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GENERAL PROVISIONS

§ 40.01 TITLE, FINDINGS, PURPOSE AND AUTHORITY.

(A) This chapter shall be known and may be cited as the "City of Morehead Code of Ethics."

(B) Findings. The legislative body of the city finds and declares that:

(1) Public office and employment with 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, confidence is imperiled.

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

(C) Purpose and authority.

(1) It is the purpose of this chapter to provide a method of assuring 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, and to provide 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 chapter to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(3) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.
(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.02 DEFINITIONS.

As used in this chapter, the following definitions shall apply unless the context clearly requires a different meaning:

"BUSINESS." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit or for non-profit.

"BOARD OF ETHICS" (hereinafter referred to as the "Board"). The City of Morehead Board of Ethics which is created and vested by this chapter with the responsibility of enforcing the requirements of the city's code of ethics.

"CANDIDATE." Any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by

a political party, or files a declaration of intent to be a write-in candidate with the County Clerk or Secretary of State.

"CITY." The City of Morehead, Kentucky.

"CITY AGENCY." Any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

"EMPLOYEE." Any person, whether full-time or part-time and whether paid or unpaid, who is employed by or provides service to the city. The term "employee" shall not include any contractor or subcontractor or any of their employees.

"EMPLOYER." Any business as defined herein for which an officer as defined below provides services.

"FAMILY MEMBER." A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

"IMMEDIATE FAMILY MEMBER." A spouse, an unemancipated child residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

"OFFICER." Any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (A) The Mayor.
- (B) A City Council member.
- (C) The City Administrator.
- (D) The City Clerk.
- (E) The Chief of Police.
- (F) The Fire Chief.
- (G) The Alcoholic Beverage Control Officer.
- (H) Any person who occupies a non-elected office created under KRS 83A.080.
- (I) A member of the governing body of the city agency who has been appointed to the governing body of the agency by the city. (Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06; Am. Ord. 28:2007, passed 8-13-07)

§ 40.03 CONFLICTS OF INTEREST IN GENERAL.

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

(A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction or activity which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself, a member of his/her immediate family, his/her employer, business organization in which the officer or employee has a direct financial or personal interest or other which might reasonably be expected to impair objectivity or independence of judgement.

(C) No officer or employee shall act in an official capacity in any matter where the officer or employee, a member of his or her immediate family, an employer of the officer, or a business organization in which the officer or employee has an interest, has a direct or indirect financial or personal involvement, might reasonably be expected to impair objectivity or independence of judgment.

(D) No officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice independence or judgment in the exercise of official duties.

(E) Every officer or employee who has a prohibited interest, be it financial, employer-employee relationship or personal which the officer or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of 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.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06; Am. Ord. 28:2007, passed 8-13-07)

§ 40.04 CONFLICTS OF INTEREST IN CONTRACTS.

The provisions of KRS 61.251 and 61.252 (HB 875) are incorporated hereby by reference.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.05 RECEIPT OF GIFTS.

No officer or employee of the city or any city agency shall directly or indirectly through any other person or business, solicit or accept any gift of any money whatsoever. No gift of any service, loan, travel, entertainment, hospitality, or any other form having a fair market value of more than one hundred dollars (\$100.00) shall be accepted under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of public duties.

This section shall not be construed to prohibit legitimate campaign contributions to candidates for public office.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.06 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 specifically authorized by a stated city policy.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.07 MISUSE OF CONFIDENTIAL INFORMATION.

No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

FINANCIAL DISCLOSURE

§ 40.15 WHO MUST FILE STATEMENTS.

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

(A) Elected city officials.

(B) Candidates for elected city office.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.16 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) The initial statement of financial interests required by this section shall be filed with the Board, or the administrative official designated as the custodian of its records by the Board, no later than 4:30 p.m., prevailing time, March 15, 1995. All subsequent statements of financial interest shall be filed no later than 4:30 p.m., prevailing time, March 15 each year, provided that:

(1) Any newly appointed Mayor or Council Member shall file the initial statement no later than thirty (30) days after the date of appointment.

(2) A candidate for city office shall file the initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected city office.

(B) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than thirty (30) days after

becoming aware of the material change, file an amended statement with the Board.

(C) The Board may, upon application therefor, grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.17 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

The statement of financial interests shall be filed on a form prescribed by the Board, or the administrative official designated by the Board. The 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 or hand delivery, no later than January 1 of each year. The failure of the 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.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.18 CONTROL, MAINTENANCE OF STATEMENT.

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

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

(1) Upon the expiration of three (3) years after a person ceases to be an officer or employee of the city or city agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

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

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.19 CONTENTS OF STATEMENT.

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

(1) The name, current business address and business telephone number, and home address and home phone number 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 filer's spouse.

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5,000) during the preceding calendar year and the nature of the income (e.g., salary, commission, dividends, retirement fund 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 ten thousand dollars (\$10,000) at fair market value or five percent (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 (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (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 ten thousand dollars (\$10,000) or more at fair market value.

(8) The name and address of any creditor owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for personal, 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 or customers of businesses listed as sources of income.

(Ord. 31:94, passed 12-12-94)

§ 40.20 NONCOMPLIANCE WITH FILING REQUIREMENTS.

(A) The 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 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 period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

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

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

NEPOTISM

§ 40.25 EMPLOYMENT OF RELATIVES.

(A) The city does not expressly prohibit the employment, appointment, promotion, transfer, or advancement of relatives to established positions of employment within the city government or city agency so long as neither of the related parties are in a position to directly or indirectly influence the progress, performance or welfare of the other.

(B) 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 official 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 the enactment of this chapter.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

ENFORCEMENT

§ 40.30 BOARD OF ETHICS ESTABLISHED.

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

(B) The Board of Ethics shall consist of three (3) members who shall be appointed by the executive authority of the city, subject to the approval of the City Council. The initial members of the Board

shall be appointed within sixty (60) days of the effective date of this chapter. No member of the Board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. Initially, one (1) member shall be appointed for a term of three (3) years; one (1) member shall be appointed for a term of two (2) years; one (1) member shall be appointed for a term of one (1) year. Thereafter, all appointments shall be for a term of three (3) years, and may be re-appointed for any number of consecutive terms. Each member of the Board:

(1) Shall be a resident of Morehead or Rowan County throughout the term in office.

(2) Shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs.

(C) A member of the Board of Ethics may be removed by the executive authority subject to the approval of the City Council, for misconduct, inability or willful neglect of duties. Before any member of the Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before the Mayor and City Council.

(D) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the Mayor, subject to the approval of the City Council. If a vacancy is not filled by the Mayor within sixty (60) days, the remaining members of the Board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

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

(F) The Board shall, upon the initial appointment of its members and annually thereafter, as the first order of business until the first meeting of each calendar year, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.

(G) Meetings of the Board shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

(H) The presence of two (2) or more members shall constitute a quorum and the affirmative vote of majority members shall be necessary for any official action to be taken. Any member of the Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter and shall not be counted for purposes of establishing a quorum.

(I) Minutes shall be kept for all proceedings of the Board and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.31 BOARD FACILITIES; STAFF.

Within the limits of the funds appropriated by the City Council in the annual budget, the city shall provide the Board, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

(Ord. 31:94, passed 12-12-94)

§ 40.32 POWERS; DUTIES OF THE BOARD.

The Board shall have the following powers and duties:

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

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

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

(D) To refer any information concerning violations of this chapter to the Mayor, the City Council, the governing body of any city agency, the County Attorney, or other appropriate person or body, as necessary.

(E) To render advisory opinions to city and city agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.

(F) To enforce the provisions of this chapter 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 chapter.

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

(H) To develop and submit any reports regarding the conduct of its business that may be required by the Mayor or the City Council.

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this chapter, provided that the rules, regulations, and actions are not in conflict with the provisions of this chapter or any state or federal law.
(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.33 FILING; INVESTIGATION OF COMPLAINTS.

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board, or the administrative official designated by the Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board. The Board shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The Board shall forward within ten (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 chapter.

(B) Within thirty (30) days of the receipt of a proper complaint, the Board shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.

(C) All proceedings and records relating to a preliminary inquiry being conducted by the Board shall be confidential until a final determination is made by the Board except:

(1) The Board may turn over to the Commonwealth's Attorney or County Attorney evidence which may be used in criminal proceedings.

(2) If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued by either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this chapter. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

(E) If the Board concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as lack of significant economic advantage or gain by the officer or employee, lack of economic loss to the city and its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the Mayor and City Council or city agency.

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

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

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.34 NOTICE OF HEARINGS.

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

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.35 HEARING PROCEDURE.

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

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

(C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.

(D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the

Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.

(E) All hearings of the Board of Ethics shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(F) After the conclusion of the hearing, the Board shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this chapter has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of this chapter has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this chapter, the Board may:

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

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

(3) In writing, recommend to the Mayor and City Council, and governing body of the city agency if applicable, that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal or removal from office.

(4) Issue an order requiring the violator to pay a civil penalty of not more than five hundred (\$500) dollars.

(5) Refer evidence of criminal violations of this chapter or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.36 APPEALS.

Any person who is found guilty of a violation of any provision of this chapter by the Board may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action of the Board by filing a petition with the court against the

Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.
(Ord. 31:94, passed 12-12-94)

§ 40.37 LIMITATION OF ACTIONS.

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one (1) year after the violation is discovered.
(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.38 ADVISORY OPINIONS.

(A) The Board may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative and shall render an advisory opinion when requested by any officer or employee of the city or a city agency who is covered by this chapter.

(B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.

(C) The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.

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

(1) In writing by the person who requested the opinion.

(2) By majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.

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

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

(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.39 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 Board or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this chapter.

(B) This section shall not be construed as prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(1) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(2) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, 61.870 to 61.884.

(3) Is confidential under any other provision of law.
(Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

§ 40.99 PENALTY.

(A) Except when another penalty is specifically set forth in this chapter, any officer or employee of the city or any city agency who is found by the Board to have violated any provision of this chapter shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board not to exceed five hundred dollars (\$500), 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 chapter, any officer or employee of the city or any city agency who is found by the Board to have violated any provision of this chapter shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board 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 chapter, a finding by the Board that an officer or employee of the city or any city agency is guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the Mayor 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 chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth. (Ord. 31:94, passed 12-12-94; Am. Ord. 22:2006, passed 8-17-06)

Cross-reference:

Penalty, see also §§ 40.20 (B) - (C) and 40.35 (H)

APPENDIX A: FINANCIAL INTERESTS STATEMENT

In accordance with Ordinance No. 31:94, this statement of financial interests shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board, no later than 4:30 p.m. on March 15, 1995. A newly appointed officer must file this statement no later than thirty (30) days after the date of appointment. A candidate for city office must file this statement no later than thirty (30) days after the date on which the person becomes a candidate for elected city office. (Nothing in this financial interests statement should be construed to require any officer or candidate to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.)

1. Name: _____

2. Title of Office or Office Sought: _____

3. Current Address: _____

a. Business (including telephone number):

b. Home (including telephone number):

4. Occupation:

a. Filer:

b. Spouse:

5. Please identify any source of income of the filer and the filer's immediate family members that exceeds \$5,000 during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.):

a. _____

b. _____

c. _____

6. Please list the name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership or more:

a. _____

b. _____

c. _____

7. Please list the name and address of any business located outside the state, if the business has engaged in any business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interests or more:

a. _____

b. _____

(Ord. 22:2006, passed 8-17-06)