

**CITY OF HIGHLAND HEIGHTS, KENTUCKY**

**ORDINANCE NO. 01-2011**

AN ORDINANCE AMENDING ORDINANCE NOS.  
36-94 AND 05-95 COMMONLY REFERRED  
TO AS THE CITY OF HIGHLAND HEIGHTS ETHICS  
ORDINANCE BY ADOPTING PROCEDURES  
FOR THE HANDLING OF ETHICS COMPLAINTS  
AND ADOPTING NEW PENALTY PROVISIONS.

WHEREAS, the City of Highland Heights has the authority to enact an ordinance establishing a code of ethics to guide the conduct of elected and appointed officers and employees of the City of Highland Heights; and

WHEREAS, public office and employment are a public trust and government has a duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected while conducting their public duties; and

WHEREAS, it is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct for local government officers and employees shall be clear, consistent, and uniform in their application, and provide local officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

NOW THEREFORE, THE CITY OF HIGHLAND HEIGHTS, KENTUCKY HEREBY  
ORDAINS AS FOLLOWS:

Section I

The following definitions shall apply to this ordinance:

A.) "Business Associate" includes the following:

- 1.) A private employer;
- 2.) A general or limited partnership; or a general or limited partner within the partnership;
- 3.) A corporation that is family owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
- 4.) A corporation, business association, or any other business entity in which the city government officer or employee serves as a compensated agent or representative.

B.) "Business organization" means any corporation, partnership, sole proprietor, 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;

C.) "Candidate" means any individual who seeks nomination or election to a city municipal office. An individual is a candidate when the individual:

1.) Files a notification and declaration for a nomination for office with the county clerk or the secretary of state.

D.) "City Government Agency" means any board, commission, authority, non-stock corporation, or other entity formed by the city government or a combination of local governments.

E.) "City Government Employee" means any person, whether compensated or not, whether full-time or part-time, employed by or servicing the city government or city government agency who is not a city government officer, but shall not mean any employees of a school district or school board.

F.) "City Government Officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any city government office; or any person who serves as a member of the governing body of any city government agency or special taxing or non taxing district, but shall not mean any officer of a school district or school board.

G.) "Member of Immediate Family" means the spouse, an unemancipated child residing in an individual's household, or a person claimed by the individual or individual's spouse as dependent for tax purposes.

H.) "Rule of Necessity" means the city government, agency or district may make or enter into a contract in which an officer or employee or members of his immediate family or a business associate has an economic interest if

a.) The nature of the transaction and the nature of the interest is publicly disclosed on the record prior to the time it is engaged in, and

b.) A specific finding is made by the city government, agency, or district and entered on the official record of the proceedings of the governing body that notwithstanding the conflict it is in the best interest of local government because of limited supply, price or documented emergency.

## Section II

Standards of Conduct- No city government officer or employees or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

No city government officer or employee shall use or attempt to use his position to secure unwarranted privileges or advantages for himself or others.

### Section III

~~Any violation of section II 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.~~

### Section III

A.) Financial Disclosure- Any officer or employee, or any member of his immediate family, of the city government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the city government shall disclose such private interest to the city council or the local ethics commission. Any such disclosure shall require the completion of a disclosure statement revealing in detail the nature of the direct or indirect financial interest.

B.) The following individuals shall be required to file an annual financial disclosure statement:

- 1.) Elected Officers.
- 2.) Candidate for elected office.

The Financial Disclosure statement shall include the following information:

- 1.) Name of filer.
- 2.) Current business address, business telephone number and home address of filer.
- 3.) Title of filer public office or office sought.
- 4.) Occupations of filer and spouse.
- 5.) Positions held by the filer and any members of filer's immediate family in any business organization or non-profit entity from which the filer or any member of the filer's immediate family receive compensation in excess of Five Thousand Dollars (\$5,000.00) during the preceding calendar year, and the name, address, and telephone number of the business organization or non-profit entity.
- 6.) Name and address of each source of income of filer and spouse from within the Commonwealth of Kentucky which exceeds Five Thousand Dollars (\$5,000.00) during the preceding year.
- 7.) Name and address of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of Ten Thousand Dollars (\$10,000.00) at the fair market value.
- 8.) Location of all commercial property within the city, in which the filer or any member of the filer's immediate family had an interest of Ten Thousand Dollars (\$10,000.00) or more during the past year.

Each statement shall be signed and dated by the individual filing the statement of financial interest. The Financial Disclosure statements required by this ordinance shall be filed with the City's ethics board.

#### Section V

~~Any violation of section IV 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.~~

#### Section IV

Neptotism-No city government officer or city government employee shall act in his/her official capacity to hire or cause to be hired any member of his/her immediate family at an hourly pay rate or with benefits in excess of any other employee with similar job duties, responsibilities and qualification requirements.

#### Section VII

~~Any violation of section VI 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.~~

#### Section V

a.) City Ethics Commission-An Ethics Commission is hereby created which shall have the power to enforce all provisions of the code of ethics adopted herein.

b.) The Commission shall be composed of three (3) members appointed by the Mayor with the approval of the City Council. Said members must be at least twenty-one (21) years of age.

c.) Decisions of the City Ethics Commission regarding violations may be appealed to the Campbell Circuit Court.

d.) The board shall receive, hear and investigate complaints concerning violations of this code of ethics. Any instance in which the board of ethics finds that violation of the code of ethics exist, the board may impose the appropriate penalty. In hearing and investigating complaints concerning violations of this code of ethics, the board shall have the power to subpoena witnesses, administer oaths, take testimony and require other production of evidence.

#### Section VI

##### Filing an Investigation Complaint.

A.) All complaints alleging any violation of the provisions of this Ordinance shall be submitted to the ethics board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the board. The board shall, within a reasonable

time, acknowledge receipt of a complaint to the complainant and forward a copy of the complaint to any officer or employee who is the subject of the complaint.

B.) Within thirty (30) days of the receipt of the Complaint, the board shall conduct a preliminary inquiry, the board shall afford a person who is the subject of the complaint an opportunity to respond. 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.) The board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether there is reasonable cause to believe that the officer or employee has violated this Ordinance. If the board finds that the complaint is outside 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.

D.) If the board concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and there is reasonable cause to believe that a violation occurred, the board shall notify the officer or employee who is the subject of this complaint and shall initiate a hearing to determine whether there has been a violation.

## Section VII

### Notice of Hearing

If the board determines that a hearing regarding allegations contained in the complaint is necessary, the board shall issue an order, and mail it to the alleged violator within a reasonable time, setting the matter for a hearing within thirty (30) days of the date the Order is issued, unless the alleged violator petitions the board for a later date.

## Section VIII

### Hearing Procedure

A.) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the board; however, the hearing 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 representative, shall have a reasonable opportunity to examine all documents and records prepared by the board in connection with the matters to be heard. The board shall inform the alleged violator, or his 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 persons 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 the incorporation into the record of the proceeding.

E.) The board may, upon its own motion or that of any party, grant a continuance of a hearing for the receipt of taking of further evidence. However, the board shall make all efforts to complete the hearing and taking of the evidence at the earliest possible time so as to not unduly burden the alleged violator or any other interested party.

F.) After conclusion of the hearing, the board shall, as soon as practicable, begin deliberations for purpose of reviewing the evidence in making a determination of whether a violation of this chapter has been proven. Within thirty (30) days after the conclusion 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 has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint, to the party who filed the complaint, to the mayor, and to the city council or the governing board of the appropriate city agency.

H.) If the board concludes in its report that, based upon the evidence, there is clear and convincing proof of a violation, the board may do one or more of the following:

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 mayor, city council, and the governing board of the appropriate city agency.

3.) In writing, recommend to the Mayor and city council that the violator be sanctioned as recommended by the board, which may include discipline, dismissal or removal from office.

4.) Issue an order requiring the violator to pay, within a specified period of time, a civil penalty, as set forth in this Ordinance.

5.) Refer evidence of criminal violation of this Ordinance or state law to the county attorney or commonwealths attorney of the jurisdiction for prosecution.

## Section IX

### Appeals

Any person who is found guilty of a violation may appeal the finding to the circuit court within thirty (30) days after the date of the final action of the ethics board by filing a petition with the court against the board.

## Section X

### Limitation of action

Except when the period of limitation is otherwise established by state law, an action for a violation of this Ordinance must be brought within one year after the violation is discovered.

## Section XI

### Penalties

A.) Any violation of section II shall constitute a class A misdemeanor, and upon conviction, the court may void any contract entered into in violation thereof. Additionally, such a violation shall be grounds for removal from office or from employment with the city in

accordance with any applicable provisions of state law and ordinances, rules or regulations of the city, or other remedies as set forth in Section VIII H 1 thru 5, as determined by the board .

B.) Any person who fails to or refuses to file the financial disclosure statement under section III above, or who fails or refuses to remedy a deficiency in the filing of a financial disclosure statement under section III above within the time period required, 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 \$500.00. 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 the prescribed period of time.

C.) Any person who intentionally files a financial disclosure statement under section III above which he knows to contain false information or intentionally omits required information shall be guilty of a class A misdemeanor or other remedies as set forth in Section VIII H1 thru 5, as determined by the board.

D.) Any person who knowingly files with the board a false complaint alleging a violation of this Ordinance shall be guilty of a class A misdemeanor or other remedies as set forth in Section VIII H1 thru 5, as determined by the board.

E.) Except when another penalty is specifically set forth in this Ordinance, any officer or employee of the city or one of its agencies who is found by the board to have violated any provisions of this chapter shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the board not to exceed \$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 in a prescribed period of time.

F.) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or one of its agencies who is found by the board to have violated any provision of this Ordinance shall forfeit to the city an amount equal to the economic benefit or gain which the officer or employees is determined by the board to have realized as the result of the violation. The amount of any forfeiture that may be recovered by the city is 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.

G.) In addition to all other penalties which may be imposed in this Ordinance any officer or employee of the city or one of its agencies who is found by the board to have violated any provisions of this Ordinance shall be subject to removal, suspension, demotion, or other disciplinary action as determined by the mayor.

## Section XII

The invalidity of any provision of this ordinance shall not affect the validity of any other provision.

## Section XIII

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section XIV

That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, recorded and published. Same shall be in effect at the earliest time provided by law.

First reading of this 1<sup>st</sup> day of February, 2011.

Second reading of this 15 day of February, 2011.

  
MAYOR GREGORY W. MEYERS

ATTEST:

  
JEAN RAUF  
CITY CLERK/TREASURER

Ord11.01

PUBLISH IN CCR 2-24-2011