

**CITY OF MIDDLETOWN
ORDINANCE NO. 02-08-2024-A
AN ORDINANCE REPEALING AND REPLACING CHAPTER 38 OF ITS CODE OF
ORDINANCE RELATING TO THE CITY’S CODE OF ETHICS**

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 City Commission has compared its code of ethics contained in Chapter 38 of its ordinances to the current model ethics ordinance promulgated by Kentucky League of Cities and finds that the current model ordinance offers significant improvements over the prior code of ordinances, which has not been updated in many year,

WHEREAS, 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 City Commission of the City of Middletown , Kentucky:

SECTION 1. Chapter 38 of the City of Middletown Code of Ordinances, be and hereby is repealed in its entirety.

SECTION 2. A new Chapter 38 of the City of Middletown Code of Ordinances, be and hereby is adopted to read as follows:

SECTION 1. Title.

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

SECTION 2. Findings.

The legislative body of the City of Middletown finds and declares that:

- (A) Public office and employment by the city are public trusts.
- (B) 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.
- (C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed,

and to make its officers and employees aware of the standards in the conduct of their public duties that the citizenry rightfully expects them to comply.

SECTION 3. Purpose and Authority.

- (A) 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.
- (B) It is the further purpose of this ordinance to meet the requirements of KRS 65.003.
- (C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to the requirements of KRS 65.003.

SECTION 4. Definitions.

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

- (A) "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.
- (B) "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.
- (C) "City" refers to the City of Middletown, Kentucky.
- (D) "City agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this city.
- (E) "City business" means 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 is not authorized to

disclose, except to designated individuals or bodies, including written and non-written information. When such information is also available through channels open to the public, officers and employees are not prohibited from disclosing the availability of those channels.

- (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.
- (H) "Customer or client" means:
 1. Any person or entity which has supplied goods or services during the previous 12 months, having a total value greater than \$500.00; or
 2. Any person or entity to which an officer or employee's outside employer or business has supplied goods or services during the previous 12 months, having a total value greater than \$500.00, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.
- (I) "Domestic partner" is an adult, unrelated by blood, with whom an unmarried or separated officer or employee 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 Middletown 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, and, whether by blood, adoption, marriage, guardianship, or domestic partnership, the parent, child, brother, sister, grandparent, or grandchild.
- (M) "Immediate family member" means a spouse, domestic partner, and, whether by blood, adoption, marriage, guardianship, or domestic partnership, a 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 home, including nonrelatives who are not paying rent or staff.
- (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;
 3. City Clerk;
 4. City Treasurer;
 5. Public Works Director;
 6. Police Chief and Major;
 7. Any other person that occupies a nonelected office created pursuant to KRS 83A.080; or
 8. 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 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, but not limited to, Facebook, Instagram, YouTube, Twitter, LinkedIn, Snapchat, Reddit, and blogs.
- (V) "Subordinate" means another official or employee 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 \$10,000.00, 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.

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:

- (A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity which is in substantial conflict with the proper discharge of the officer’s or employee’s public duties.
- (B) No officer or employee shall intentionally use, or attempt to use, their official position with the city to secure unwarranted (or unsolicited) privileges or advantages for themselves or others.
- (C) 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:

- a. An outside employer or business of theirs, or of their family member, or someone who works for such outside employer or business;
 - b. A customer or client; or
 - c. 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 has received an election campaign contribution of a total of more than \$500.00 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 party committee, or noncandidate political committee).
 - 7. A nongovernmental civic group, social, charitable, or religious organization of which they, or their immediate family member, is an officer or director.
- (D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action, or inaction, no 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.
- (E) Every officer or employee who has a prohibited financial interest which the officer or employee believes, or has reason to believe, may be affected by 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.

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

- (A) No officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, 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:
 - a. The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.
 - b. The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.
 - c. A finding is made by the governing body of the city or city agency that the contract with the officer or the employee is in the best interests of the public and the city or city agency before the contract is executed.
 - d. The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

- (B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of 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.

SECTION 7. Incompatible Offices.

- (A) 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.
- (B) 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.
- (C) 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.
- (D) KRS 61.090 provides that the acceptance of an incompatible office operates to vacate the first office.

SECTION 8. Withdrawal from Participation.

- (A) An officer or employee 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 or financially benefit 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.

- (B) Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.
- (C) Ongoing conflict: An officer or employee 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 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 is in such a situation, they should not accept the position with the city.

SECTION 9. Receipt of Gifts.

- (A) 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 \$500.00, 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.
- (B) 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.

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.

SECTION 11. Nepotism.

The city finds that due to the size of its government and the lack of compensation paid to its elected officials, and the casual service historically rendered by family members, any prohibition of employment based solely on relationships is not in the best interests of the city or its taxpayers. The city recognizes that any expenditure of public funds is a public trust. Any relationship must be fully disclosed to the City Commission.

SECTION 12. Representation of Interests Before City Government.

- (A) 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.

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.

SECTION 14. Political Solicitation.

- (A) An officer, employee, or municipal candidate may not request, or authorize, anyone else to request that any subordinate, or potential future subordinate,

participate, or not participate, in any political activity, including the making of a campaign contribution.

- (B) 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.

SECTION 15. Patronage.

No officer or employee may promise an appointment, or use their influence to obtain an appointment, to any position, as a reward for any political activity or contribution.

SECTION 16. Outside Employment.

- (A) 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.
- (B) 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 there is no conflict with working hours, the employee's efficiency in their city work, or other interest of the city.
- (C) Employees wishing to take off-duty employment shall have the written approval of their supervisor and the executive authority
- (D) Employees or officers holding management-level positions shall notify the executive authority prior to creating, contracting with, or being employed by any agency or business firm other than the city for the executive authority's written approval.
- (E) 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.

SECTION 17. Post-Employment Restriction.

- (A) 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.

- (B) 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.
- (C) 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.

SECTION 18. Fees and Honoraria.

- (A) 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.
- (B) This section shall not preclude an officer or an employee from obtaining reasonable travel and travel-related expenses.

SECTION 19. Endorsements.

- (A) No officer or employee 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.
- (B) 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.

SECTION 20. 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 6 of the meetings in a 12-month period.

SECTION 21. Social Media.

- (A) City officials including members of boards and commissions, 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.
- (B) 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.
- (C) City officials shall conduct themselves professionally and as a representative of the city.
- (D) 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.
- (E) 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.
- (F) 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."
- (G) 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.
- (H) City employees are bound by the city's social media policies in the City of Middletown Employee Handbook and its Social Media Policy.

SECTION 22. Email.

- (A) 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.

- (B) No city business shall occur through a personal email account.
- (C) 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

SECTION 23. Who Must File.

- (A) 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 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:
 - a. The negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses;
 - b. The purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these; and
 - c. The obtaining of grants of money or loans.

SECTION 24. When to File Statements and Amended Statements.

- (A) All subsequent statements of financial interest shall be filed no later than 5 p.m. on January 31st 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. The City will send each candidate a reminder of their requirement to file a financial statement if such candidate does not file within the deadline.
- (B) The ethics board may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
- (C) In the event there is a material change in any information contained in a financial 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.
- (D) By March 31st of each year, 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.

SECTION 25. Form of the Statement of Financial Interests.

- (A) 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.
- (B) The ethics board, along with the city clerk, will annually review the list of officials and employees 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 Feb. 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 of this code; and notify all such persons of their obligation to file an annual disclosure statement.
- (C) 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 January 15th of each year.
- (D) 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.

SECTION 26. Control and Maintenance of the Statements of Financial Interests.

- (A) The city clerk shall be the "official custodian" of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the 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.

SECTION 27. 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 \$5,000.00 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 \$10,000.00 at fair market value or 5% ownership interest or more.

6. The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three 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 \$10,000.00 at fair market value or 5% 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 \$10,000.00 or more.
 8. Each source, by name and address, of gifts or honoraria having an aggregate fair market value of \$500.00 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 \$500.00 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 \$10,000.00, 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 28. Noncompliance with Filing Requirement.

- (A) 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.
- (B) Any person who fails, or refuses, to file the statement, or who fails, or refuses, to remedy a deficiency in the filing identified in the notice under subsection (A) within the time 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.

- (C) 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

SECTION 29. Ethics Board Created.

- (A) 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.
- (B) The ethics board shall consist of 3 members and 2 alternate members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The members shall serve for a term of 3 years with their terms staggered so that their terms do not expire in the same year.
- (C) An ethics board member will serve until their successor has been appointed, in the same manner as the original appointment.
- (D) 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 3 years prior to appointment, an officer or employee, consultant, or contractor of the city; an officer in a political party or political committee; a candidate, or an active member of the campaign of a candidate, for any office within the ethics board's jurisdiction; or a lobbyist. Nor should a member, nor any member of their immediate family, have, within the 3 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.
- (E) 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.

- (F) A member of the ethics board may be removed by the executive authority, subject to the approval of the legislative body 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.
- (G) Vacancies on the ethics board shall be filled within 60 days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within 60 days, the remaining members of the ethics board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.
- (H) Members of the ethics board shall serve without compensation, unless otherwise approved by the legislative body but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.
- (I) 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. The chairperson shall be the presiding officer and a full voting member of the ethics board.
- (J) In addition to the Annual Meeting on the third Tuesday in January, 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.
- (K) The presence of a majority of the three-member board shall constitute a quorum and affirmative vote of 2 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.
- (L) 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 30. Alternate Members.

The executive authority of the city, with the approval of the legislative body may appoint 2 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 1 year. Alternate members shall meet all qualifications and be subject to all of the requirements of this ordinance that apply to regular members.

SECTION 31. Facilities and Staff.

Within the limits of the funds appropriated by the legislative body 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.

SECTION 32. 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 33. Power and Duties of the Ethics Board.

(A) The ethics board shall have the following powers and duties:

1. 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.
2. 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.
3. 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.

4. To refer any information concerning violations of this ordinance to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other appropriate person(s), body, or bodies, as necessary.
5. 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.
6. 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.
7. 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.
8. 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.
9. The ethics board, along with the city clerk, will annually review the list of officials and employees required to file annual disclosure statements to determine whether the lists are complete and accurate.
10. 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.
 - i. By March 31st of each year, 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.

SECTION 34. Training and Education.

- (A) The ethics board is encouraged to attend ethics related classes offered by the Kentucky League of Cities, and to make use of the educational materials and educational programs KLC offers, with the cost paid for by the City. The ethics board is encouraged to provide to the City Commission any and all information related to ethics law and policy that the ethics board feels would be of benefit to city officials.

SECTION 35. Filing and Investigation of Complaints.

- (A) 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.
- (B) 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.
- (C) 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.
- (D) 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.
- (E) 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.
- (F) The ethics board shall determine 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.
- (G) 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.
- (I) 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 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 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 36. 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 37. Hearing Procedure.

- (A) 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.
- (B) 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.
- (C) All testimony in an 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.
- (D) 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.
- (E) All hearings of the ethics board shall be public unless the members vote to go into executive session in accordance with KRS 61.810.

- (F) After the conclusion of the hearing, the 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.
- (G) 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.
- (H) 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:
 - 1. Issue an order requiring the respondent to cease and desist the violation.
 - 2. In writing, publicly reprimand the respondent for the violations and provide a copy of the reprimand to the executive authority and legislative body of the city, or governing body of the city agency with which the respondent serves.
 - 3. In writing, recommend to the executive authority and the legislative body, 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.
 - 4. Issue an order requiring the respondent to pay a civil penalty of not more than \$1,000.
 - 5. Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth attorney of the jurisdiction for prosecution.

SECTION 38. 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.

SECTION 39. 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.

SECTION 40. Advisory Opinions.

- (A) The ethics board may render advisory opinions concerning matters under its jurisdiction based upon real or hypothetical facts and circumstances, upon its initiative, or when requested by any officer or employee of the city, or a city agency, covered by this ordinance.
- (B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions.
- (C) 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.
- (D) 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.
- (E) Advisory opinions will be indexed and maintained on file by the ethics board and the city clerk. They will also be available on the city website if posted there. The advisory opinions should be posted or provided, upon request, with the understanding that information subject to the public records exemptions in KRS 61.878 will be redacted. Officers, employees, and businesses should be notified about advisory opinions that may directly affect their conduct.

SECTION 41. Reprisals Against Persons Disclosing Violations Prohibited.

- (A) No officer or employee of the city, or any city agency, shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority, or influence, in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of the 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:
 - a. To be false or which they disclose with reckless disregard for its truth or falsity.
 - b. To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
 - c. Is confidential under any other provision of law.

SECTION 42. Penalties.

- (A) 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.
- (B) 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.
- (C) 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 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 43. Severability.

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

SECTION 44. Conflicting Ordinances Repealed.

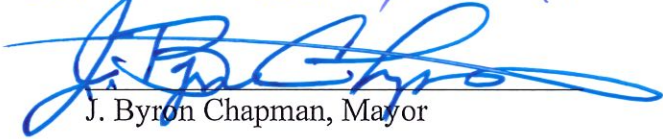
All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 45. Effective Date.

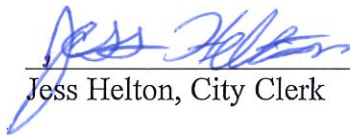
This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

First reading on the 8th day of February, 2024.

Second reading and duly enacted on the 22 day of February, 2024.


J. Byron Chapman, Mayor

ATTEST:



Jess Helton, City Clerk

Oliver yes Hayden yes
Stigers yes Wolf yes
Chapman yes