

**AN ORDINANCE OF THE CITY OF VILLA HILLS, KENTON COUNTY, KENTUCKY ESTABLISHING A CODE OF ETHICAL CONDUCT APPLICABLE TO OFFICERS AND EMPLOYEES OF THE CITY AND CITY AGENCIES SUPERCEDING AND REPLACING ORDINANCES 1994-11, 1999-14, 2000-1, and 2011-3.**

**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 officials of this city are 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.

**NOW, THEREFORE**, Be it ordained by the legislative body of the City of Villa Hills, Kentucky:

**SECTION 1: Title.** This ordinance shall be known and may be cited as the "2015 City of Villa Hills Code of Ethics."

**SECTION 2: Findings.** The legislative body of the City of Villa Hills 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 3: Purpose and Authority.**

(A) It is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established, uniform in their 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 as enacted by the 1994 Kentucky General Assembly and any amendments made subsequent to that date.

(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.

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

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

(B) "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 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.

(C) "City" refers to the city of Villa Hills, Kentucky.

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

(E) "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.

(F) "Consultant" means an independent contractor or 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 have access to confidential information.

(G) "Customer or client" means:

(a) any person or entity to which a person or entity has supplied goods or services during the previous twenty-four months, having a total value greater than \$1,000, or

(b) any person or entity to which an officer or employee's outside employer or business has supplied goods or services during the previous twenty-four 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.

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

(I) "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.

(J) "Ethics Board" or "Board" means the city of Villa Hills Ethics Board which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city's code of ethics.

(K) "Family member" means a spouse, domestic partner, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(L) "Immediate family member" means a spouse, domestic partner, a child or step-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, as a dependent for tax purposes.

(M) "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 campaign contributions authorized by law.

(N) "Financial interest" is a relationship to something such that a direct or indirect financial benefit has been, will be, or might be received as a result of it.

(O) "Household" includes anyone whose primary residence is in the officer or employee's home, including non-relatives who are not rent payers or servants.

(P) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

1. Mayor
2. Legislative body member
3. City clerk
4. City Manager
5. City administrator
6. Police Chief
7. Fire Chief

8. Any other person that occupies a nonelected office created by pursuant to KRS 83A.080

9. A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.

(Q) "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.

(R) "Personal benefit" includes benefits other than those that are directly financially advantageous. These include financial benefits to relatives, business associates, and others listed in 100(1), as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

(S) "Personal interest" means a relationship to something such that a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.

(T) "Relative" means a spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the officer or employee's latest individual state income tax return.

(U) "Subordinate" means another official or employee over whose activities an official or employee has direction, supervision or control.

(V) "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**

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

(A) No officer or employee, or any immediate family member or any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwanted (or unsolicited) privileges or advantages for himself or herself 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 in order to obtain a personal or financial benefit for any of the following:

1. The officer or 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:
  - a. an outside employer or business of his or hers, or of his or her family member, or someone who works for such outside employer or business;
  - b. a customer or client;
  - c. a substantial debtor or creditor of his or hers, or of his or her family member.
5. Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.
6. A person or entity from whom the officer or employee has received an election campaign contribution of a total of more than \$200 during the past election cycle (this amount includes contributions from a person's immediate family or business as well as contributions from an entity's owners, directors, or officers, as well as contributions to the officer or employee's party town committee or non-candidate political committee); or
7. A nongovernmental civic group, social, charitable, or religious organization of which he or she (or his or her 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)(4-7) 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.

#### **SECTION 6. Conflicts of Interests in Contracts.**

(A) Pursuant to KRS 61.252, no officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, except as follows:

1. The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract.
2. The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing the contract performance after the contract is awarded. 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 requirements set forth in subpart 3 below are satisfied.
3. The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:
  - a) The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.
  - b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.
  - c) A finding is made by the governing body of the city or city agency that the contract with the officer or the employee is in the best interests of the public and the city or city agency before the contract is executed.
  - d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

## **SECTION 7. 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 (1) municipal office at the same time, whether in the same or a different city.

(B) Pursuant to KRS 61.080, and effective until January 1, 2015, 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:

- a. Member of the legislative body of cities of the first class;
- b. Mayor and member of the legislative council of a consolidated local government; and
- c. 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 that have been 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 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.

## **SECTION 8. 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 an officer or employee should join the public if the withdrawal occurs at a public meeting, or leave the room if it is a legally conducted closed meeting (executive session) 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. If a prospective officer or employee is in such a situation, he or she should not accept the position with the city.

(D) Request to withdraw: If an officer or appointed board member is requested to withdraw from participation in a matter, for the reason that he or she has a conflict of interest, by:

- a. another member,
- b. a party to the current matter, or
- c. anyone else who may be affected by a decision relating to this matter,

the member must decide whether to withdraw on the official record. If the member decides not to withdraw, the unchallenged members must consider any relevant evidence concerning such claimed conflict of interest, as defined in this code, and vote whether or not to allow the request and require that the member withdraw from participating in the matter.

(E) If withdrawal by the member would leave the body with less than a quorum capable of acting, the member must disclose the conflict on the public record, then the remaining members may vote to allow the member with the disclosed conflict a vote. If the person is the only one authorized by law to act, the person must disclose the nature and circumstances of the conflict to the Ethics Board and ask for a waiver or advisory opinion.

#### **SECTION 9. Receipt of Gifts.**

No officer, employee or appointee of the City shall, directly or indirectly, solicit any gift or accept or receive any gift(s) having an aggregate value of two hundred dollars (\$200) or more from a single source within a calendar year, 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, employee or appointee in the performance of his or her official duties, or was intended as a reward for any official action.

Certain items are typically excluded from the prohibition. Examples of these items include:

- a. Gifts received from relatives.
- b. Gifts accepted on behalf of the city and transferred to the city.
- c. Reasonable travel and travel-related expenses, cost of admission, 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.



- d. Usual and customary loans made in the ordinary course of business.
- e. Awards, including certificates, plaques, and commemorative tokens presented in recognition of public service.
- f. Informational, promotional, and educational items.
- g. Food and beverages, registration gifts, giveaways, transportation, and entertainment furnished in connection with conferences, trainings, meetings or events held by any group to which the City, City employee, or City official holds a membership or paid registration to attend.

**SECTION 10. Use of City Property, Equipment and Personnel.**

(A) No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

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

**SECTION 11. Nepotism Prohibited.**

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) Employment;
- (2) Appointment;
- (3) Promotion;
- (4) Transfer, or;
- (5) advancement

of a family member to an office or position of employment with the city or a city agency.

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

(C) No officer or employee shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed 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 situated member of the class or group.

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

**SECTION 12. Misuse of Confidential Information.**

No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person, group or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure; or if such information relates to discussions held in executive sessions pursuant to KRS 61.810.

**SECTION 13. Political Solicitation.**

An officer, employee, or municipal candidate may not knowingly 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. Nor may he or she engage in any political activity while on duty for the city, with the use of city funds, supplies, vehicles, or facilities, in uniform, or during any period of time during which he or she is normally expected to perform services for the city, for which compensation is paid.

**SECTION 14: Patronage.**

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

**SECTION 15. Outside Employment.**

An officer or employee shall not accept any employment or enter into any contracts that result in a conflict of interest with his or her duties as an officer or employee of the city.

An employee of the city may be self-employed or may take occasional or part-time jobs if, in the opinion of the Mayor or the Mayor's designee, there is no conflict with working hours, the employee's efficiency in his or her city work, or other interest of the city.

Employees wishing to take off-duty employment shall have the written approval of the Mayor or the Mayor's designee.

City employment shall remain the first priority and if at any time the outside employment interferes with an employee's job requirements or performance for the city, the employee shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or his or her city employment.

#### **SECTION 16. Post-Employment Restriction.**

No officer or employee of the city or any city agency shall appear before the city or any 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 (1) year after the termination of the officer's or employee's service with the city or city agency.

#### **SECTION 17. Fees and Honoraria.**

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 municipal service and is unrelated to the officer's or employee's service with the city.

#### **SECTION 18. Endorsements.**

No officer or employee in his or her official capacity may publicly endorse products or services. 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.

#### **SECTION 19. 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 suspects that someone has violated this code, he or she is required to report it to the Ethics Board pursuant to Section 35 of this ordinance.

**SECTION 20: Reprisals Against Persons Disclosing Violations Prohibited.**

(A) No officer or employee of the city or any city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Ethics Board or any other agency or officer of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(a) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.

(c) Is confidential under any other provision of law.

**SECTION 21. 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 code to miss more than one-third of the meetings in a twelve-month period.

**FINANCIAL DISCLOSURE**

**SECTION 22. Who Must File.**

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

(A) Elected city officials.

(B) Candidates for elected city office.

(C) Members of the city planning and zoning commission and board of adjustment.

(D) Members of the Board of Ethics created by this ordinance.

(E) Non-elected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$500.00 (five hundred) dollars.

**SECTION 23. When to File Statements; Amended Statements.**

(A) The statement of financial interests required by this section shall be filed with the Ethics Board, or the administrative official designated as the custodian of its records by the Ethics Board no later 5:00 p.m. April 30 each year, provided that:

1) An officer or employee newly-appointed to fill an office or position of employment with the city or a city agency shall file his or her initial statement no later than thirty (30) days after the date of the appointment.

2) A candidate for city office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected office.

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

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

**SECTION 24. Form of the Statement of Financial Interests.**

The statement of financial interests shall be filed on a form prescribed by the Ethics Board, or the administrative official designated by the Ethics Board (Board). The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail, email, or hand delivery, no later than March 1st of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

## **SECTION 25. Control and Maintenance of the Statements of Financial Interests.**

(A) The Ethics Board shall be the "official custodian" of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board, or the administrative official designated by the Board as the "custodian," as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board or the designated administrative official pursuant to the Kentucky Department of Libraries and Archives schedule as follows:

(1) Upon the expiration of two (2) years after a person ceases to be an officer or employee of the city or a city agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of two (2) years after any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

## **SECTION 26. Contents of the Financial Interests Statement.**

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

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

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

(3) The occupation of the filer and the filer's spouse.

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding ten thousand dollars (\$10,000) during the preceding calendar year, and the nature of the income (e.g. salary, commission, dividends, retirement fund distribution, etc.).

(5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more; except that no disclosure needs to be made for shares of stock traded on a public exchange if no more than one percent (1%) of the outstanding share of the business are held by the filer.

(6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more; except that no disclosure needs to be made for shares of stock traded on a public exchange if no more than one percent (1%) of the outstanding share of the business are held by the filer.

(7) A designation as commercial, residential, or rural, and the location of all real property within Kenton County, Kentucky, Boone County, Kentucky, and Hamilton County, Ohio, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of ten thousand dollars (\$10,000) or more.

(8) Each source by name and address of gifts or honoraria having an aggregate fair market value of two hundred dollars (\$200) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

(9) The name and address of any creditor owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of a primary residence, student loans, or the purchase of consumer goods which are bought or used primarily for personal, family or household purposes.

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

**SECTION 27. Noncompliance with Filing Requirement.**

(A) The Ethics Board, or the designated administrative official, shall notify by regular 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. Second and final notices shall be sent by regular and certified mail.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

**ENFORCEMENT**

**SECTION 28. Ethics Board Created.**

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

(B) The Ethics Board shall consist of four (4) members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. Three (3) members shall serve as voting members with one (1) alternate, each member serving as the alternate for 1 year on a rotating basis. The members shall serve for a term of three (3) years; except that with respect to the members initially appointed, one (1) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and two (2) members shall be appointed for a term of three (3) years. Thereafter,



all appointments shall be for a term of three (3) years. No more than three (3) of the members shall be of the same political party.

(C) An Ethics Board member will serve until his or her successor has been appointed, in the same manner as the original appointment.

(D) No member of the Ethics Board 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 Ethics Board may be, or have been within the three years prior to appointment, an officer or employee, consultant or contractor of the city; 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 Board's jurisdiction; or a lobbyist. Nor should neither a member nor any member of his or her immediate family, have, within the three years prior to appointment, sought any special benefits from the city, directly or indirectly. An Ethics Board member or staff member, or a member of his or her immediate family, may not, directly or indirectly, seek any special benefits from the city, make campaign contributions, nor participate in any way in the campaign of a candidate for any office within the Board's jurisdiction, or of an individual currently within the Board's jurisdiction. This section shall not apply to members of the Ethics Board serving at the time of the adoption of this ordinance.

(E) Each member of the Ethics Board 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 Ethics Board shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs.

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

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

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

(I) The Ethics Board shall annually elect a chairperson from among the membership on a rotating basis. The chairperson shall be the presiding officer and a full voting member of the Board.

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

(K) The presence of two (2) or more voting 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 Ethics Board 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 him or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum. In such cases the Alternate member shall be seated and count toward quorum.

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

#### **SECTION 29. Facilities and Staff.**

Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Ethics Board, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

#### **SECTION 30: Initial Meeting.**

At its first meeting each February of the calendar year, the Ethics Board will elect a chair and a vice-chair from among its regular members. A majority of the regular members is required for the Board to take any action. The chair or a majority of the regular members may call a meeting of the Board.

**SECTION 31. Power and Duties of the Ethics Board.**

The Ethics Board shall have the following powers and duties:

(A) To initiate on its own motion, receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.

(B) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.

(C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

(D) To refer any information concerning violations of this ordinance to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other appropriate person or body, as necessary.

(E) To render advisory opinions to city and city agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this ordinance.

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

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

(H) 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.

(I) To make available training and education on the city ethics code to officials and employees.

(J) To prepare and submit an annual report and any recommended changes to this code to the legislative body; and to develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the city.

(K) The Ethics Board or the administrative official of the Board will annually review the list of officials and employees required to file annual disclosure statements, to determine whether the lists are complete and accurate. By February 28th each year the Ethics Board must (a) cause to be filed with the City Clerk a list of the names and offices, or positions, of all officials and employees and others required to file annual disclosure statements pursuant to Section 18 (this should correspond to the "Who Must File" section) of this code; and (b) notify all such persons of their obligation to file an annual disclosure statement.

(L) The Ethics Board or the administrative official of the Board will prepare forms for complaints and for financial disclosure statements, and will make these forms available at the City Clerk's office and on the city's website, for easy downloading.

(M) By June 15 of each year, the Ethics Board must review all annual financial disclosure statements filed with it 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 Board determines that an annual or transactional disclosure statement is deficient or reveals a possible or potential violation of this code, the Board will notify the person in writing of the deficiency or possible or potential violation, and of the penalties for failure to comply with this code.

### **Section 32. Annual Reports; Annual Review of Ethics Code.**

(A) The Ethics Board must prepare and submit an annual report to the legislative body, summarizing the activities, decisions, and advisory opinions of the Board. The report may also recommend changes to the text or administration of this code. The report must be submitted no later than November 30 of each year, covering to the year ended October 31, and must be filed with the City Clerk and made available on the city website.

(B) The Ethics Board will periodically (no less than every five years) review this code, the enforcement of the code, and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in

city government, and whether they set forth clear and enforceable, common-sense standards of conduct.

### **SECTION 33. Filing and Investigation of Complaints.**

(A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Ethics Board, or the administrative official designated by the Ethics Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board. The Board shall 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 or city agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.

(B) The Ethics Board may, on its own initiative, determine through an inquiry into informal allegations or information provided directly to the Board, by referral, in the public news media, or otherwise that a violation of this code may exist, and prepare a complaint of its own. The Ethics Board may also amend a complaint that has been filed with it by adding further allegations, by adding respondents involved in the same conduct, directly or indirectly, by action or inaction, or by deleting allegations that would not constitute a violation of this code, have been made against persons or entities not covered by this code, or do not appear to be supported by the facts. The Ethics Board may also consolidate complaints where the allegations are materially related. Amended complaints must be sent to the complainant and respondent by the Ethics Board.

(C) Within thirty (30) days of the receipt of a proper complaint, the Ethics Board shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.

(D) The person who is the subject of the complaint (respondent) may file with the Ethics Board a response to the complaint within thirty days after his or her receipt of the complaint. The response, if any, must be sent to the person filing the original complaint (complainant) by the Ethics Board within five days after its filing. Within fifteen days after receipt, the complainant may also file with the Ethics Board a response to the respondent's response, which the Ethics Board must send to the respondent within five days after its filing.

(E) Extensions of time to any of the time limitations specified in this section may be granted by the Ethics Board upon a vote of the majority of the members. If no meeting can be held before such time limit runs out, the chair may extend the limit until the following meeting. The Ethics Board must give written notice of any extension(s) of time to the respondent and the complainant.

(F) All proceedings and records relating to a preliminary inquiry being conducted by the Ethics Board 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, at its discretion, make public any documents which were issued to either party.

(G) 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 ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

(H) If the Ethics Board 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 initiate a hearing to determine whether there has been a violation.

(I) If a complaint is accepted or prepared pursuant to subsection (A), the Ethics Board must conduct an investigation. From this point on, the complainant may not withdraw his or her complaint, although he or she may request that the Ethics Board either make a finding of no probable cause or no violation.

(J) In conducting an investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The Police Department and all city agencies, bodies, officials, and employees are required to respond fully and truthfully to all enquiries and

cooperate with all requests of the Ethics Board or its agents relating to an investigation. It is a violation of this code for any official or employee to deny access to information requested by the Ethics Board in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.

(1) Nothing in this section may be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Board or any of its members or staff has violated any provision of this code, or any other law, the Board must promptly transmit to the legislative body a copy of the complaint.

(K) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this ordinance by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor.

#### **SECTION 34. Notice of Hearings.**

If the Ethics Board 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 all be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

#### **SECTION 35. Hearing Procedure.**

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Ethics Board; 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 respondent, or his or her representative, shall have a reasonable opportunity to 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 his or her representative, of any exculpatory evidence in its possession.

(C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.

(D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.

(E) All hearings of the Ethics Board shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(F) After the conclusion of the hearing, the Ethics Board 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 ordinance has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of this ordinance has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the Board shall within fifteen (15) days:

(1) Issue an order requiring the violator to cease and desist the violation.

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body of the city or city agency with which the violator serves.

(3) In writing, recommend to the executive authority and the governing body 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.

(5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

**SECTION 36. Appeals.**

Any person who is found guilty of a violation of any provision of this ordinance by the Ethics Board may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Ethics Board by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

**SECTION 37. Limitation of Actions.**

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

**SECTION 38. Advisory Opinions.**

(A) The Ethics Board may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer or employee of the city or a city agency who is covered by this ordinance.

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

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

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

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

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

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

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

(G) Advisory opinions (with unnecessary financial and personal details redacted) will be indexed and maintained on file by the Ethics Board and will also be available on the city website. Officers, employees, and businesses should be notified about advisory opinions that may directly affect their conduct.

### **SECTION 39. Penalties.**

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Ethics Board 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 Ethics Board not to exceed one thousand dollars (\$1,000), which may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

(B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city or any city agency who is found by the Ethics Board to have violated any provision of this ordinance shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be

recovered by the city in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

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

**SECTION 40. 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 41. Conflicting Ordinances Repealed.**

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

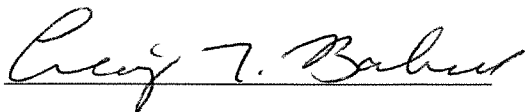
**SECTION 42. Effective Date.**

This Ordinance shall take effect and be in full force from and after its passage, publication, which may be in summary form, and recording, according to law.


Passed by the City Council this 15th day of July 2015.

City of Villa Hills, Kentucky  
A Municipal Corporation of the Home Rule Class

ATTEST:



Craig T. Bohman, City Administrator/Administrator/Clerk

  
Irvin T. "Butch" Callery, Mayor

Sponsor: Kilburn

First Reading: June 17, 2015

Second Reading: July 15, 2015

Ayes: 6

Nays: 0

Abstentions: n/a

Absent: n/a

Published: 8-11-15