consist of \_\_\_\_\_\_ members who shall be appointed by the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city, subject to the approval of the legislative body *(if different from the executive authority, as in the mayor/council form of government).* The initial members of the Ethics Board shall be appointed within \_\_\_\_\_ days of the effective date of this ordinance. The members shall serve for a term of \_\_\_\_ years; except that with respect to the members initially appointed, \_\_\_\_ member(s) shall be appointed for a term of \_\_\_\_ year, \_\_\_\_ member(s) shall be appointed for a term of \_\_\_\_ years, and \_\_\_ member(s) shall be appointed for a term of \_\_\_ years. Thereafter, all appointments shall be for a term of \_\_\_ years.
2. An Ethics Board member will serve until their successor has been appointed, in the same manner as the original appointment.

**COMMENT SECTION 31(D)**: The example restriction on the political make-up of the Ethics Board aims to strengthen both the perception, and the reality, of a Ethics Board that is nonpartisan. Ethics Boards must not become political footballs, because this will undermine trust in them, and deter people from filing complaints or seeking advisory opinions, and from having faith in the Ethics Board’s determinations.

1. No member of the Ethics Board shall hold any elected, or appointed, office, whether paid or unpaid, or any position of employment with the city, or any city agency. No member of the Ethics Board may be, or have been within the \_\_\_ years prior to appointment, an [officer or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109), consultant, or contractor of the city; an officer in a political party or political committee; a candidate, or an active member of the campaign of a candidate, for any office within the Ethics Board’s jurisdiction; or a lobbyist. Nor should a member, nor any member of their immediate family, have, within the \_\_\_\_ years prior to appointment, sought any special benefits from the city, directly or indirectly. An Ethics Board member, or staff member, or a member of their immediate family, may not, directly or indirectly, seek any special benefits from the city, make campaign contributions, nor participate in any way in the campaign of a candidate for any office within the Ethics Board’s jurisdiction, or of an individual currently within the Ethics Board's jurisdiction.
2. Each member of the Ethics Board shall have been a resident of the city for at least one year prior to the date of the appointment and shall reside in the city throughout the term in office and shall not be a family member of a city employee or officer. The members of the Ethics Board shall be chosen by their known and consistent reputation for integrity and their knowledge of local government affairs.

**COMMENT SECTION 31(F)**: Under KRS 65.003 there are no requirements as to how removals from the Ethics Board should occur, so keep in mind that the process set out below is an example only.

1. A member of the Ethics Board may be removed by the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*, subject to the approval of the legislative body *(if different from the executive authority, as in the mayor/council form of government)* for misconduct, incapacity, or willful neglect of duties. Before any member of the Ethics Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body *(if different from the executive authority, as in the mayor/council form of government).*

**COMMENT SECTION 31(G)**: Under KRS 65.003, as with initial appointments, there are no requirements as to who fills vacancies, or how they fill those vacancies on the Ethics Board, so keep in mind that the process set out in below is an example of how that could occur, but that it should mirror the process in (B) above.

1. Vacancies on the Ethics Board shall be filled within \_\_\_\_\_ days by the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*, subject to the approval of the legislative body *(if different from the executive authority, as in the mayor/council form of government).* If a vacancy is not filled by the executive authority within \_\_\_\_\_ days, the remaining members of the Ethics Board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

**COMMENT SECTION 31(H)**: There is no requirement to compensate Ethics Board members, but if it is something that the city can afford, a per diem (or per meeting) compensation schedule can be created.

1. Members of the Ethics Board shall serve without compensation, unless otherwise approved by the legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.
2. The Ethics Board shall elect a chairperson from among the membership annually at the January meeting, which shall occur on the third Tuesday of January each year *(or whatever date works for the city – or no date at all*). The chairperson shall be the presiding officer and a full voting member of the Ethics Board.
3. In addition to the Annual Meeting on the third Tuesday in January *(or whatever date works for the city – or no date at all*), meetings of the Ethics Board shall be held, as necessary, upon the call of the chairperson, or at the written request of a majority of the members. The Ethics Board shall follow the Open Meetings Act for all meetings.

**COMMENT SECTION 31(K)**: Or if the city has a three-person Ethics Board, a quorum would be two members (a quorum is one more than half of the members).

1. The presence of \_\_\_\_\_\_\_ or more members shall constitute a quorum and the affirmative vote of \_\_\_\_\_\_ or more members shall be necessary for any official action to be taken. Any member of the Ethics Board who has a conflict of interest with respect to any matter to be considered by the Ethics Board shall disclose the nature of the conflict, shall disqualify themselves from voting on the matter, and shall not be counted for purposes of establishing a quorum by removing themselves from the meeting room for the duration of the consideration of the matter.
2. Minutes shall be kept for all proceedings of the Ethics Board and the vote of each member on any issue decided by the Ethics Board shall be recorded in the minutes.

**SECTION 32.**  Alternate Members (OPTIONAL).

The executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city, with the approval of the legislative body *(if different from the executive authority, as in the mayor/council form of government)* may appoint \_\_\_\_ alternate members of the Ethics Board, who may be called upon to serve when any regular member of the Ethics Board is unable to discharge his or her duties. An alternate member shall be appointed for a term of \_\_\_\_ year(s). Alternate members shall meet all qualifications and be subject to all of the requirements of this ordinance that apply to regular members.

**SECTION 33.** Facilities and Staff.

Within the limits of the funds appropriated by the legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* in the annual budget, the city shall provide the Ethics Board, with the facilities, materials, supplies, and staff needed for the conduct of its business.

**COMMENT SECTION 34**: Including a specific date for the annual meeting allows the meeting to occur as a regular meeting and not a special meeting pursuant to the Open Records Act.

**SECTION 34.** Annual Meeting.

The Ethics Board will meet the third Tuesday of each January to elect a chair and a vice-chair, from among its regular members, and set a plan for any obligations for the year, including any annual reports, reviews of disclosures, etc. A majority of the regular members is required for the Ethics Board to take any action. The chair, or a majority of the regular members, may call a meeting of the Ethics Board.

**SECTION 35.**  Power and Duties of the Ethics Board.

1. The Ethics Board shall have the following powers and duties:
2. To initiate on its own motion a complaint, receive a complaint from outside of the Ethics Board, and investigate those complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.
3. To issue orders in connection with its investigations and hearings requiring persons to submit in writing, and under oath, reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Ethics Board who has the power to administer oaths.
4. 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 Ethics Board.
5. To refer any information concerning violations of this ordinance to the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city, the city legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*, the governing body of any city agency, the county attorney, or other appropriate person(s), body, or bodies, as necessary.

**COMMENT SECTION 35(A)5.**: Only include if the Ethics Board does this. See Section 43 Below on Advisory Opinions.

1. To render advisory opinions to city, and city agency, officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this ordinance.
2. To enforce the provisions of this ordinance with regard to all officers and employees of the city, and city agencies, who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.
3. To control and maintain all statements of financial interests that are required to be filed by this ordinance, and to ensure that the statements are available for public inspection, in accordance with the requirements of this ordinance and the Kentucky Open Records Act.
4. 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.

**COMMENT SECTION 35(A)9.**: Only include if the Ethics Board does this. See Section 36 Below on Advisory Opinions.

1. To provide training and education on the city ethics code to officials and employees.
2. To prepare and submit an annual report and any recommended changes to this code to the legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)*; and to develop and submit any reports regarding the conduct of its business that may be required by the executive authority *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* or legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city.
3. The Ethics Board, along with the city clerk, will annually review the list of [officials and employees](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) required to file annual disclosure statements to determine whether the lists are complete and accurate.

**COMMENT SECTION 35(A)12.**: Only include that the forms will be on the city website if they will actually be on the city website. For sample forms contact the KLC Municipal Law Department.

1. The Ethics Board will prepare forms for complaints, and for financial disclosure statements, and will make these forms available at the city clerk's office, and on the city's website, for easy downloading.
	* 1. By June 15 of each year *(or whatever time frame the city chooses)*, the Ethics Board must review all annual financial disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this code. If the Ethics Board determines that an annual, or transactional, disclosure statement is deficient, or reveals a possible, or potential, violation of this code, the Ethics Board will notify the person in writing of the deficiency, or possible, or potential violation, and of the penalties for failure to comply with this code.

**COMMENT SECTION 36**: Without training and education, the ethics code is worthless. It is important that city officials and employees are aware of what is expected of them and have information readily available to them by way of the city website. However, in smaller cities this may be difficult to do, so if this will not be happening, do not include this language in the ordinance, or if you do include, tailor the language to what the city can provide. Also keep in mind that the KLC Municipal Law Department can provide elected officials, Ethics Board members, and employees with training specific to the city ordinance, as part of the Certified City of Ethics Program. **Only include if you will provide the training and education**.

**SECTION 36**. Training and Education.

1. The Ethics Board will, within \_\_\_\_\_ year after passage of the Ethics Code, make this Ethics Code, and explanations of its provisions (including information on how to fill out all forms and statements), available (including, but not limited to, on the city website) to all [officials and employees](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109), candidates, and to municipal residents. The Ethics Board will develop educational materials and a required educational program for the officials and employees of the city regarding the provisions of this Ethics Code. The educational program must begin within \_\_\_\_\_ year/months after this Ethics Code goes into effect.
2. In addition, the Ethics Board will attempt to hold annual workshops for new and experienced officials and employees to discuss this code, its values and goals, its enforcement, and the ways in which it has affected the officials and employees work and the working of the city government.

**COMMENT SECTION 37**: Another optional provision adds a timeframe to annual reports to be provided to the legislative body. The deadlines for filing and the timeframes included should be tailored to fit the city needs.

**SECTION 37**. Annual Reports and Annual Review of Ethics Code.

1. The Ethics Board must prepare and submit an annual report to the legislative

body, summarizing the activities, decisions, and advisory opinions of the Ethics Board. The report may also recommend changes to the text or administration of this Ethics Code. The report must be submitted no later than October 31 of each year, covering to the year ended August 31, and must be filed with the City Clerk and made available on the city website.

1. The Ethics Board will periodically (no less than every five years) review this

Ethics Code, the enforcement of the Ethics Code, and the Ethics Board'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.

**COMMENT SECTION 38**: It is important to be certain that persons who have complaints lodged against them receive due process. The city attorney must be involved in this process if a complaint is filed.

**SECTION 38**. Filing and Investigation of Complaints.

1. All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Ethics Board, or the administrative official designated by the Ethics Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Ethics Board. The Ethics Board shall acknowledge receipt of a complaint to the complainant within 10 working days from the date of receipt. The Ethics Board shall forward within 10 working days to each officer or employee of the city, or city agency, who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.
2. The Ethics Board may, on its own initiative, determine through an inquiry into informal allegations, or information provided directly to the Ethics Board, by referral, by coverage in the public news media, or otherwise that a violation of this code may exist and prepare a complaint of its own. The Ethics Board may also amend a complaint that has been filed with it by adding further allegations, by adding respondents involved in the same conduct, directly or indirectly and by action or inaction, or by deleting allegations that would not constitute a violation of this code, by deleting allegations that have been made against persons or entities not covered by this code, or by deleting allegations that do not appear to be supported by the facts. The Ethics Board may also consolidate complaints where the allegations are materially related. Amended complaints must be sent to the complainant and respondent by the Ethics Board.
3. Within 30 days of the receipt of a proper complaint, the Ethics Board shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Ethics 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.
4. The person, who is the subject of the complaint (Respondent), may file with the Ethics Board a response to the complaint within 30 days after their receipt of the complaint. The response, if any, must be sent to the person filing the original complaint (Complainant) by the Ethics Board within five days after its filing. Within 15 days after receipt, the Complainant may also file with the Ethics Board a response to the Respondent’s response, which the Ethics Board must send to the Respondent within five days after its filing.
5. Extensions of time to any of the time limitations specified in this section may be granted by the Ethics Board upon a vote of the majority of the members. If no

 meeting can be held before such time limit runs, the chair may extend the time frame until the following meeting. The Ethics Board must give written notice of any extension(s) of time to the Respondent and the Complainant.

**COMMENT SECTION 38 (F):** Confidentiality during an investigation is important to protect innocent respondents, as well as to depoliticize the process. Complaints are sometimes filed for the express purpose of embarrassing, harassing, or taking revenge on public officials, often during an election season. No one can stop people from making public accusations, but, when accusations become official proceedings, they are taken more seriously by the press as well as by city residents. It is important that the proceedings remain confidential until a finding of probable cause has been made, and that an Ethics Board be clear that such a finding is far from an actual finding of a violation. It should be emphasized that confidentiality refers solely to the proceedings themselves, including their existence, not to the underlying accusations. A resident can tell the world that an official is benefiting from a city contract (whether or not this is true - defamation laws deal with false accusations), but not that the Ethics Board is investigating a complaint making this accusation of an improper benefit from a city contract.

1. All proceedings and records relating to a preliminary inquiry being conducted by the Ethics Board shall be confidential until a final determination is made by the Ethics Board, except:

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

1. The Ethics 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 probable cause as to a violation of this ordinance. If the Ethics Board concludes that the complaint is outside of its jurisdiction, frivolous, or without factual basis, the Ethics 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.
2. If the Ethics Board 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 probable cause as to a violation, the Ethics Board shall notify the officer or employee who is the subject of the complaint and may initiate a hearing to determine whether there has been a violation.

**COMMENT SECTION 38 (I):** The reason Complainants are not permitted to withdraw their complaint is to prevent Respondents from pressuring them to do so. Once a possible violation has been brought to the Ethics Board's attention, it is not a proceeding of Complainant against Respondent, but an ethics issue for the city to determine.

1. If a complaint is accepted or prepared pursuant to subsection (A), the Ethics

Board must conduct an investigation. From this point on, the Complainant may

not withdraw their complaint, although they may request that the

Ethics Board either make a finding of no probable cause or no violation.

(J) In conducting an investigation, the Ethics Board may administer oaths or

affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The Police Department and all city agencies, bodies, officials, and employees are required to respond fully and truthfully to all inquiries and cooperate with all requests of the Ethics Board or its agents relating to an investigation. It is a violation of this code for any [official or employee](http://www.cityethics.org/content/full-text-model-ethics-code#0.1_TOC109) to deny access to information requested by the Ethics Board in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.

(K) Nothing in this section may be construed to permit the Ethics Board to conduct

an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board, or any of its members, or staff has violated any provision of this code, or any other law, the Ethics Board must promptly transmit to the legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* a copy of the complaint.

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

**SECTION 39.**  Notice of Hearings.

If the Ethics Board determines that a hearing regarding allegations contained in the complaint is necessary, the Ethics Board shall issue an order setting the matter for a hearing within 30 days of the date the order is issued, unless the Respondent petitions for, and the Ethics Board consents to, a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Ethics Board relating to the hearing, shall be sent to the Respondent within 24 hours of the time the order setting a hearing is issued.

**SECTION 40.**  Hearing Procedure.

1. The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence

shall not apply to hearings conducted by the Ethics Board; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Ethics Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

1. Prior to the commencement of the hearing, the Respondent, or their

representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Ethics Board in connection with the matter to be heard. The Ethics Board shall inform the alleged violator, or their representative, of any exculpatory evidence in its possession.

1. All testimony in a Ethics 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.

1. Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Ethics 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.
2. All hearings of the Ethics Board shall be public unless the members vote to go into executive session in accordance with KRS 61.810.
3. After the conclusion of the hearing, the Ethics Board 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 30 days after completion of the hearing, the Ethics Board shall issue a written report of its findings and conclusions.
4. If the Ethics Board concludes in its report that no violation of this ordinance has

occurred, it shall immediately send written notice of this determination to the Respondent and to the Complainant.

1. If the Ethics 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 Ethics Board shall within 15 days:
2. Issue an order requiring the Respondent to cease and desist the violation.
3. In writing, publicly reprimand the Respondent for the violations and provide a copy of the reprimand to the executive authority *(if different from the executive authority, as in the mayor/council form of government)* and legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city, or governing body of the city agency with which the Respondent serves.
4. In writing, recommend to the executive authority *(if different from the executive authority, as in the mayor/council form of government)* and the legislative body *(city council in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government),* or governing body of the city agency, that the Respondent be sanctioned, as recommended by the Ethics Board, which may include a recommendation for discipline or dismissal, or removal from office.
5. Issue an order requiring the Respondent to pay a civil penalty of not more than $1,000.
6. Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth attorney of the jurisdiction for prosecution.

**SECTION 41.**  Appeals.

Any person who is found guilty of a violation of any provision of this ordinance by the Ethics Board may appeal the finding to the circuit court of the county within 30 days after the date of the final action by the Ethics Board by filing a petition with the court against the Ethics Board. The Ethics Board shall transmit to the clerk of the court all evidence considered by the Ethics Board at the public hearing.

**COMMENT SECTION 42:** If the time period for filing the complaint has gone beyond one year, discuss with the city attorney regarding how to proceed.

**SECTION 42.**  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 year after the violation is discovered.

**COMMENT SECTION 43**: City officers and employees, as well as many residents, may have occasion to take advantage of the Ethics Board's or Ethics Officer's advice, which is by far the Ethics Board's most important responsibility. It is very important for local government officials and employees, whenever they are uncertain as to whether they should proceed with a matter, to immediately seek advice. This will prevent unethical conduct from occurring due to a lack of knowledge or understanding and will create a series of precedents to guide officers and employees in the future.

**SECTION 43.** Advisory Opinions.

1. The Ethics Board may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer or employee of the city, or a city agency, covered by this ordinance.
2. 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.
3. The Ethics Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be redacted so that the identity of any person associated with the opinion shall not be revealed.

(D) The confidentiality of an advisory opinion may be waived either:

* + 1. In writing by the person who requested the opinion.
		2. By majority vote of the members of the Ethics 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 Ethics Board may vote to make public the advisory opinion request and related materials.

(E) A written advisory opinion issued by the Ethics Board shall be binding on the Ethics Board in any subsequent proceeding concerning the facts and circumstances of the particular case, if no intervening facts or circumstances arise which would change the opinion of the Ethics Board, if they had existed at the time the opinion was rendered. However, if any fact determined by the Ethics Board to be material was omitted or misstated in the request for an opinion, the Ethics Board shall not be bound by the opinion.

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

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

**SECTION 44.**  Reprisals Against Persons Disclosing Violations Prohibited.

1. No officer or employee of the city, or any city agency, shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority, or influence, in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of the Ethics Board, or any other agency or officer 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:

1. Prohibiting disciplinary or punitive action if an officer or employee of the city, or any city agency, discloses information which they know:
	1. To be false or which they disclose 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.

**SECTION 45.** Penalties.

1. Except when another penalty is specifically set forth in this ordinance or by state or federal law, any officer or employee of the city, or any city agency, who is found by the Ethics Board to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Ethics Board not to exceed $1,000, which may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.
2. In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city, or any city agency, who is found by the Ethics Board to have violated any provision of this ordinance shall forfeit to the city, or the city agency, an amount equal to the economic benefit, or gain, which the officer or employee is determined by the Ethics 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.
3. In addition to all other penalties which may be imposed under this ordinance, a finding by the Ethics Board 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 *(mayor in the mayor/council form of government or city commission in the commission form of government or board of commissioners in the city manager form of government)* of the city, or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

**SECTION 46.** 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.

**COMMENT SECTION 47**: City officers should work with their city attorney to identify any conflicting ordinances or parts of ordinances that may be in conflict with the Ethics Ordinance prior to adopting.

**SECTION 47.** 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 48**. Effective Date.

This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

Given first reading on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Given second reading and duly enacted by the legislative body of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk