

**ORDINANCE NO. 2023-12-8799**

**AN ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH AND ESTABLISHING A CODE OF ETHICAL CONDUCT APPLICABLE TO ALL OFFICERS AND EMPLOYEES OF THE CITY AND CITY AGENCIES**

**WHEREAS**, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring the city to enact and enforce a code of ethics governing the conduct of city officers and employees; and

**WHEREAS**, the City of Paducah adopted and enacted a Code of Ethics on December 13, 1994 by Ordinance No. 94-12-5229; and

**WHEREAS**, on June 13, 2023, the Board of Commissioners of the City of Paducah adopted a Resolution establishing six ethics principles to govern the conduct of the City’s officials and employees; and

**WHEREAS**, on October 10, 2023, the Board of Commissioners adopted Municipal Order No. 2814, to authorize an agreement with the Kentucky League of Cities for Certification Under the KLC Certified City of Ethics Program; and

**WHEREAS**, the City of Paducah is committed to the operation of a city government that manifests the highest moral and ethical standards among its officers and employees and desires to comply with all requirements of the Commonwealth’s local government ethics law; and

**WHEREAS**, the City, in partnership with the Kentucky League of Cities, has completed review of the current Code of Ethics and found the Code to be in compliance with KRS 65.003; and

**WHEREAS**, the City now wishes to make certain updates to the Code of Ethics to reflect current policy and best practices.

**NOW, THEREFORE**, be it ordained by the City of Paducah as follows:

**SECTION 1.** That Chapter 2, Article X, Code of Ethics, of the Code of Ordinances of the City of Paducah, Kentucky shall be amended as follows:

**SECTION 2-741 Title of article.**

This ordinance shall be known and may be cited as the “City of Paducah Code of Ethics.”

**SECTION 2-742 Findings.**

The legislative body of the City of Paducah finds and declares that:

- (A) Public office and employment of the city are public trusts.
- (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.
- (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 2-743. Purpose and Authority.**

- (A) It is the purpose of this article 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 ordinance to meet the requirements of [~~House Bill 238~~] KRS 65.003 as enacted by the 1994 Kentucky General Assembly and any amendments made subsequent to that date.
- (C) Any violation of this ordinance shall be considered "misconduct" as that term is used in KRS 83A.040(9) and may subject an elected official to the hearing process as set forth in that statute.
- (D) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to the requirements of KRS [~~ch.~~] 65.003.

#### **Sec. 2-744. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board of Ethics* means the City of Paducah Board of Ethics, which is created and vested by this article with the responsibility of enforcing the requirements of the City's code of ethics.

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

*Candidate* means any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the County Clerk or Secretary of State, or 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* means the City of Paducah, Kentucky.

*City business* means any discussion of specific city issues that go beyond general information.

*Confidential information* means information obtained in the course of holding public office or employment, or as a contractor to the city, which is not available to members of the public and which the officer or employee is not authorized to disclose, except to designated individuals or bodies, including written and non-written information, including information obtained during an executive session of the legislative body. When such information is also available through channels open to the public, officers and employees are not prohibited from disclosing the availability of those channels.

*Customer or client* means:

1. Any person or entity which has supplied goods or services during the previous 24 months, having a total value greater than \$5,000; or
2. Any person or entity to which an officer or employee's outside employer or business has supplied goods or services during the previous 24 months, having a total value greater than \$5000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

"Domestic partner" is an adult, unrelated by blood, with whom an unmarried or separated officer or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

*Employee* means any person, whether compensated or not, whether full-time, ~~or~~ part-time, seasonal, or temporary, and employed by or serving the City. The term "employee" shall not include any independent contractor or independent subcontractor or any of their employees.

*Family member* means a spouse, domestic partner, parent, child, stepchild, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

*Financial benefit* includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include legal campaign contributions.

Financial interest is a relationship to something where a direct or indirect financial benefit has been, will be, or might be received as a result of the relationship.

*Gift* means something of value that is given or bestowed, but shall not be interpreted to mean any lawful campaign donation given to any candidate.

Household includes anyone whose primary residence is in the officer's or employee's home, including nonrelatives who are not paying rent or staff.

*Immediate family member* means 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* 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 Manager.~~

Personal benefit includes benefits other than those that are financially advantageous to the officer or employee or the officer's or employee's immediate family member or business associate, and includes, but is not limited to, such things as reputation and the success of one's career.

Personal interest means a relationship to something where a personal benefit has been, will be or might be obtained by certain action or inaction with respect thereto.

Social media is understood to be content created by individuals using the internet. Examples of social media include, but are not limited to, Facebook, Instagram, YouTube, Twitter, LinkedIn, Snapchat, Reddit, and blogs.

Transaction means any matter, including but not limited to, contracts, work, or business with the city, the sale or purchase of real estate by the city, and any request for zoning amendments, variances, or special permits pending before the city, upon which a public officer or employee performs an official act or action.

(Code 1996, § 41.04; Code 1997, § 2-744; Ord. No. 94-12-5229, 12-13-1994; Ord. No. 96-3-5470, 3-26-1996; Ord. No. 97-3-5658, § 4, 3-25-1997)

**Secs. 2-745—2-760. Reserved.**

## *DIVISION 2. STANDARDS OF CONDUCT*

### **Sec. 2-761. Conflicts of interest generally.**

Every officer and employee of the City shall comply with the following standards of conduct:

- (1) No 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 or employee's public duties.
- (2) No officer or employee shall intentionally use or attempt to use such person's official position with the City to secure unwarranted privileges or advantages for such person's self or others.
- (3) 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:
  - a. The officer or employee.
  - b. A family member.
  - c. An outside employer.
  - d. Any business in which the office or employee, or any family member, has a financial interest.

- e. Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.
- (4) 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 subsections (3)d and e 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.
- (5) 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 such person's participation, vote, decision or other action taken within the scope of such person's public duties shall disclose the precise nature, in writing, to the governing body of the City 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.

(Code 1996, § 41.15; Code 1997, § 2-761; Ord. No. 94-12-5229, 12-13-1994; Ord. No. 97-3-5658, § 5, 3-25-1997)

**Sec. 2-762. Conflicts of interest in contracts.**

In addition to the terms and provisions of this division, all officers and employees of the City shall be made aware of, and at all times comply with, the terms and provisions of KRS 61.252 , or any amendments thereto, pertaining to conflicts of interest in contracts.

**Sec. 2-763. Receipt of gifts.**

No officer or employee of the City shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than ~~\$100.00~~ \$200.00 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 the officer's or employee's public duties.

**Sec. 2-764. Use of City property, equipment and personnel.**

No officer or employee of the City shall use or permit the use of 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~~ written 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.

**Sec. 2-765. Representation of interests before City government.**

- (a) No officer or employee of the City shall represent any person or business, other than the City, in connection with any cause, proceeding, application, or other matter pending before the City.
- (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 one's self in matters concerning the officer's or employee's 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.

**Sec. 2-766. Misuse of confidential information.**

No officer or employee of the City shall intentionally use or disclose information acquired in the course of such person's official duties, if the primary purpose of the use or disclosure is to further such person's personal interest or financial interest, or the personal or financial interest that of another person, group, or business. No officer or employee of the City shall use or disclose information acquired during an executive session of the legislative body, absent a lawful request (such as a subpoena or court order). Information shall be deemed confidential if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 — 61.884, at the time of its use or disclosure.

**Sec. 2-767. Honoraria.**

- (a) No officer or employee of the City shall accept any compensation, honorarium or gift with a fair market value greater than ~~\$100.00~~ \$200.00 in consideration of an appearance, speech or division unless the appearance, speech or division 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 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 division, 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 and primarily for the benefit of the City and not primarily for the benefit of the officer or employee or any other person.

(Code 1996, § 41.21; Code 1997, § 2-767; Ord. No. 94-12-5229, 12-13-1994; Ord. No. 96-3-5470, 3-26-1996; Ord. No. 97-3-5658, § 11, 3-25-1997)

**Sec. 2-768. Withdrawal from Participation**

An officer or employee must refrain from acting on, or discussing, formally or informally, a matter before the city, if acting on the matter, or failing to act on the matter, may personally or financially benefit any of the persons, or entities, listed in Section 2-761 above. Such an officer or employee should leave the room if it is a public meeting conducted under KRS 61.810 and KRS 61.815.

Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.

Ongoing conflict: An officer or employee whose outside employment, or other outside activity or relationship, can reasonably be expected to require more than sporadic withdrawal must resign, or cease such outside employment or activity. An officer or employee should not begin employment, or an activity or relationship that can reasonably be expected to require more than sporadic withdrawal. If a prospective officer or employee is in such a situation, they should not accept the position with the city.

**Sec. 2-769. Endorsements.**

(A) No officer or employee in their official capacity may publicly endorse products or services for their own personal or financial interest, or for their family member's personal or financial interest.

(B) However, this does not prohibit an officer or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.

**Sec. 2-770. Complicity with Others' Violations.**

No officer or employee may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code.

**Sec. 2-772. Meeting Attendance.**

All elected city officers and members of city boards and commissions are expected to attend their meetings. It is a violation of this Ordinance to have more than four unexcused absences in a 12-month calendar year, absent a medical condition which prevents the member's attendance. Violation of this Section by an elected city officer shall be deemed "willful neglect" as that term is used in KRS 83A.040(9).

**Sec. 2-773. Social Media.**

Elected city officials who want to interact with the community on social media shall conduct themselves professionally and as a representative of the city.

**Sec. 2-774. E-mail & Text Messages.**

(A) Elected City officials shall maintain an official email address. This must be separate from their personal email account. Officials shall strive to minimize discussion of city business on their personal email accounts.

(C) City officials shall retain any emails on their personal or official email accounts in which City business was discussed and any text messages in which City business was discussed in accordance with the Kentucky Department of Library and Archives' schedule for emails and text messages. City officials shall direct any record keeping questions to the city clerk.

**Sec. 2-775. Incompatible Offices**

(A) Pursuant to Section 165 of the Kentucky Constitution, no officer or employee of the city may also be a state officer, deputy state officer, or member of the General Assembly, or may fill more than one municipal office at the same time, whether in the same or a different city.

(B) Pursuant to KRS 61.080, no city officer may also hold a county office. In addition, the statute also states that the following city and consolidated local government offices are incompatible with any other public office:

1. Member of the legislative body of cities of the first class;
2. Mayor and member of the legislative council of a consolidated local government; and
3. Mayor and member of the legislative body in cities of the home rule class.

(C) In addition to the constitution and statutory provisions, there are common law incompatibilities defined by the courts. City officers and employment positions are deemed incompatible when one office or position of employment was inherently inconsistent in function with the other. This incompatibility occurs when there arises an implication that the duties and responsibilities of both cannot be performed at the same time with a necessary degree of impartiality and honesty.

(D) KRS 61.090 provides that the acceptance of an incompatible office operates to vacate the first office.

**Sec. 2-776. Conduct Unbecoming.**

All City employees and officers are expected to conduct their private and public affairs so that no disgrace or disrepute will be brought on the City government. Any conduct in violation of this expectation may subject the employee to the enforcement provisions herein and shall be considered "misconduct" of an officer as that term is used in KRS 83A.040(9) and may subject the officer to the hearing procedures set forth therein if the offending conduct was in the performance of the duties of his or her office.

**Sec. 2-777. Equal Opportunity Employer.**

The City of Paducah seeks to provide equal opportunity to all its employees and applicants for employment and to prohibit discrimination based on race, color, gender, national origin, age, religion or disability. The City promotes equal opportunity in matters of hiring, training, promotion, pay, employee benefits, and other conditions of employment. Any

intentional conduct inconsistent with this policy is a violation of this Ordinance and shall further be considered “misconduct” as that term is used in KRS 83A.040(9).

**Secs. 2.778—2-780. Reserved.**

*DIVISION 3. FINANCIAL DISCLOSURE*

**Sec. 2-781. Persons who must file statement of financial interests.**

The following classes of officers and employees of the City shall file an annual statement of financial interests with the Board of Ethics:

- (1) Elected city officials.
- (2) City Manager.
- (3) Candidates for elected city offices.
- (4) Department Head Level Directors

**Sec. 2-782. When to file statements; amended statements.**

- (a) The initial statement of financial interests 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., April 15, 1995. All subsequent statements of financial interest shall be filed no later than 5:00 p.m. on April 15 of each year, provided that:
  - (1) An officer or employee newly appointed to fill an office or position of employment with the City shall file such initial statement no later than thirty (30) days after the date of the appointment.
  - (2) A candidate for city office shall file such 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.

**Sec. 2-783. Form of statement of financial interests.**

Those persons listed in section 2-781 herein shall file their statement of financial interests on a form prescribed by the Board of Ethics. The office of the City Clerk shall have available the prescribed form for those requesting. It shall be the obligation and responsibility of the filer to obtain the prescribed form from the office of the City Clerk.

**Sec. 2-784. Custody and maintenance of statements of financial interests.**

- (a) The Board of Ethics shall be the official custodian of the statements of financial interests. The City Clerk shall assist the Board of Ethics in its custodial duties.
- (b) The detention and destruction schedules for statements of financial interests shall be in conformity with regulations to be promulgated by the Kentucky Archives and Records Commission pursuant to KRS 171.420 ; however, until schedules are promulgated the following interim time frames shall apply:
  - (1) Upon the expiration of three (3) years after a person ceases to be an officer or employee of the City, the Board of Ethics shall direct the City Clerk to destroy any statements of financial interests or copies of those statements filed by the person.

- (2) Upon the expiration of six (6) months after any election at which a candidate for elected City office was not elected or nominated, the Board shall direct the City Clerk to destroy any statements of financial interests or copies of those statements filed by the person.

**Sec. 2-785. Contents of 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 \$5,000.00 during the preceding calendar year, and the nature of the income (for example, salary, commission, dividends, retirement fund distribution, etc.).
  - (5) The name and address of any business, 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 \$10,000.00 at fair market value or five percent ownership interest or more.
  - (6) 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 \$10,000.00 or more.
  - (7) Each source, by name and address, of gifts or honoraria having an aggregate fair market value of ~~\$100.00~~ \$200.00 or more from any single source who the filer knows, or upon diligent inquiry should know, has a business, contractual or similar relationship with the City, excluding such relationships as taxpayer, license holder and citizen. Neither the filer nor any member of the filer's immediate family shall be required to include gifts they have received from immediate family members.
  - (8) The name and address of financial institutions with whom the filer and filer's immediate family have had a deposit or borrowing relationship during the past twelve (12) months.
- (b) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts or the names of individual clients or customers of businesses listed as sources of income.

**Sec. 2-786. Noncompliance with filing requirement.**

- (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 subsection (a) of this section 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 \$25.00 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 a prescribed period of time.
- (c) Any person who intentionally files a statement of financial interests which such person knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.



**Secs. 2-787—2-800. Reserved.**

*DIVISION 4. NEPOTISM*

**Sec. 2-801. Prohibited.**

- (a) For the purposes of this ~~division~~ ordinance, the term "family member" means a spouse, domestic partner, parent, child, stepchild, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.
- (b) No family member of any elected City official or the City Manager shall be appointed to any office or hired as an employee of the City during the City official's term or the City Manager's employment. Nothing in this section shall prohibit any person from being a candidate for City office or from serving as an elected City official or City Manager because family members were employed by the City at the time the term of office commenced.
- (c) No officer or employee of the City 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.
- (d) No officer or employee of the City shall hold an office or position in the supervisory chain-of-command of a family member.
- (e) No officer or employee of the City shall be promoted to an office or position that would result in a violation of subsection (d) of this section.
- (f) 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.
- (g) The nepotism prohibited in this section shall not prevent the hiring of family members as seasonal employees, for example, in parks, recreation or floodwall departments, provided that their employment does not exceed more than one hundred (100) days in any calendar year and the City makes a finding that the employment is in the best interest of the public.
- (h) When an officer or employee of the City, by marrying another officer or employee of the City, creates a new relationship in violation of this section, the City Manager shall correct the violation by assigning one of the spouses to another position or department when it is practical to do so.
- (i) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to April 1, 2001. However, the City Manager shall correct grandfathered violations of this ~~division~~ ordinance by assigning personnel to other positions or departments when it is practical to do so.

**DIVISION 5. CITY POLICIES AND ORDINANCES**

**Sec. 2-802. City Policies.**

The following policies of the City of Paducah are incorporated herein by reference such that a violation thereof is considered an ethical violation by the officer and therefore "misconduct" as that term is used in KRS 83A.040(9).

<u>GA-3</u>	<u>Use of City's Name for Personal Gain (Effective June 24, 1991)</u>
<u>HR-1</u>	<u>Records &amp; Internal Control (Effective January 8, 2007)</u>
<u>HR-17</u>	<u>Anti-Harassment Policy (Effective September 18, 2003)</u>
<u>HR-31</u>	<u>HIPAA Compliance (Effective February 28, 2012)</u>

HR-34	Workplace Violence Policy (Effective August 15, 2006)
HR-41	Professional Workplace Environment (Effective June 4, 2019)

Any amendments to these policies will not automatically amend this Section. The City Manager shall notify the Commission within 30 days after an incorporated policy has been amended so the amended policy may be considered for inclusion herein. Further, when a new policy is adopted in which the City Manager has reason to believe that the provisions should be applicable to officers and/or elected officials, the City Manager shall notify the Commission within thirty (30) days of such adoption so the new policy can be considered for inclusion herein.

**Sec. 2-803. City Ordinances.**

Officers of the City of Paducah shall abide by all City Ordinances. In addition to the enforcement procedures set forth in the applicable ordinance violated, failure of an officer to abide by the provisions of an ordinance shall be considered “misconduct” as that term is used in KRS 83A.040(9) and may subject the officer/elected official to the hearing procedures set forth therein if the offending conduct was in the performance of the duties of his or her office.

**Secs. 2-804—2-820. Reserved.**

*DIVISION 6. ENFORCEMENT*

**Sec. 2-821. 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 division, to enforce the provisions of this ordinance.
- (b) The Board of Ethics shall consist of three (3) members, who shall be appointed by the Mayor, subject to the approval of the City Commission. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of the ordinance from which this division is derived. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the City or any city board, City Commission or similar 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. 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 reappointed for three (3) consecutive full (three-year) terms.
- (c) A member of the Board of Ethics may be removed by the Mayor, subject to the approval of the City Commission, for misconduct, inability or willful neglect of duties, as defined herein. 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 City Commission.
- (d) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the Mayor, subject to the approval of the City Commission. 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.
- (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) The Board of Ethics shall meet at least once annually. The regular meeting date shall be the first Monday in May of each year. ~~Thereafter,~~ All other 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 such member's self from voting on the matter and remove themselves from the proceeding, 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 each member on any issue decided by the Board shall be recorded in the minutes. Upon request of the Board of Ethics, the City Clerk shall attend their meetings and assist in administrative duties, including maintaining the minutes of their meetings.

**Sec. 2-822. Powers and duties of the Board of Ethics.**

- (a) The Board of Ethics shall have the following powers:
  - (1) To initiate, receive, hear and review complaints and hold hearings regarding possible violations of the Ethics Code;
  - (2) To forward to appropriate agencies of State and local government information concerning violations which may be used in criminal or other proceedings;
  - (3) To render advisory opinions to city officers and employees regarding whether a given set of facts and circumstances constitutes a violation of any provisions of the Code of Ethics;
  - (4) To enforce the provisions of the Code of Ethics with regard to local government officers and employees and to impose penalties for violations as authorized;
  - (5) To retain the services of attorneys, accountants or other advisors who are independent of the City upon terms and conditions approved by Board of Commissioners; and
  - (6) To adopt rules and regulations reasonable and necessary to implement the Ethics Code and its maintenance of all financial disclosure statements.
- (b) Any person who fails or refuses to obey a lawful order issued in the exercise of the powers of the Board of Ethics shall be guilty of a Class A misdemeanor.
- ~~(c) Decisions of the Board of Ethics regarding violations shall be appealable to the Circuit Court.~~

**Sec. 2-823. Filing and investigation of complaints.**

- (a) All complaints alleging any violation of the provisions of this ~~division ordinance~~ shall be submitted to the Board of Ethics, or the City Clerk who is hereby designated as the administrative official designated by of the Board of Ethics. All complaints shall be in writing, and signed by the complainant, shall identify the specific provision(s) of this ordinance that is alleged to have been violated by the subject of the complaint, 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 shall forward within ten (10) working days to each officer or employee of the City who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ~~division ordinance~~.
- (b) If the subject of the complaint is an elected official, a copy of the complaint shall be forwarded within ten (10) working days of the date of receipt to the Board of Commissioners so that, if applicable, the provisions of KRS 83A.040(9) can be considered. The Board of Commissioners shall notify the Board of Ethics within ten (10) working days of receipt of the complaint whether the alleged violation is governed by the provisions of KRS 83A.040(9) and whether the Board of Commissioners intends to proceed with the procedures set forth therein. If the Board of Commissioners notifies the Board of Ethics of its intent to proceed, the Board of Ethics shall suspend its investigation of the complaint. If the Board of Commissioners declines to proceed under KRS 83A.040(9), then the Board of Ethics shall proceed under the provisions of this ordinance.
- (c) Within thirty (30) days of the receipt of a ~~proper~~ complaint, the Board of Ethics shall:
  - (1) Determine whether the Board has jurisdiction over the complaint;
  - (2) If the Board has jurisdiction, then the Board shall conduct a preliminary inquiry into the factual ~~concerning the~~ allegations contained in the complaint, which may include

interviewing the complainant, the subject of the complaint, and witnesses, in addition to reviewing any applicable documentary evidence;

- (3) If, following the preliminary inquiry, the Board finds there to be a minimal factual basis to constitute a violation, then the remaining provisions of this Section shall be followed. If the Board does not have jurisdiction over the complaint or finds the complaint to be frivolous or without factual basis to constitute a violation, then the complaint shall be dismissed in writing, with a copy to the complainant and the subject of 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, in 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 division. 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.~~
- 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 executive authority and governing body of the City. The reprimands mentioned herein will be confidential only to the extent that the confidentiality is not inconsistent with the provisions of Kentucky's Open-Record Act.~~ initiate a the hearing process set forth herein to determine whether there has been a violation.
- (e) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this ~~division~~ ordinance by an officer or employee of the City shall be guilty of a Class A misdemeanor.

#### **Sec. 2-824. 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, shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

#### **Sec. 2-825. 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 a representative, shall have a reasonable opportunity to review the complaint and 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 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 or court reporter, if one has been retained. All parties shall have the right to call and examine witness, 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. The entirety of the hearing shall be recorded.~~
- (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.~~
- (d) All hearings of the Board of Ethics shall be public unless the respondent requests the hearing to be held in executive session or the members otherwise vote to go into executive session in accordance with KRS 61.810.
- (e) 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 ~~division ordinance~~ has been proven by a preponderance of the evidence. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.
- (f) If the Board concludes in its report that no violation of this ~~division 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.
- (g) 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~~ A violation of this division ordinance occurred based on a preponderance of the evidence, the Board may, in addition to the range of penalties listed in the Penalties Section of this Ordinance, impose 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 City Commission ~~of the City with which the violator serves.~~
  - (3) In writing, recommend to the City Commission 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 \$1,000.00.
  - (5) Refer evidence of criminal violations ~~of this division or State laws~~ to the County Attorney or commonwealth's attorney of the jurisdiction for prosecution.

#### **Sec. 2-826. Appeals.**

Any person who is found guilty of a violation of any provision of this ~~division ordinance~~ by the Board of Ethics may appeal the finding to the Circuit Court of the County within thirty (30) days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the Clerk of the court all evidence considered by the Board at the public hearing, along with a recording and/or transcript of the hearing.

#### **Sec. 2-827. Limitation of actions.**

Except when the period of limitation is otherwise established by State law, an action for a violation of this article must be brought within one (1) year after the violation is has occurred. If the violation is not discovered within one (1) year of the occurrence, an action may only be brought within one (1) year of the discovery if, in the exercise of reasonable diligence, the violation could not have been discovered within one (1) year after the occurrence.

#### **Sec. 2-828. Reprisals against persons disclosing violations prohibited.**

- (a) No officer or employee of the City 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 division.

- (b) This section shall not be construed as prohibiting disciplinary or punitive action if an officer or employee of the City discloses information which such person knows:
  - (1) To be false or which such person 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 — 61.884 .
  - (3) Is confidential under any other provision of law.

**Sec. 2-829. Penalties.**

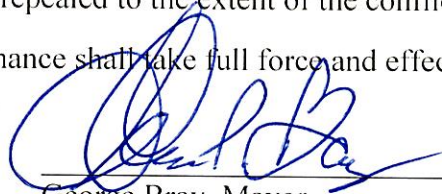
- (a) Except when another penalty is specifically set forth in this ~~division~~ ordinance, any officer or employee of the City who is found by the Board of Ethics to have violated any provision of this ~~division~~ ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed \$1,000.00, 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 ~~division~~ ordinance, any officer or employee of the City who is found by the Board of Ethics to have violated any provision of this ~~division~~ ordinance shall forfeit to the City 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 ~~division~~ ordinance, a finding by the Board of Ethics that an officer or employee of the City is guilty of a violation of this ~~division~~ ordinance shall be sufficient cause for removal, suspension, demotion or other disciplinary action by the executive authority 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 ~~division~~ ordinance shall be taken in accordance with all applicable ordinances and regulations of the City and all applicable laws of the Commonwealth.

**Secs. 2-830—2-850. Reserved.**

**SECTION 3.** Severability. 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 4.** Conflicting Ordinances Repealed. All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

**SECTION 5.** Effective Date. This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

  
\_\_\_\_\_  
George Bray, Mayor

ATTEST:

  
\_\_\_\_\_  
Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, November 28, 2023  
Adopted by the Board of Commissioners, December 12, 2023  
Recorded by City Clerk, December 12, 2023  
Published by *The Paducah Sun*, December 16-17, 2023