

## CITY OF DRAKESBORO

ORDINANCE NO. 94- 1

**AN ORDINANCE ESTABLISHING A CODE OF ETHICAL CONDUCT APPLICABLE  
TO THE OFFICERS AND EMPLOYEES OF THE CITY AND CITY AGENCIES**

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring this City to enact and enforce a code of ethics governing the conduct of City officers and employees beginning no later than January 1, 1995; and

WHEREAS, the officials of this City are committed to the operation of the City government that manifests the highest moral and ethical standards among its officers and employees and desire to comply with all requirements of the Commonwealth's local government ethics law.

NOW THEREFORE, Be it ordained by the City Council of the City of Drakesboro, Kentucky:

**SECTION 1. Title.** This ordinance shall be known and may be cited as the "City of Drakesboro Code of Ethics."

**SECTION 2. Findings.** The legislative body of the City of Drakesboro, Kentucky, finds and declares that:

(A) Public office and employment with the City are public trust.

(B) The vitality and stability of the government of this City depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a City officer or employee, that confidence is imperiled.

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(C) The government of this City has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

**SECTION 3. Purpose and Authority.**

(A) It is the purpose of this ordinance 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 applications, 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 ordinance to meet the requirements of KRS 65.003, as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the City by KRS 82.082 and pursuant to requirements of KRS 65.003.

**SECTION 4. Definitions.** As used in this ordinance, unless the context clearly requires a different meaning:

(A) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, hold company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

(B) "Board of Ethics" means the City of Drakesboro, Kentucky, Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirements of the City's code of ethics.

(C) "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 write-in candidate with the county clerk or secretary of state.

(D) "City" refers to the City of Drakesboro, Kentucky.

(E) "City agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this City.

(F) "Employee" means any person, whether full-time or part-time, and whether paid, who is employed by or provides service to the City. The term "employee" shall not include any contractor or subcontractor or any of their employees.

(G) "Family member" means husband, wife, children of a current or former spouse, brother, sister, father, mother, father-in-law, or mother-in-law of employees.

(H) "Immediate family members" means a spouse, an unemancipated child or child of the officer's or employee's spouse 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.

(I) "Officer" means 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 Clerk.
- (4) The City Administrator.
- (5) Any person who occupies a non-elected office created under KRS 83A.080 and KOC #210.1.

## STANDARDS OF CONDUCT

**SECTION 5. Conflicts of Interest in General.** Every officer and employee of the City and every City agency shall comply with the following standards of conduct.

(A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in 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 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 employee, or a business in which the officer or employee or any family member has a financial interest, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonable be expected to accrue to any other member of the business, occupation, profession, or other group.

**SECTION 6. Conflicts of Interest in Contract.** Conflicts of interest in contracts relating to City officers and employees is controlled by the provisions of KRS 61.251 and 61.252, and reference is hereby made to such controlling statutes. Copies of KRS 61.251 and 61.252, as currently enacted, are attached hereto as an exhibit. It should be noted that this statute may be amended, modified, or repealed by the Kentucky General Assembly, and therefore the current version should always be independently obtained.

**SECTION 7. Receipts 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 one hundred dollars (\$100.00), 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.

**SECTION 8. Use of City Property, Equipment, and Personnel.**

(A) 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:

- (1) The use is specifically authorized by a stated City policy.
- (2) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

**SECTION 9. 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 case, proceeding, application or other matter pending before the City or any City agency.

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

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

**SECTION 10. 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 or his or her official duties, if the primary purpose of the use or disclosure is to further his or her 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.

## FINANCIAL DISCLOSURE

**SECTION 11. 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 Board of Ethics:

- (A) Elected City Officials.
- (B) Candidates for elected City Office.
- (C) Members of the Board of Ethics created by this ordinance.

**SECTION 12. When to File Statements: Amended Statements.**

(A) The initial statements of financial interest required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 5:00 P. M., January 31, 1995. All subsequent statements of financial interest shall be filed no later than 5:00 P. M., on January 31, each year (if January 31, is Saturday, Sunday, or legal holiday, the deadline shall be the first day after January 31, that is not a Saturday, Sunday, or legal holiday), provided that:

- (1) An officer or employee newly-appointed to fill an office or position of employment with the City or a City agency shall file his or her initial statement no later than thirty (30) 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 date on which the person becomes a candidate for elected City office.

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

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

**SECTION 13. Form of the Statement of Financial Interest.** The statements 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 December 15, 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.

**SECTION 14. Control and Maintenance of the Statements of Financial Interest.**

(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 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 (5) years after filing, provided that:

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

**SECTION 15. Contents of the Financial Interests Statements.**

(A) The statements 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 the nature of income of the filer and the filer's immediate family members exceeding ten thousand dollars (\$10,000.00) during the preceding calendar year, e.g., (salary, commission, dividends, retirement fund

distribution, etc.).

- (5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000.00) at fair market value or twenty-five percent (25%) ownership interest or more.
- (6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the City during the past three (3) years, or which is anticipated to engage in any business transactions with the City, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000.00) at fair market value or twenty-five percent (25%) ownership interest or more.
- (7) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of twenty-five thousand dollars (\$25,000.00) or more.
- (8) Each source by name and address of gifts or honoraria having an aggregate fair market value of one thousand dollars (\$1,000.00) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.
- (9) The name and address of any creditor owed more than ten thousand dollars (\$10,000.00), except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for personal, family or household purposes, including motor vehicles.

(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.

**SECTION 16. 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 of violation.

(B) Any person who fails or refuses to file the statements 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 ten dollars (\$10.00) per day, up to a maximum total civil fine of one hundred dollars (\$100.00). 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.

(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 violation.

**NEPOTISM**

**SECTION 17. 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 City agency.

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



(C) The practice of employing a member of the family of another current regular, full-time employee within the same city department shall be prohibited for applicants employed after January 18, 1989.

(D) If active, regular, full-time employees within the same City department becomes lawfully married, the spouse (employee) with the least seniority shall resign his or her employment on or before the date of such marriage.

(E) 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 group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(F) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to January 1, 1995.

#### **ENFORCEMENT**

##### **SECTION 18. Board of Ethics Created.**

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

(B) The Board of Ethics shall consist of three (3) members who shall be appointed by the executive authority of the City, subject to the approval of the legislative body. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position or employment in the City or any City agency. The members shall serve for a term of three (3) years; except that with respect to the members initially appointed, one (1) member shall be appointed for a term of one (1) year, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. Thereafter, all appointments shall be for a term of three (3) years. No more than two (2) of the members shall be of the same political party. Each member of the Board of Ethics shall have been a resident of the City for at least one (1) year prior to the date of the appointment and shall reside in the City throughout the term in office. The members of the Board of Ethics shall be chosen

by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

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

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

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

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.

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

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

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

**SECTION 19. Alternate Members.** The executive authority of the City, with the approval of the legislative body may appoint two (2) alternate members 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 (1) year. Alternate members shall meet

all qualifications and be subject to all of the requirements of this ordinance that apply to regular members.

**SECTION 20. Facilities and 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.

**SECTION 21. Power 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 ordinance.

(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 ordinance to the executive authority of the City, the City legislative body, the governing body of any City agency, the county attorney, or other appropriate person 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 ordinance.

(F) To enforce the provisions of this ordinance with regard to all officers and employees of the City and City agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.

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

legislative body of the City.

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provisions of this ordinance or any state or federal law.

**SECTION 22. Filing and Investigation of Complaints.**

(A) All complaints alleging any violation of the provisions of this ordinance 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 (10) working days from the date of receipt. The Board of Ethics shall forward within ten (10) working days to each officer or employee of the City or City agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.

(B) Within thirty (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 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 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 ordinance. 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, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand 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 ordinance by an officer or employee of the City of any City agency shall be guilty of a Class A misdemeanor.

**SECTION 23. 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 thirty (30) days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing and a copy of this ordinance shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting the hearing is issued.

**SECTION 24. 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 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 the 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 closed 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 closed session for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of the applicable ordinance 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 ordinance, the Board may:

- (1) Issue an order requiring the violator to cease and desist the violation.
- (2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body of the City or City agency with which the violator serves.

- (3) In writing, recommend to the Mayor and the City Council of the affected city 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 \$200.00.
- (5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

**SECTION 25. Appeals.** Any person who is found guilty of a violation of any provision of this ordinance by the Board of Ethics may appeal the findings 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.

**SECTION 25. Limitations of Actions.** Except when the period of limitations is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

**SECTION 26. 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 an officer or employee of a City or a City agency who is covered by this ordinance.

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

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

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

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

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

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

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

**SECTION 28. 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 ordinance.

(B) This section shall not be construed as:

- (1) Prohibiting disciplinary or punitive action if an officer or employee of the City or any City agency discloses information which 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 or privileged under any other provision of law.



**SECTION 29. Penalties.**

(A) Except when another penalty is specifically set forth in this ordinance, 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 ordinance 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 two hundred fifty (\$250.00), which may be recovered by the City in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

(B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the City or any City agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the City or the City agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the City in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the City or any City agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the Mayor of the City, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the City and all applicable laws of the Commonwealth.

**SECTION 30. Severability.** This ordinance shall be deemed severable, and if any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

**SECTION 31. Conflicting Ordinances Repealed.** All other ordinances and part or ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

**SECTION 32. Effective Date.** This ordinance shall take full force and effect January 1, 1995.

DATED: This the 2 day of December 1994.

Kenneth Neil Litton  
KENNETH NEIL LITTON, MAYOR

ATTEST:

Arena Johnson

TITLE: City Clerk

FIRST READING: December 1, 1994

SECOND READING: December 2, 1994

**ROLL CALL**

<u>NAMES</u>	<u>YES</u>	<u>NO</u>
<u>Helen Harris</u>	<u>✓</u>	<u>_____</u>
<u>Mary Rainwater</u>	<u>✓</u>	<u>_____</u>
<u>Roger Frazier</u>	<u>✓</u>	<u>_____</u>
<u>Bruce Lewis</u>	<u>✓</u>	<u>_____</u>
<u>Richard Heathman</u>	<u>✓</u>	<u>_____</u>