

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2023-#11**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, ADOPTING AN UPDATED CODE OF ETHICS AND AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL COOPERATION AGREEMENT WITH THE NORTHERN KENTUCKY REGIONAL ETHICS AUTHORITY AND THE CITIES AND COUNTY WHO ARE CURRENTLY MEMBERS OF THIS AUTHORITY.**

**WHEREAS**, the City of Dayton and its City Council members committed to the operation of the City in a manner that manifests the highest moral and ethical standards among its board members, officers and employees and desire to maintain the trust and confidence of the public in the discharge of the agency's mission and duties.

**WHEREAS**, Kentucky Revised Statutes ("KRS") Section 65.003 requires the City to enact an ordinance to assure that board members and employees comply with standards of ethical conduct and financial disclosure requirements.

**WHEREAS**, the City needs to update its ethics ordinance, which has not been updated since 1994.

**WHEREAS**, the Kentucky League of Cities' model ethics ordinance is used as source material to update the City's previous code of ethics to align with the Commonwealth of Kentucky's Revised Statutes.

NOW, THEREFORE, BE IT ORDERD AND RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY THAT:

Section 1

The Dayton City Council ("City Council") hereby adopts a new and updated Code of Ethics, which shall be applicable to City Council members and employees of the City of Dayton, Kentucky ("City). This Code of Ethics replaces the City's existing Code of Ethics in Chapter 40 of the City's Code of Ordinances as follows:

**CITY OF DAYTON, KY., CODE OF ETHICS**

**§ 40.01 DEFINITIONS.**

This policy shall be known and may be cited as the "City of Dayton, Ky., Code of Ethics."

**§ 40.02 Findings.**

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

- (A) Service in public office and employment with the City are public trusts.
- (B) The vitality and stability of the governance of this City depends upon the public's confidence in the integrity of its board members and employees. Whenever the public perceives a conflict between the private interests and public duties of a board member or employee, that confidence is compromised.
- (C) The legislative body 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 board members and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

**§ 40.03 Purpose and Authority**

- (A) It is the purpose of this policy to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for board members 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 KRS 65.003.
- (C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to the requirements of KRS 65.003.

**§ 40.04 Definitions.**

As used in this policy, unless the context clearly requires a different meaning:

- (A) "Agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by the City.
- (B) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.
- (C) "Candidate" means any individual who seeks appointment, 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 the 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.
- (D) “City” refers to the City of Dayton, Kentucky.
- (E) “City business” means any discussion of specific issues that go beyond general information.
- (F) “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. 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.
- (G) “Consultant” means an independent contractor, professional person, or entity engaged by the city or advising a city officer, and in a position to influence a city decision or action or having access to confidential information.
- (H) “Customer or client” means:
1. Any person or entity that has supplied goods or services during the previous 24 months, having a total value greater than \$1,000; 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 \$1,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.
- (I) “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.
- (J) “Employee” means any person, whether full-time, part-time, seasonal, or temporary, and whether paid or unpaid, who is employed or provides service to the city. The term “employee” shall not include any contractor or subcontractor or any of their employees.
- (K) “Enforcement committee” means the appointed body charged with the responsibility to investigate ethics complaints for the enforcement of this ordinance.
- (L) “Ethics board” see Enforcement committee.
- (M) “Family Member” means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- (N) “Immediate family member” means a spouse, domestic partner, and, whether by blood, adoption, marriage, guardianship, or domestic partnership, a child who is not

emancipated and who resides 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 or domestic partner, as a dependent for tax purposes.

- (O) "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.
- (P) "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.
- (Q) "Household" includes anyone whose primary residence is in the officer's or employee's home, including nonrelatives are not paying rent or staff.
- (R) "NKREA" or "Authority" means the Northern Kentucky Regional Ethics Authority, to which the City seeks membership and which has the responsibility of appointing members to the Authority's Enforcement Committee to enforce this jurisdiction's code of ethics.
- (S) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:
  - 1. Mayor;
  - 2. Council member;
  - 3. City Clerk;
  - 4. City Administrator and Assistant City Administrator;
  - 5. Police Chief;
  - 6. Any other person that occupies a nonelected office created pursuant to KRS 83A.080; or
  - 7. A member of the governing body of city agency who has been appointed to that agency by the City.
- (T) "Official act" means any legislative, administrative, appointive, or discretionary act of any public official or employee of the City, or any agency, board, committee, or commission thereof.
- (U) "Personal benefit" includes benefits other than those that are directly financially advantageous. These include financial benefits to immediate family members, business associates, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

- (V) “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 to it.
- (W) “Social media” is understood to be content created by individuals using the internet. Social media examples include Facebook, Instagram, YouTube, Twitter, LinkedIn, Snapchat, Reddit, TikTok, and blogs.
- (X) “Subordinate” means another official or employee over whose activities an official or employee has direction, supervision, or control.
- (Y) “Substantial debtor or creditor” means any person or business owed more than \$5,000, except from 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.
- (Z) “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.

## **STANDARDS OF CONDUCT**

### **§ 40.05 Conflicts of Interest in General.**

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

- (A) No officer or employee, or any immediate family member of any officer or employee shall have an interest in a business or engage in any business, transaction, or activity which is in substantial conflict with the proper discharge of the officer’s or employee’s public duties.
- (B) No officer or employee shall intentionally use, or attempt to use, their official position with the City to secure unwarranted (or unsolicited) privileges or advantages for themselves or others.
- (C) No officer or employee shall intentionally take or fail to take any discretionary action, or agree to take or fail to take any discretionary action, or influence or attempt to influence any other officer or employee to take or fail to take any discretionary action on any matter before the City to obtain a personal or financial benefits for any of the following:
  - 1. The officer of the employee.

2. A family member.
  3. An outside employer.
  4. Any business in which the officer or employee, or any family member, has a financial interest, including, but not limited to:
    - i. An outside employer or business of theirs, or of their family member, or someone who works for such outside employer or business;
    - ii. A customer or client; or
    - iii. A substantial debtor or creditor of theirs, or of their family member.
  5. Any business with which the officer or employee of any family member is negotiating, or seeking prospective employment, or other business or professional relationship.
  6. A nongovernmental civic group, social, charitable, or religious organization of which they, or their immediate family member, is an officer or director.
- (D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action, or inaction, no personal or financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C)(4-5) of this section, as a member of any business occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.
- (E) Every officer or employee who has a prohibited financial interest which the officer or employee believes, or has reason to believe, may be affected by their participation, vote, decision, or their action taken within the scope of their public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the City or agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure pursuant to Section 40.08 of this ordinance.

**§ 40.06 Conflicts of interest in Contracts**

- (A) No officer or employee of the city/county or any agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the City or a City agency, with the following exceptions:
1. The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to City Council or a City agency office, or

before an employee was hired by the City or a City agency. However, if any contract entered into by a City or City agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract unless the disclosures required by subpart 3 below are satisfied.

2. The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, or awarding, or managing the contract. If the officer or employee has any of the authorities as set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the disclosures required by paragraph 3 below are satisfied.
3. The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:
  - a. The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the City or City agency.
  - b. The disclosure is made a part of the official record of the governing body of the City or City agency before the contract is executed.
  - c. The finding is made by the governing body of the City or City agency that the contract with the officer or employee is in the best interest of the public and the City or City agency before the contract is executed.
  - d. The finding is made as part of the official record of the governing body of the City or City agency before the contract is executed.

- (B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of KRS 61.252. In addition, 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.

#### **§ 40.07 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 an officer of any county, city, or other municipality.
- (B) Pursuant to KRS 61.080, the following offices are incompatible with any other public office:
1. Member of the Public Service Commission of Kentucky;

2. Member of the Workers' Compensation Board;
  3. Commissioner of a fiscal court;
  4. County indexer;
  5. County judge executive;
  6. Member of the legislative body; and
  7. Mayor of a city.
- (C) In addition to the constitution and statutory provisions, common law incompatibilities have been defined by the courts. 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.

**§ 40.08 Withdrawal from Participation.**

- (A) 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 5(C) above. Such officer or employee should leave the room if it is a public meeting conducted under KRS 61.810 and KRS 61.815.
- (B) Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.
- (C) 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 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.

**§ 40.09 Receipt of Gifts.**

- (A) No officer or employee of the City or City any agency, shall directly, or indirectly, through any other person, or business, solicit, or accept any gift having a market value of more than \$200, whether in the form of money, service, loan, travel,



entertainment, hospitality, thing, or promise, or any other form, under circumstances where 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 their public duties.

(B) Certain items are typically excluded from this provision. Examples of these items include:

1. Gifts received from family members.
2. Gifts accepted on behalf of the City and transferred to the City.
3. Reasonable travel and travel-related expenses, cost of administration, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.
4. Usual and customary loans made in the ordinary course of business.
5. Awards, including certificates, plaques, and commemorative tokens presented in recognition of public service.
6. Informational, promotional, and educational items.

**§ 40.10 Use of City Property, Equipment and Personnel.**

No officer or employee of the City shall use, or permit the use of, any city time, funds, personnel, equipment, or other personal or real property, for the private use of any person, unless the use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

**§ 40.11 Nepotism Prohibited.**

- (A) No officer or employee of the City, or a City agency, shall advocate, recommend, or cause the employment, appointment, promotion, transfer, or 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 City agency shall supervise or manage the work of a family member.
- (C) No officer or employee shall participate in any action relating to the employment, do discipline of a family member, except that this prohibition shall not prevent an elected or appointed officer 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 situation member of the class or group.

- (D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to the effective date of the ordinance establishing this code of ethics.

**§ 40.12 Representation of Interests Before City Government.**

- (A) No officer or employee shall represent any person, group, or business, other than the city/county, in connection with any cause, proceeding, application, or other matter pending before the City or City agency.
- (B) Nothing in this section shall prohibit any officer or employee from representing themselves in matters concerning their own interests.
- (C) No elected officer shall be prohibited by this section from making an 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.

**§ 40.13 Misuse of Confidential Information.**

No officer or employee of the City or City agency shall intentionally use or disclose, information acquired in the course of their official duties, if the primary purpose of the use or disclosure is to further their personal or financial interest, or the personal or financial interest of another person, group, or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act at the time of its use or disclosure.

**§ 40.14 Political Solicitation.**

- (A) An officer, employee, or candidate may not request, or authorize anyone else to request that any subordinate or potential future subordinate participate or not participate in any political activity, including the making of a campaign contribution.
- (B) An officer, employee, or candidate may not engage in any political activity for candidates for City Council while on duty or in uniform; using governmental funds, supplies, vehicles, or facilities; or during any period of time during which they are normally expected to perform services for City for which compensation is paid.

**§ 40.15 Patronage.**

No officer or employee may promise an appointment or use their influence to obtain an appointment to any position as a reward for any political activity or contribution.

**§ 40.16 Outside Employment.**

- (A) An officer or employee shall not accept any employment, or enter into any contracts,

that result in a conflict of interest with their duties as an officer or employee of the City.

- (B) An employee of the City may be self-employed, or may take occasional or part-time jobs, if, in the opinion of their supervisor there is no conflict with working hours, the employee's efficiency in his or her City work, or other interest of the city.
- (C) Employees wishing to take off-duty employment shall have the written approval of their supervisor.
- (D) Employees or officers holding management-level positions shall notify the mayor prior to creating, contracting with, or being employed by an agency or business firm other than the City.
- (E) City employment shall remain the first priority, and if at any time the outside employment interferes with an employee's job requirements or performance, the employee shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or their governmental employment.

**§ 40.17 Post-Employment Restriction.**

- (A) No officer or employee of the City or City agency shall appear before the City or City agency or receive compensation for services rendered on behalf of any person in relation to any particular matter with respect to any matter on which the officer or employee personally worked while in the service of the City or City agency for a period of one year after the termination of the officer's or employee's service with the City or City agency.
- (B) No officer or employee of the shall make, participate in making, or use their official position to influence a decision involving the interests of a person with whom they are seeking, negotiating, or securing an agreement concerning future employment.
- (C) No officer or employee shall disclose or use without appropriate authorization any confidential information acquired in the course of the official duties.

**§ 40.18 Fees and Honoraria.**

- (A) An officer or employee shall not accept any compensation or honorarium in consideration for an appearance, speech, or article unless the appearance, speech, or article is both related to the officer's or employee's employment or activities outside of public service and unrelated to the officer's or employee's duties.
- (B) This section shall not preclude an officer or an employee from obtaining reasonable travel and travel-related expenses.

**§ 40.19 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.

**§ 40.20 Complicity with or Knowledge of Others' Violations.**

No officer or employee may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an officer or employee knows or has reasonable suspicion to believe that someone has violated this code, they are required to report it to the Ethics Enforcement Committee pursuant to 40.    of this ordinance.

**§ 40.21 Falsely Impugning Reputation.**

An officer or employee may not falsely impugn the reputation of a resident, employee, or an officer of another jurisdiction. If an officer or employee believes their accusation to be true, and then learns that it was false, even in part, they should apologize in the same forum and manner where the accusations were made. A failure to apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was intentional.

**§ 40.02 Meeting Attendance.**

All elected officers and members of city boards and commissions are expected to attend their meetings. It is a violation of this code to miss more than one-third of the meetings in a 12-month period.

**§ 40.23 Social Media.**

- (A) Officials, elected or otherwise, can maintain a personal presence on social media. However, to be considered personal, these officials cannot mention of their status as a public official. Any mention of their status potentially changes the nature of the page to one for a public agency, which requires recordkeeping in accordance with the Kentucky Department of Library and Archives retention schedule and subjecting the entire page to Open Records' requests.
- (B) Officials who want to interact with the community on social media in their role as a city official must maintain a separate social media account from their personal account for this purpose if they have a personal account. Officials will notify the clerk of any official page(s) utilized. The clerk will maintain an updated list of official pages of city officials.
- (C) Officials shall conduct themselves as a representative of the City and act respectfully.

- (D) Elected official pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure. In addition, guidelines, if any, shall be posted conspicuously on the page.
- (E) No comments shall be deleted unless in violation of posted guidelines. Deleted comments shall be provided to the city clerk and must be saved for one year.
- (F) City officials shall not conduct city business through social media. If receiving a specific request from a resident, the city official shall direct the resident to contact the official through official lines of communication, such as email or phone.
- (G) Elected officials shall not discuss issues pending before the legislative body. Elected officials may seek public input but shall not respond to comments. Engaging in substantive conversations on social media could require retention of the posts and may violate the Open Meetings Act if other elected officials are also engaging in the discussion.

**§ 40.24 Email.**

- (A) Emails sent or received by officials relating to official business shall be retained according to the Kentucky Department of Library and Archives schedule for emails. This includes the use of personal email accounts if they are used to conduct official business and may be subject to the Open Records requests.
- (B) It is recommended that officials maintain an official email address.

## **FINANCIAL DISCLOSURE**

**§ 40.25 Who Must File.**

- (A) The following classes of officers and employees and agencies shall file an annual statement of financial interests with the Ethics Enforcement Committee or the administrative official designated:
  - 1. A Board of Trustees/Director members.
  - 2. Elected Officials.
  - 3. Candidates for Elected Office.
  - 4. Chief Executive Officer or Administrator.
  - 5. Chief Deputy Executive Officer or Assistant Administrator.
  - 6. The Treasurer.

7. The City Clerk.
8. Board Members of any Policymaking Board.
9. Any officer or employee whose job description or actual duties involve any type of negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses; and the purchase, sale rental, or lease of real property, personal property, or services; and the obtaining of grants of money or loans.

**§ 40.26 When to File Statements and Amended Statements.**

- (A) The initial statement of financial interests required by this section shall be filed with the Ethics Enforcement Committee or the administrative official designated as the custodian of the statement of financial interests by the Ethics Enforcement Committee, no later than 5 p.m. April 15. All subsequent statements of financial interest shall be filed no later than 5 p.m. on April 30 each year provided that:
  1. An officer or employee newly appointed to fill an office or position of employment with the City or City agency shall file their initial statement no later than 30 days after the date of the appointment.
  2. A candidate for an elected office shall file their initial statement no later than 30 days after the date on which the person becomes a candidate for elected office.
- (B) The Ethics Enforcement Committee or the designated administrative official may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
- (C) In the event of a material change in any information contained in a financial statement that has been filed with the Ethics Enforcement Board or the designated administrative official, the officer or employee shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Ethics Enforcement Committee.
- (D) By June 30 of each year, the Ethics Enforcement Committee or the designated administrative official must review all annual financial disclosure statements filed to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible, or potential, violation of this code. If the Ethics Enforcement Committee or the designated administrative official determines that an annual, or transactional, disclosure statement is deficient, or reveals a possible or potential violation of this code, the Ethics Enforcement Committee or the designated administrative official will notify the person in writing of the deficiency, or possible, or potential violation, and the penalties for failure to comply with this code.

**§ 40.27 Form of the Statement of Financial Interests.**

- (A) The statement of financial interests shall be filed on a form prescribed by the Ethics Enforcement Committee or the designated administrative official, or an approved alternative.
- (B) The Ethics Enforcement Committee or the designated administrative official, along with the City Clerk, will annually review the list of officials and employees required to file annual disclosure statement, to determine whether the lists are complete and accurate.
- (C) In the event that an officer or employee files a similar statement of financial interest with another jurisdiction, a copy of that statement of financial interest may be submitted in lieu of the form prescribed, so long as the form contains the information requested in the prescribed statement of financial interests form and is required by this ordinance.
- (D) The failure of the Ethics Enforcement Committee 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.

**§ 40.28 Control and Maintenance of the Statements of Financial Interests.**

- (A) The Ethics Enforcement Committee or the designated administrative official shall be the “official custodian of the statements of financial interests and shall have control over the maintenance of the statements of financial interest. Statements of financial interests shall be maintained by the Ethics Enforcement Committee or the designated administrative official as the “custodian” of public documents and be available for public inspection immediately upon filing.
- (B) A statement of financial interests shall be retained by the Ethics Enforcement Committee or the designated administrative official pursuant to the Kentucky Department of Libraries and Archives schedule as follows:
  - 1. Upon the expiration of two years after the person ceases to be an officer or employee of the jurisdiction, the Ethics Enforcement Committee or the designated administrative official shall cause to be destroyed any statement of financial interests or copies of the statements filed by the person.
  - 2. Upon expiration of two years after any election at which a candidate for elected city office was not elected or nominated, the ethics board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

**§ 40.29 Contents of the Financial Interests Statement.**

(A) The Statement of financial interest shall include the follow 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 or domestic partner.
4. Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5000) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution etc.)
5. The name and address of any business located within the state in which the filer, or any member of the filer's immediate family, had at any time during the preceding calendar year an interest of fifteen thousand dollars (\$15,000) at fair market value or five percent (5%) 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 jurisdiction or agency during the past three 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 twenty thousand dollars (\$20,000) at fair market value or five percent (5%) ownership interest or more.
7. A designation as commercial, residential, or rural, and the location of all 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 thousand dollars (\$20,000) or more.
8. Each source, by name and address, of gifts or honoraria having aggregate fair market value of two hundred fifty dollars (\$250) or more from a 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 substantial debtor or creditor owed more than ten thousand dollars (\$10,000), excluding debts arising



from the purchase of a primary residence, student loans, or the purchase of consumer goods which are bought or used primarily for person, family, or household purposes.

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

**§ 40.30 Noncompliance with Filing Requirement.**

- (A) The Ethics Enforcement Committee or the designated administrative official shall notify by certified mail or electronic mail with proof of delivery and read receipts 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 that was not prescribed and does not contain the required information. The notice shall specify the type of failure or delinquency, shall establish a date by which the future or delinquency shall be remedied, and shall advise the person of the penalties for violation.
- (B) Any person who fails, or refuses, to file the statement, or who fails, or refuses, to remedy a deficiency in the filing identified in the notice under subsection (A) within the time established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Ethics Enforcement Committee in an amount not to exceed twenty five dollars (\$25) per day, up to a maximum civil fine of five hundred dollars (\$500). Any civil fine imposed by the Ethics Enforcement Committee, under this section, may be recovered by NKREA 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 statement of financial interest which they know to contain false information, or intentionally omits required information, shall be guilty of a Class A misdemeanor.

## **ENFORCEMENT**

**§ 40.31 Ethics Enforcement Committee.**

- (A) The Dayton City Council hereby designates the Northern Kentucky Regional Ethics Authority as the appointing body for the Ethics Enforcement Committee and shall become a signatory of the Interlocal Cooperation Agreement (“interlocal agreement”).
- (B) This jurisdiction, as required by the interlocal agreement and this ethics ordinance, hereby designates the Ethics Enforcement Committee as its ethics board and shall comply with the powers and duties set forth in this ethics ordinance.
- (C) The Mayor or his or her designee shall act as the member serving on the Northern

Kentucky Regional Ethics Authority and shall act within the by-laws and procedures established by the interlocal agreement.

- (D) The Ethics Enforcement Committee shall consist of seven members who shall be appointed by NKREA.
- (E) Ethics Enforcement Committee members shall serve until their successor has been appointed in the same manner as the original appointment.
- (F) No member of the Enforcement Committee shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the City or any City agency. No member of the Enforcement Committee may be or has been within two years prior to appointment an officer or employee, consultant, or contractor of an NKREA members' jurisdiction; an officer in a political party or political committee; a candidate or an active member of the campaign of a candidate for any office within the NKREA members' jurisdictions. Neither should a member nor any member of their immediate family have, within the last year prior to appointment, sought any special benefits from the city, directly or indirectly.
- (G) A member of the Enforcement Committee may be removed by NKREA for misconduct, incapacity, or willful neglect of duties. Before any member of the Enforcement Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before NKREA.
- (H) The Enforcement Committee shall have the following powers and duties:
  - 1. To initiate on its own motion a complaint, receive a complaint, and investigate those complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.
  - 2. To issue orders in connection with its investigations and hearings requiring persons to submit, in writing and under oath, reports and answers to questions relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Enforcement Committee.
  - 3. To administer 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 Enforcement Committee.
  - 4. To refer any concerns violations of this ordinance to the appropriate person(s).
  - 5. To render advisory opinions to as requested by officials or employees from NKREA member jurisdictions.

6. To enforce the provisions of this ordinance with regard to all officers and employees of member jurisdictions who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.
7. To control and maintain all statements of financial interests that are required to be filed by this ordinance and to ensure that the statements are available for public inspection in accordance with the requirements of this ordinance and the Kentucky Open Records Act.
8. 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.

**§ 40.32 Reprisals Against Persons Disclosing Violations Prohibited.**

- (A) No officer or employee shall be subject to reprisal, directly or indirectly, or use or threaten to use any official authority or influence in any manner whatsoever that would tend 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 Enforcement Committee, or any other agency or officer of the City, County, or 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 discloses information which they know:
    - a. To be false or which they disclose with reckless disregard for its truth or falsity.
    - b. To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
    - c. Is confidential under any other provision of law.

**§ 40.45 Penalties.**

- (A) Except when another penalty is specifically set forth in this ordinance or by state or federal law, any officer or employee who is found by the Enforcement Committee 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 Enforcement Committee not to exceed one thousand dollars (\$1,000), which may be recovered by NKREA 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 that may be imposed under this ordinance, any officer or employee who is found by the Enforcement Committee to have violated any provision of this ordinance shall forfeit to the jurisdiction an amount equal to the economic benefit, or gain, that the officer or employee is determined to have received as a result of a violation, as determined by the Enforcement Committee. The amount of any forfeiture may be recovered by this jurisdiction 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 that may be imposed under this ordinance, a finding by the Enforcement Committee that an officer or employee is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the Mayor or any other officer 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 and all applicable laws of the commonwealth.

**§ 40.47 Conflicting Ordinances Repealed.**

All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

**§ 40.48 Effective Date.**

This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

**Section 2**

The City Council hereby authorizes the Mayor to enter to a Interlocal Cooperation Agreement with the Northern Kentucky Regional Ethics Authority and the cities and county that are currently members of NKREA to establish and operate an enforcement entity responsible for the implementation of the enforcement process the City's Code of Ethics as set forth in this ordinance. This Agreement will be similar to the Interlocal Cooperation Agreement attached hereto as Exhibit "A".

First Reading: June 6, 2023

Second Reading: \_\_\_\_\_

\_\_\_\_\_  
MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_  
TRISTIAN KLEIN  
CITY CLERK/TREASURER

EXHIBIT "A"  
Northern Kentucky Regional Ethics Authority Interlocal Cooperation Agreement