

**CHAPTER 36: ETHICS CODE**

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## GENERAL PROVISIONS

### § 36.01 TITLE.

This chapter shall be known and may be cited as the "City of Covington Code of Ethics".

(Ord. O-51-94, passed 12-29-94)

### § 36.02 FINDINGS, PURPOSE, AUTHORITY.

#### (A) *Findings.*

(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, that 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.

#### (B) *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.

(C) *Statutory authorization.* This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

(Ord. O-51-94, passed 12-29-94)

### § 36.03 DEFINITIONS.

As used in this chapter, unless the context clearly requires a different meaning.

**BOARD OF ETHICS.** The Northern Kentucky Regional Ethics Enforcement Committee ("Board of Ethics"). The **BOARD OF ETHICS** will be designated the responsibility of enforcement of the requirements of the city's Code of Ethics.

**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.

**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 Covington, 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, including but not limited to city appointees to the Kenton County and Municipal Planning and Zoning Commission, the Northern Kentucky Area Development District, the Northern Kentucky Area Planning Commission, the Ohio Kentucky Indiana Regional Council of Governments, the Kenton Boone Cable Board, and Northern Kentucky Independent Health District. The term **EMPLOYEE** shall not include any contractor or subcontractor or any of their employees, except that it shall include the City Solicitor.

**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:

- (1) The Mayor.
- (2) A legislative body member.
- (3) The City Manager.
- (4) The Assistant City Manager.

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-13-10, passed 5-25-10)

## **STANDARDS OF CONDUCT**

### **§ 36.10 CONFLICTS OF INTEREST IN GENERAL.**

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

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

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action or agree to take or refrain from taking any discretionary action or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action on any matter before the city in order to obtain a financial benefit from any of the following:

- (1) The officer or employee.
- (2) A family member.
- (3) An outside employer of the officer or employee.
- (4) Any business in which the officer or employee, or any family member has a financial interest.

(5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the officer or employee, a family member, an outside

employer, or a business as defined in division (C)(4) and (C)(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 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. O-51-94, passed 12-29-94)

### **§ 36.11 CONFLICTS OF INTEREST IN CONTRACTS.**

(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, except as follows:

(1) The prohibition in division (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, the prohibition in division (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in division (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. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the requirements set forth in §§ 36.20 et seq. below are satisfied.

(3) The prohibition in division (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 employee is in the best interests of the public and the city or city agency because of price, limited supply, or other specific reason.

(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.

(4) The prohibition in division (A) of this section shall not apply in the case of the City Solicitor negotiating his or her contract with the city.

(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 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. O-51-94, passed 12-29-94)

### **§ 36.12 RECEIPT OF GIFTS.**

No officer or employee of the city or any city agency shall directly or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than \$100, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence or could reasonably be expected to influence the officer or employee in the performance of his or her public duties.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.13 USE OF CITY PROPERTY, EQUIPMENT, 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:

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

(B) 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.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.14 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.**

(A) No officer or employee of the city or any city agency shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

(C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interests.

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.15 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. O-51-94, passed 12-29-94)

### **§ 36.16 POST-EMPLOYMENT RESTRICTION.**

No officer or employee of the city or any city agency shall appear or practice before the city or any city agency 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.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.17 HONORARIA.**

(A) No officer or employee of the city or a city agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's or employee's activities outside of municipal service and is unrelated to the officer's or employee's service with the city.

(B) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or city agency and primarily for the benefit of the city or city agency and not primarily

for the benefit of the officer or employee or any other person.

(Ord. O-51-94, passed 12-29-94)

## **FINANCIAL DISCLOSURE**

### **§ 36.20 WHO MUST FILE.**

The following classes of City of Covington officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics: elected city officials; City Manager, Assistant City Manager; candidates for elected city offices; City Solicitor; Assistant City Solicitor; all department heads including the directors of the Code Enforcement, Community Development, Economic Development, Finance, Fire, Housing, Human Resources, Legal, Public Improvements, Police and Recreation Departments; Assistant Finance Director; ABC Administrator; Board of Ethics appointees; Board of Adjustment members; Planning Commission appointees.

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-7-96, passed 3-6-96; Am. Ord. O-29-96, passed 8-13-96; Am. Ord. O-13-10, passed 5-25-10)

### **§ 36.21 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.**

(A) A statement of financial interests (the "statement") required by this section shall be filed with the Board of Ethics or its designee no later than 5:00 p.m. April 30 of each year. The Board of Ethics or its designee shall maintain these statements and related records for the public and the Board of Ethics. The Board of Ethics or its designee shall notify all persons required to file a statement 15 days before the statement is due.

(B) The Board of Ethics or its designee shall produce an annual report consisting of an organized compilation of the annual statements submitted by the parties identified in § 36.20 and shall maintain the annual report and statements. The Board of Ethics or its designee may distribute copies of the annual report on request.

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

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-7-96, passed 3-6-96; Am. Ord. O-29-96, passed 8-13-96; Am. Ord. O-57-05, passed 10-25-05; Am. Ord. O-13-10, passed 5-25-10)

### **§ 36.22 FORM, STATEMENT OF FINANCIAL INTERESTS.**

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than March 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. O-51-94, passed 12-29-94; Am. Ord. O-13-10, passed 5-25-10)

### **§ 36.23 CONTROL, MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.**

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

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

(1) Upon the expiration of three 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 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. O-51-94, passed 12-29-94)

### **§ 36.24 CONTENTS, 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 filer's spouse.

(4) Information that identifies each source of income of the filer, the filer's spouse and any immediate adult family member or other adult residing in the same household with the filer exceeding \$10,000 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 the filer's spouse had at any time during the preceding calendar year an interest of \$20,000 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 is 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 the filer's spouse had at any time during the preceding calendar year an interest of \$20,000 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 city, other than the filer's primary residence, in which the filer or the filer's spouse had during the preceding calendar year an interest of \$20,000 or more.

(8) Each source by name and address of gifts or honoraria having an aggregate fair market value of \$250 or more from any single source, excluding gifts received from family members, received by the filer or the filer's spouse during the preceding calendar year. Gifts and honoraria do not include political contributions.

(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. O-51-94, passed 12-29-94; Am. Ord. O-57-05, passed 10-25-05; Am. Ord. O-13-10, passed 5-25-10)

### **§ 36.25 NONCOMPLIANCE WITH FILING REQUIREMENTS.**

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement 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 division (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 \$25 per day, up to a maximum total civil fine of \$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. O-51-94, passed 12-29-94)

## EMPLOYMENT OF FAMILY MEMBERS

### § 36.30 EMPLOYMENT REGULATED.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) employment;
- (2) appointment;
- (3) promotion;
- (4) transfer; or
- (5) advancement

of a family member to an office or position of employment with the city or a city agency.

(B) No officer or employee of the city or a city agency shall supervise or manage the work of a family member.

(C) 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 December 31, 1994.

(Ord. O-51-94, passed 12-29-94)

## ENFORCEMENT

### § 36.40 BOARD OF ETHICS.

(A) The Northern Kentucky Regional Ethics Authority and the Northern Kentucky Regional Ethics Enforcement Committee are designated the authority and responsibility of enforcing the City of Covington's Code of Ethics.

(B) The Mayor of Covington is hereby authorized to execute on behalf of the City of Covington Board of Commissioners an interlocal cooperation agreement as authorized by KRS 65.210 *et seq.* to allow the Northern Kentucky Regional Ethics Authority and the Northern Kentucky Regional Ethics Enforcement Committee. The interlocal agreement is attached to Ordinance O-13-10 and incorporated by reference.

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-13-10, passed 5-25-10)

### § 36.41 ALTERNATE MEMBERS.

The executive authority of the city, with the approval of the legislative body may appoint one alternate member of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties. An alternate member shall be appointed for a term of one year. Alternate members shall meet all qualifications and be subject to all of the requirements of this chapter that apply to regular members.

(Ord. O-51-94, passed 12-29-94)

### § 36.42 FACILITIES; STAFF.

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



(Ord. O-51-94, passed 12-29-94)

### **§ 36.43 POWER; DUTIES OF THE BOARD.**

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 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 executive authority of the city, the city legislative body, 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 executive authority or the legislative body of the city.
- (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. O-51-94, passed 12-29-94)

### **§ 36.44 FILING; INVESTIGATION OF COMPLAINTS.**

- (A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten working days from the date of receipt. The Board shall forward within ten 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 30 days of the receipt of a proper complaint, the Board of Ethics shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.
- (C) All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board except:
  - (1) The Board may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.
  - (2) If the complainant or alleged violator publicly 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 to either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this 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 of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the 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 a written or verbal reprimand to the officer or employee concerning the alleged violation. If a written reprimand is issued, a copy shall be provided to the executive authority and governing body of the city or city agency. If a verbal reprimand is issued, a written record of the verbal reprimand shall be provided to the executive authority and governing body of the city or city agency.

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

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

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-7-96, passed 3-6-96)

### **§ 36.45 NOTICE OF HEARINGS.**

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within 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 24 hours of the time the order setting a hearing is issued.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.46 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 of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this chapter has been proven. Within 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 executive authority and the governing body 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 \$1,000.

(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. O-51-94, passed 12-29-94)

### **§ 36.47 APPEALS.**

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the circuit court of the county within 30 days after the date of the final action of 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.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.48 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 year after the violation is discovered.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.49 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 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.

(C) All 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) 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.

(Ord. O-51-94, passed 12-29-94; Am. Ord. O-7-96, passed 3-6-96)

### **§ 36.50 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 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 prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he 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, KRS 61.870 to 61.884.
- (3) Is confidential under any other provision of law.

(Ord. O-51-94, passed 12-29-94)

### **§ 36.99 PENALTIES.**

(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 of Ethics 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 of Ethics 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 chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics 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 of Ethics 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 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 chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

(Ord. O-51-94, passed 12-29-94)