

CHAPTER XXV
CODE OF ETHICS

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- 25-1 DECLARATION OF POLICY.

The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed. The people have a right to expect that every public official and employee will conduct himself or herself in a manner that will tend to preserve public confidence in and respect for the government he or she represents. Such confidence and respect can best be promoted if every public official and employee, whether paid or unpaid, and whether elected or appointed, will uniformly treat all citizens with courtesy, impartiality, fairness and equality under the law and avoid both actual and potential conflicts between their private self-interest and the public interest.

25-2 DEFINITIONS.

As used in this Chapter:

“Business” shall mean any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

“Candidate” means any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

“City Agency” for purposes of this Chapter means those agencies whose board of directors is appointed entirely by the City of Bowling Green, that receive funding directly from the City or whose board members are expected to comply with the same requirements as City officials and employees, i.e., Bowling Green Municipal Utilities, Bowling Green Code Enforcement and Nuisance Board, Bowling Green Audit Committee and Hobson House Commission.

“Domestic Partner” shall mean an adult, unrelated by blood, with which an unmarried or separated public official or employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.

“Employee” shall mean any person, whether full-time or part-time, seasonal or temporary, and whether paid or unpaid, who is employed by, or provides services to, the City. The term “employee” shall not include any contractor or subcontractor.

“Family Member” shall mean a spouse, children and grandchildren and their spouses, parents and parents of a spouse, domestic partner, and brothers and sisters and their spouses.

“Immediate Family Member” means a spouse, domestic partner, an unemancipated child residing in the public official’s or employee’s household, or a person claimed by the public official or employee, or the public official’s or employee’s spouse, as a dependent for tax purposes.

“Interest” shall mean any material direct or indirect benefit accruing to a public official or employee or their family members, whether in the public official’s or employee’s own name or the name of any person, firm, corporation, association or trust from which the public official or employee is entitled to receive any financial benefit, as a result of a contract or transaction which is or which is known will become the subject of an official act or action by or with the City (other than the duly authorized salary or compensation for his or her services to the City).

“Official Act” shall mean any legislative, administrative, appointive or discretionary act of any public official or employee of the City or any agency, board, committee or commission thereof.

“Public Official” shall mean any member of the Board of Commissioners or any board appointee of a City agency.

“Relative” parent, step-parent, grandparent, child, step-child, grandchild, husband, wife, domestic partner, brother, step-brother, half-brother, sister, step-sister, half-sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, and father-in-law. Also included in this definition are any other persons who live in the public official’s or employee’s home. The definition does not include the public official’s or employee’s spouse’s relatives, except for the in-laws specifically listed. “Sister-in-law” and “brother-in-law” are further defined as the sibling of the public official’s or employee’s spouse, or the spouse of the public official’s or employee’s sibling.

“Transaction” shall mean 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 official or employee performs an official act or action.

(Ord. BG91-61, 11/19/91; Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG96-31, 9/3/96; Ord. BG99-53, 10/19/99; Ord. BG2008-9, 3/4/2008; Ord. BG2008-48, 9/16/2008; Ord. BG2015-11, 5/5/2015; Ord. BG2019-18, 5/7/2019; Ord. BG2020-31, 10/20/2020)

25-3 PUBLIC OFFICIAL AND EMPLOYEE CONDUCT.

1. Public officials and employees must in all instances maintain their conduct at the highest standards.

2. No public official or employee or a person seeking to become a public official or employee shall make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment or service with the City or in connection with the work-related conduct or service of any City public official or employee.

(Ord. BG2011-50, 12/20/2011)

25-4 STANDARDS OF CONDUCT.

No public official or employee of the City shall knowingly:

1. Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties;

2. Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his independence of judgment or action in the performance of his or her official duties.

3. Disclose confidential information concerning the property, government or affairs of the governmental body for which he or she serves or is employed without proper legal authorization, or use such information to advance the business, financial or other private interests of himself or herself or others. 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;

4. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; provided, however, that any such public official or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

5. Represent private interests in any action or proceeding before the governmental body for which he or she serves or is employed without consulting and receiving written consent from the City. This standard of conduct shall not be construed to prevent a public official or employee from appearing, without compensation, before any governmental body of the City to express his or her personal views as a private citizen. No public official shall be prohibited 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 public official, whether directly or indirectly, in return for the inquiry;

6. Use or attempt to use his or her official position to secure special privileges, exemptions, personal or financial gain, or to avoid consequences of illegal acts for himself or herself, any family member, or others;

7. Become delinquent for a period of more than 45 days to the City or to any city board or agency; or

8. Vote to be reimbursed for funds expended in the performance of duties related to the City or City Agency; or,

9. Engage in illegal or unethical behavior, whether committed on or off duty, including, but not limited to:

a. conduct that violates a federal, state or local law or ordinance, (excluding traffic violations) whether or not the violation relates directly to the duties of the public official;

b. conduct that violates City policies related to theft or misuse of public funds or property; or

c. conduct that violates City ordinances and regulations applicable to the general public including, but not limited to, the property maintenance code, the zoning ordinance and the payment of property tax, net profit license fees and occupational license fees.

(Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG99-53, 10/19/99; Ord. BG2008-48, 9/16/2008; Ord. BG2011-50, 12/20/2011; Ord. BG2020-31, 10/20/2020)

25-5 CONFLICTS OF INTEREST IN CONTRACTS.

1. No public official or employee shall directly or through others undertake, execute, hold or enjoy, in whole or in part, any contract made, entered into, awarded or granted by the City or the board member's City agency, except that this prohibition shall not apply to contracts entered into before a public official filed as a candidate for City office, before a public official was appointed to a City or City agency office, or before an employee was hired by the City. However, if any contract entered into by the City or City agency with a public official or employee before he or she was appointed to office or was hired as an employee is renewable after he or she assumes the appointed office or is hired as an employee, then this prohibition shall apply to the renewal of the contract. No elected public official shall directly or through others undertake, hold or enjoy, in whole or in part, any contract made, entered into, awarded or granted by any agency, board or commission that is created by the City, that is created jointly by the City and Warren County, that has any City representation on its board of directors or that receives funding from the City that is identified in the annual budget as either a City eligible agency, board or commission or competitive funding agency, board or commission. This prohibition shall not apply to contracts existing with any such agencies, boards or commissions prior to June 15, 2009. However, if any such existing contract is renewable after June 15, 2009, then this prohibition shall apply to the renewal of the contract.

2. The prohibition above shall not apply for contracts involving employees of the City of Bowling Green if the contract is awarded after public notice and competitive sealed bidding or competitive online bidding, unless the employee of the City is authorized to participate in establishing the contract specifications or awarding or managing the contract. In any situation in which this exception is applicable, the department requesting the contract shall provide written documentation to the Department of Finance that these provisions have been or will be met.

3. Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the City in accordance with any applicable provisions of state law and ordinances, rules or regulations of the City.

(Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG2004-39, 9/7/2004; Ord. BG2009-15, 6/2/2009; Ord. BG2020-31, 10/20/2020)

25-6 OFF-DUTY EMPLOYMENT.

1. A public official or employee shall not accept any employment or enter into any contracts that result in a conflict of interest with their duties as an official or employee of the City.

2. An employee of the City may be self-employed or may take occasional or part-time jobs if, in the opinion of his or her department head, there is no conflict with working hours, the employee's efficiency in his or her City work, or other interests of the City.

3. Employees wishing to take off-duty employment shall have the written approval of their department head.

4. Management level positions (Directors of the Departments of Finance, Human Resources and Risk Management, Information Technology, Law, Neighborhood and Community Services, Public Works, Parks and Recreation, Police and Fire and the Internal Auditor) shall notify the City Manager prior to creating, contracting with, or being employed by any agency or business firm other than the City. The City Manager shall provide written approval or disapproval, which shall be forwarded to the Board of Commissioners. Any request by the City Manager shall receive prior approval by the Board of Commissioners.

5. All notifications of off-duty employment shall state the type and place of employment, the hours of work and the employer's name and address.

6. 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.
(Ord. BG94-52, 12/13/94; Ord. BG2006-20, 6/26/2006; reference Ord. BG2011-30, 6/27/2011; Ord. BG2018-40, 9/26/2018)

25-7 REPRESENTING PRIVATE INTERESTS AFTER EMPLOYMENT OR SERVICES CEASES.

No former public official or employee shall appear on behalf of a private interest other than his or her own on any matter before the City until one year after he or she has left his or her position with the City.

(Ord. BG94-52, 12/13/94)

25-8 GIFTS.

1. No public official or employee of the City, as defined hereinabove, shall, in such capacity, solicit, directly or indirectly, any gratuity for any intended or actual personal gain or benefit, regardless of value, from any person or entity.

2. No public official or employee of the City, as defined hereinabove, shall offer, give, or accept, directly or indirectly, any gratuity, regardless of value, which is offered or based upon any understanding that the vote, official act, or judgment of such public official, or employee would be influenced thereby or if it may reasonably be inferred that the purpose of the gratuity was to influence the action of the public official or employee or to affect the performance or nonperformance of an official act or that the gift-giver has an interest which may be substantially affected directly or indirectly by the performance or nonperformance of an official act.

3. Subject to the above prohibitions, a public official or employee of the City, as defined hereinabove, may accept unsolicited gratuities of a value up to and including one hundred dollars (\$100.00).

4. Public officials and employees of the City, as defined hereinabove, may accept gratuities, without regard to value, when such gratuities are offered to the City or a City agency and are accepted on behalf of the City or a City agency, with the gratuity to be and remain the property of the City or City agency.

5. Public officials and employees of the City, as defined hereinabove, may accept, regardless of value, admission to, and actual and reasonable out-of-pocket expenses incurred for, events to which they are invited in their official, representative capacity as a public official or employee of the City, as defined hereinabove, and may accept noncash gratuities valued at no more than one hundred dollars (\$100.00) offered in appreciation for speaking or making any presentation at such event.

(Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG2015-11, 5/5/2015; Ord. BG2020-31, 10/20/2020)

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25-9 USE OF CITY EQUIPMENT.

1. No City-owned or City-supported property, vehicle, equipment, labor or service will be used by a public official or employee, any family member, a business entity or any other person in his or her private use.

2. No City equipment will be removed from the City premises where it is normally kept for a public official's or employee's personal use unless such equipment is available to the general public or such equipment is provided as a matter of stated public policy for the use of City public officials and employees in the conduct of official business.

3. The City's letterhead will not be used for personal correspondence or in personal business correspondence.
(Ord. BG94-52, 12/13/94)

25-10 POLITICAL ACTIVITIES.

1. No appointment to or employment in any City position shall be dependent on political activity.

2. No employee shall be required to engage in any political activity as a condition of employment.
(Ord. BG94-52, 12/13/94)

25-11 NEPOTISM.

1. No relative of a member of the Board of Commissioners or the City Manager may be employed or assigned to any type of position under the jurisdiction of the City Manager.

2. No relative of a member of the Board of Commissioners or the City Manager shall be appointed by the Mayor or Board of Commissioners to any City or joint City/County created agency, board or commission or to any agency, board or commission that receives funding from the City.

3. An applicant for a classified position shall not be considered for appointment in a department where a relative would be in the employee's direct line of supervision. An employee shall not be promoted or placed in a position in which the employee would be in the direct line of supervision of a relative.

4. No employee shall be involved in the hiring, supervision, promotion, evaluation, training and/or discipline of a relative in any type of position under the jurisdiction of the City Manager.

5. Cohabitation with one’s supervisor is prohibited. If this situation comes to the attention of the City, the least senior employee(s) will be terminated in accordance with established personnel policy.

6. No employee shall be disciplined or terminated because of a relationship that predates this Ordinance, nor shall any employee be forced to terminate a relationship that predates this Ordinance as a condition of continued employment. Any appointee to any City or joint City / County created agency, board or commission or any agency, board or commission that receives City funding may continue to serve to the expiration of the existing term of office, but shall not be reappointed for any additional terms.

(Ord. BG94-52, 12/13/94; Ord. BG98-28, 6/23/98; Ord. BG99-53, 10/19/99; Ord. BG2009-15, 6/2/2009; Ord. BG2015-23, 7/18/2015; Ord. BG2016-13, 5/3/2016; Ord. BG2019-18, 5/7/2019)

25-12 FINANCIAL DISCLOSURE.*

1. The following classes of public officials and employees of the City shall file an annual statement of financial interests with the Board of Ethics:

- A. Elected City Officials.
- B. City Manager and Department Heads.
- C. Assistant Chief Financial Officer(s).
- D. Internal Auditor.
- E. Candidates for elected office.

2. Members of the board of the appropriate city agencies, as defined in Section 25-2 above, and members of the boards of any other entity that receives State or Federal money through the City of Bowling Green will be required to sign a sworn Conflict of Interest Statement. This statement will note that some board members, because of their interest in that particular board, property of ownership, business interests and other reasons may gain personal or professional benefits from their service to that board. The statement will also require the board member to state that neither they nor any member of their family shall derive any benefit or profit from inside information obtained in closed sessions of that board. The board member shall

* Editor’s Note: Reference Municipal Order No. 2008-301 which authorizes dissolution of the Depot Development Authority updating changes made in Ord. No. BG2008-9 which included language of the Depot Development Authority under paragraph 2 above in Section 25-12.

further be required to disclose in open session meetings any potential conflict of interest regarding an issue before the board, abstain from any discussion on that issue, leave the meeting room prior to any closed session on that issue and shall abstain from voting on that issue.

3. The initial statement of financial interests required by this section shall be filed with the City Clerk no later than January 31, 1995. All subsequent statements of financial interests shall be filed no later than January 31 each year, provided that a public official or employee newly-appointed to fill an office or position of employment with the City shall file his or her initial statement no later than thirty (30) days after the date of the appointment and a candidate for City office, who is not a public official or employee already required to file a statement of financial interest, shall file his or her initial statement no later than thirty (30) days after the filing deadline for that office.

4. The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

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

6. The statement of financial interests shall be filed on a form prescribed by the Board of Ethics. The Board shall deliver a copy of the form to each public official 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 to deliver a copy of the form to any public official or employee shall not relieve the public official or employee of the obligation to file the statement.

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

8. A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period as determined by the Board.

9. The statement of financial interests shall include the following information for the preceding calendar year:

(a) The name, current business address, business telephone number, and home address of the filer.

(b) The title of the filer's office, office sought, or position of employment.

- (c) The occupation of the filer and the filer's spouse or domestic partner.
- (d) Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5,000.00) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.).
- (e) 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 (\$10,000.00) at fair market value or five percent (5%) ownership interest or more.
- (f) 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 (\$10,000.00) at fair market value or five percent (5%) ownership interest or more.
- (g) 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 (\$10,000.00) or more.
- (h) The name and address of any creditor owed more than ten thousand dollars (\$10,000.00), if the creditor has engaged in any business transaction with the City during the past three (3) years, or is anticipated to engage in any business transaction with the City excluding 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.
- (i) The name and address of any non-governmental organization, association or other business entity (excluding social, religious, trade or professional associations) in which the position of officer, board member or member is held, whether or not any income is derived from such position.
- (j) The name and address of any governmental board and commission which the officer or employee is a member.
- (k) A sworn statement that the filer has read the Code of Ethics, will abide by the Code requirements and that the information being provided is true.

10. Nothing in this Section shall be construed to require any public official or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

11. The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement 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.

12. 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 (11) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25.00) per day, up to a maximum total civil fine of five hundred dollars (\$500.00). Any civil fine imposed by the Board under this section may be recovered by the City in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

13. 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. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG96-31, 9/3/96; Ord. BG99-53, 10/19/99; Ord. BG2002-3, 1/15/2002; BG2006-20, 6/26/2006; Ord. BG2008-9, 3/4/2008; Ord. BG2015-11, 5/5/2015; Ord. BG2016-13, 1/19/2016; Ord. BG2018-40, 9/26/2018; Ord. BG2019-18, 5/7/2019; Ord. BG2020-31, 10/20/2020)

25-13 BOARD OF ETHICS.

1. The Mayor, with the approval of the Board of Commissioners shall appoint a Board of Ethics composed of five (5) members. Effective with the members of the Board of Ethics with terms beginning January 1, 1998, three (3) members shall be appointed for terms of two (2) years. The remaining two (2) members shall be appointed for an initial term of three (3) years. All appointments thereafter shall be for a term of two (2) years. The Mayor, with the approval of the Board of Commissioners, shall appoint three (3) alternate members to serve in the temporary absence of a regular member of the Board of Ethics during hearings that are held as a result of an ethics complaint. The alternate members shall serve during the term of the Mayor. No member shall serve more than three (3) consecutive terms. No person appointed to the Board of Ethics shall hold any other elected or appointed position with any entity subject to the jurisdiction of this Board of Ethics. A member of the Board of Ethics may be removed by a vote of four (4) of the five (5) members of the Board of Commissioners for misconduct or inability to conduct, or willful neglect of duties. Before any member of the Board of Ethics is removed from office, the member shall be afforded the opportunity for a hearing before the Board of Commissioners. The decision of the Board of Commissioners shall be final and non-appealable. The City Attorney shall be assigned to the Board of Ethics for its administrative support. In the event an actual or potential conflict occurs, the Board of Ethics may retain private counsel at the expense of the City. The Board of Ethics will select a chairperson to serve for a one (1) year term. Vacancies on the Board of Ethics shall be filled within sixty (60) days by the Mayor and Board of Commissioners. Members of the Board of Ethics shall serve without

compensation but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties. Meetings of the Board of Ethics shall be held as necessary, upon the call of the chairperson or at the written request of a majority of the members. Minutes shall be kept for all proceedings of the Board of Ethics and the vote of each member on any issue decided by the Board of Ethics shall be recorded in the minutes.

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

(a) To initiate on its own motion, receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this 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 of Ethics who has the power to administer oaths.

(c) To issue orders requiring the attendance and testimony of those public officials or employees subject to this chapter and the production of documentary evidence relating to an investigation or hearing being conducted by the Board of Ethics.

(d) To refer any information concerning violations of this Chapter to the City Manager, the Board of Commissioners, the governing body of any City agency, the county attorney, or other appropriate person or body, as necessary.

(e) To render advisory opinions to public officials or 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 public officials 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 City Manager or Board of Commissioners.

(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.

3. Filing of Complaints; Complaint Provisions.

(a) All complaints alleging any violation of the provisions of this Chapter shall be submitted to the Office of City Clerk, pursuant to the “Policy for Complaint Procedures” as adopted by the Board of Ethics.

(b) All proceedings and records of the Board of Ethics shall be confidential, subject to the provisions of Kentucky’s Open Meetings and Open Records Acts, until a final determination is made by the Board.

(c) Any person who knowingly files with the Board of Ethics a false complaint alleging a violation of any provision of this Chapter by a public official or employee of the City as defined shall be guilty of a Class A misdemeanor.

(d) 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.

(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.

4. Penalties.

(a) If the Board of Ethics concludes in its report that in consideration of the evidence produced at the hearing a violation of this Chapter did not occur, the Board of Ethics may dismiss the complaint by a majority vote of the entire Board of Ethics; or,

(b) If the Board of Ethics concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the Board of Ethics, after considering any mitigating circumstances, may:

(1) Issue a written formal reprimand to the violator concerning the violation(s) and provide a copy of the reprimand to the City Manager, Board of Commissioners and City agency with which the violator serves or is employed.

(2) Issue a written order requiring the violator to cease and desist the violation.

(3) Recommend in writing to the City Manager, Board of Commissioners and City agency with which the violator serves or is employed, that the violator be sanctioned as recommended by the Board of Ethics, which may include a recommendation for discipline, dismissal, removal from office or employment, or any other penalties as recommended by the Board of Ethics.

(4) Issue a written order requiring the violator to pay a civil penalty of not more than one thousand dollars (\$1,000.00), and, at the sole discretion of the Board of Ethics, requiring the violator to pay a portion or all of the reasonable legal costs incurred by the Board of Ethics and/or the City and/or the City agency in relation to the violation(s), which civil penalty and legal costs 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.

(5) Refer evidence of violations of this Chapter or State or Federal laws to the County Attorney, Commonwealth Attorney or United States Attorney of the jurisdiction for prosecution.

5. Appeals. Any person who is found by the Board to have violated any provision of this Chapter may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing. The court shall hear the appeal upon the record as certified by the Board.

6. 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 by this Board or a complaint alleging a violation is tendered to the Office of City Clerk. A violation shall be deemed to have been discovered by this Board when it is discussed at a meeting attended by a quorum of the Board.

7. Advisory Opinions.

(a) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any public official or employee of the City as defined which is covered by this Chapter.

(b) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions.

(c) All advisory opinions shall be public documents.

(d) 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.

(e) 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.

8. Reprisals Against Persons Disclosing Violations Prohibited.

(a) No public official or employee of the City as defined shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any 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:

(1) Prohibiting disciplinary or punitive action if a public official or employee of the City as defined discloses information which he or she knows:

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

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

(c) Is confidential under any other provision of law.
(Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG97-48, 1/6/98; Ord. BG99-53, 10/19/99; Ord. BG99-64, 12/21/99; Ord. BG2020-31, 10/20/2020; Ord. BG2021-6, 3/2/2021)

25-14 PENALTIES.*

Except when another penalty is specifically set forth in this Chapter or State or Federal law, the violation of the Code of Ethics shall be punishable as follows:

1. Any public official or employee of the City found by the Board of Ethics to have violated this Chapter shall forfeit to the City or City agency an amount equal to the economic benefit or gain realized by such public official or employee of the City, as determined by the Board of Ethics. This forfeiture, in addition to any order of the Board of Ethics requiring payment of any civil penalty, and/or legal costs, may be enforced by the City in a civil action in the nature of the recovery of a debt if the offender fails to pay the amount within the prescribed time, or, if there is none, within a reasonable amount of time.

* Editor's Note: The paragraphs in Subchapter 25-14 were renumbered with the release of Supp. No. 21 using numerical references versus alpha characters to match the formatting used throughout the rest of the Chapter.

2. In the case of elected officials and other public officials other than employees of the City, a violation of this Code of Ethics shall be considered misconduct subject to remedies as determined by the Board of Commissioners.

3. In addition to all other remedies which may be imposed under this Chapter, a finding by the Board of Ethics that an employee of the City is guilty of a violation of this Chapter shall be sufficient cause for disciplinary action including, but not limited to, removal, demotion, and/or suspension, as determined by the Board of Commissioners or City agency. (Ord. BG94-52, 12/13/94; Ord. BG96-5, 2/20/96; Ord. BG2020-31, 10/20/2020; Ord. BG2021-6, 3/2/2021)