

CHAPTER 39: CODE OF ETHICS

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GENERAL PROVISIONS

§ 39.01 PURPOSE AND AUTHORITY.

(A) 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.

(B) 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) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.
(Ord. 1994-23, passed 11-7-94)

§ 39.02 DEFINITIONS.

As used in this chapter, 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.

"BOARD OF ETHICS." The Northern Kentucky Ethics Enforcement Committee which is created and vested by this chapter with the responsibility of enforcing the requirements of the City's Code of Ethics.

"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 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 Williamstown, 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 any of their employees.

"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 dependence 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 legislative body member.

(C) The city clerk.

(D) The city finance officer.

(E) The city administrator.

(F) Any person who occupies a non-elected office created under KRS 83A.080.

(G) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city. (Ord. 1994-23, passed 11-7-94)

STANDARDS OF CONDUCT

§ 39.10 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 for any of the following:

(1) The officer or employee.

(2) A family member.

(3) An outside employer.

(4) Any business in which the officer or employee, or any family member has a financial interest.

(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 subsection (C)(4) and (C)(5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent that 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.

§ 39.11 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 subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, the prohibition in subsection (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. 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 subpart (3) below are satisfied.

(3) The prohibition in subsection A of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction
and

the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.

(b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(c) A finding is made by the governing body of the city or city agency that the contract with the officer or 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.

(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. 1994-23, passed 11-7-94)

§ 39.12 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 on an annual basis having an accumulated fair market value of more than one hundred dollars (\$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. 1994-23, passed 11-7-94)

§ 39.13 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. 1994-23, passed 11-7-94)

§ 39.14 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. 1994-23, passed 11-7-94)

§ 39.15 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. 1994-23, passed 11-7-94)

§ 39.16 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 (1) year after the termination of the officer's or employee's service with the city or city agency.

(Ord. 1994-23, passed 11-7-94)

§ 39.17 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. 1994-23, passed 11-7-94)

FINANCIAL DISCLOSURE

§ 39.20 PERSONS WHO MUST FILE.

The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Northern Kentucky Ethics Enforcement Committee:

(A) Elected city officials.

(B) Candidates for city elective office. (KRS 65.003)

(C) Members of the city planning and zoning commission and board of adjustment, appointed by the appropriate appointing authority of the city.

(D) Members of the Northern Kentucky Ethics Enforcement Committee created by this chapter.

(E) City administrative officer.

(F) Non-elected officers and employees of the city or any city agency who are authorized to make purchases of materials or services or award contracts, leases or agreements involving the expenditure of more than ten thousand dollars (\$10,000) or more.
(Ord. 1994-23, passed 11-7-94)

§ 39.21 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) The initial statement of financial interests required by this section shall be filed with the Northern Kentucky Ethics Enforcement Committee or the administrative official designated as the custodian of its records by the Northern Kentucky Ethics Enforcement Committee, no later than 4:00 p.m., March 1, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on April 30 each year provided that:

(1) An officer or employee newly-appointed to fill an office or position of employment with the city or a city agency file his or her initial statement no later than sixty (60) days after the date of the appointment.

(2) A candidate for city office shall file his or her initial statement no later than thirty (30) days after the deadline for filing as a candidate for elected city office.

(B) The Northern Kentucky Ethics Enforcement Committee may grant a reasonable extension for filing a statement of financial interests for good cause shown.

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the 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.

(Ord. 1994-23, passed 11-7-94; Am. Ord. 1996-15, passed 8-5-96; Am. Ord. 1996-20, passed 10-14-96)

§ 39.22 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

The statement of financial interests shall be filed on a form prescribed by the Northern Kentucky Ethics Enforcement Committee or the administrative official designated by the Northern Kentucky Ethics Enforcement Committee. The Committee, 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. 1994-23, passed 11-7-94; Am. Ord. 1996-20, passed 10-14-96)

§ 39.23 CONTROL AND MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.

(A) The Northern Kentucky Ethics Enforcement Committee 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 Northern Kentucky Ethics Enforcement Committee and/or its designated administrative official as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Northern Kentucky Ethics Enforcement Committee and/or its 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 Northern Kentucky Ethics Enforcement Committee shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(Ord. 1994-23, passed 11-7-94)

§ 39.24 CONTENTS OF THE FINANCIAL INTERESTS STATEMENT.

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

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

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

(3) The occupation of the filer and the 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 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.

(6) A designation as commercial, residential, or rural and the location of all real property within the city or for the city's representative to a county-wide planning commission 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.

(7) Each source by name and address of gifts or honoraria having an aggregate fair market value of one hundred dollars (\$100) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

(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 person, family or household purposes.

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

(Ord. 1994-23, passed 11-7-94)

§ 39.25 NONCOMPLIANCE WITH FILING REQUIREMENTS.

(A) The Northern Kentucky Ethics Enforcement Committee or the City Clerk/Treasurer of the City of Williamstown 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. 1994-23, passed 11-7-94)

NEPOTISM

§ 39.30 NEPOTISM PROHIBITED.

(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 directly 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 prohibitions, but which existed prior to January 1, 1995.
(Ord. 1994-23, passed 11-7-94)

ENFORCEMENT

§ 39.40 NORTHERN KENTUCKY ETHICS ENFORCEMENT COMMITTEE.

(A) Pursuant to KRS 65.210 to 65.300 the City has entered into an interlocal agreement with certain cities and counties in the Northern Kentucky Area Development District to establish the Northern Kentucky Regional Ethics Authority (NKREA), which will in turn establish a seven (7) member Northern Kentucky Ethics Enforcement Committee (NKEEC) to implement the requirements regarding enforcement imposed by KRS 65.003. The powers and authorities delegated to the NKREA/NKEEC are as follows:

(1) Maintenance of financial disclosure statements required by this chapter. All financial disclosure statements are deemed public documents and are subject to inspection under the Kentucky Open Records Act.

(2) Receipt of complaints alleging possible violations of the codes of ethics.

(3) Issuance of opinions in response to inquiries relating to the ethics codes.

(4) Investigation of possible violations of the codes of ethics.

(5) Imposition of penalties provided for in the codes of ethics.

(B) The City further delegates all powers and authorities necessary for this entity to organize itself and adopt rules of procedures as deemed necessary to accomplish these responsibilities. The NKREA/NKEEC shall elect a chairperson annually from its membership, who shall be the presiding officer and a full voting member of the Committee. Meetings of the Committee shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the Committee. To insure the orderly procedural implementation of these responsibilities, the Northern Kentucky Ethics Enforcement Committee is expressly authorized to enter into agreements with the Northern Kentucky Area Development District to provide necessary support services.

(Ord. 1995-03, passed 4-3-95)

§ 39.41 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city or any city agency shall subject to reprisal or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or

discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Northern Kentucky Ethics Enforcement Committee 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 an officer or employee of the city or any city agency discloses 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. 1994-23, passed 11-7-94)

§ 39.99 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 Northern Kentucky Ethics Enforcement Committee 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 Northern Kentucky Ethics Enforcement Committee not to exceed one thousand dollars (\$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 Northern Kentucky Ethics Enforcement Committee 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 Northern Kentucky Ethics Enforcement Committee 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 and with all applicable laws of the Commonwealth.

(Ord. 1994-23, passed 11-7-94)