

## CITY OF CRESTVIEW HILLS, KY

### Ordinance No. 1994-12-1

*An ordinance establishing a code of ethical conduct applicable to the officers and employees of the city and city agencies.*

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

**WHEREAS**, HB 238, Chapter 16 of the 1994 Acts of the General Assembly requires an adoption of a code of ethics by municipal corporations, and is codified in KRS 65.003.

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

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

**SECTION 2. Findings.** The City Council of the city of Crestview Hills finds and declares that:

(A) That KRS 65.003 requires the City Council of each city in Kentucky to adopt a code of ethics prior to January 1, 1995, and this ordinance is in conformity with that legislative mandate.

**SECTION 3. 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) "Board of Ethics" means the city of Crestview Hills Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city's code of ethics.

(C) "Candidate" means any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

(D) "City" refers to the city of Crestview Hills, Kentucky.

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

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

(G) "Family member" means a spouse, or child.

(H) "Immediate family member" means a spouse, an unemancipated child residing in the officer's or employee's household.

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

- (1) The mayor.
- (2) A legislative body member.
- (3) The city clerk.
- (4) The city administrator.

(5) A member of the governing body of any city agency who has been appointed to the governing body of an agency by the city.

(6) City Treasurer

## STANDARDS OF CONDUCT

**SECTION 4. 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 his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a financial benefit for any of the following:

(1) The officer or employee.

(2) A family member.

(3) An outside employer.

(4) Any business in which the officer or employee, or any family member has a substantial financial interest.

(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.

(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 financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C)(4) and (C)(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.

#### **SECTION 5. Receipt of Gifts.**

(A) No officer or employee of the city or any city agency shall directly, or indirectly through any other person or business, solicit any gift 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 solicitation was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his or her public duties.

(B) No officer or employee of the city or any city agency shall directly, or indirectly through any other person or business, accept any gift having a fair market value of more than Two Hundred Fifty Dollars (\$250.00), whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his or her public duties.

#### **SECTION 6. 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.

**SECTION 7. Representation of Interests Before City Government.**

(A) No officer or employee of the city or any city agency shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

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

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

**SECTION 8. Misuse of Confidential Information.**

(A) 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 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.

(B) No elected official shall accept or be eligible to accept an appointed administrative position or job with the city until the expiration of two years from his/her last date of service as an elected official.

**FINANCIAL DISCLOSURE**

**SECTION 9. Who Must File.** The following classes of officers the city shall file an annual statement of financial interests with the Board of Ethics:

- (A) Elected city officials.
- (B) Candidates for elected city office.

**SECTION 10. When to File Statements; Amended Statements.**

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4:00 p.m. April 15, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on April 15 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 sixty (60) days after the date of the appointment.

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

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

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

**SECTION 11. Form of the Statement of Financial Interests.** The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee

required to file the statement, by first class mail or hand delivery, no later than January 30th 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 12. Control and Maintenance of the Statements of Financial Interests.**

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

(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five (5) years after filing, provided that:

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

**SECTION 13. 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 and home address of the filer.
- (2) The title of the filer's office, or office sought

(3) The occupation of the filer.

(4) Information that identifies each source of income of the 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 that 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.

(6) A designation as commercial, residential, or rural, and the location of all real property within the city, other than the filer's primary residence, in which the filer or spouse had during the preceding calendar year an interest of ten thousand dollars (\$10,000) or more.

(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 14. Noncompliance With Filing Requirement.**

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) 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 five dollars (\$5) per day, up to a maximum total civil fine of fifty dollars (\$50). 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.

## NEPOTISM

### SECTION 15. 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 shall directly 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 official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

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

## ENFORCEMENT

### SECTION 16. Board of Ethics Created.

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

(B) The Board of Ethics shall consist of three (3) members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. The members shall serve for a term of three (3) years; except that with respect to the members initially appointed, one (1) member shall be appointed for a term of one (1) year, one (1) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. Thereafter, all appointments shall be for a term of three (3) years. Each member of the Board of Ethics shall have been a resident of the city for at least one (1) year prior to the date of the appointment and shall reside in the city throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the executive authority, subject to the approval of the legislative body for misconduct, inability, willful neglect of duties, or no reason. Before any member of the Board of Ethics is

removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body..

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

(E) Members of the Board of Ethics shall be compensated at the rate of one hundred (\$100) annually, and at the rate of twenty-five (\$25) per meeting after four (4) meetings in any fiscal year. Members shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties subject to approval by the legislative body first obtained.

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter as the first order of business in the first meeting of each calendar year, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board. The vice-chairperson shall preside in the absence of the chairperson.

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

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

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

**SECTION 17. Facilities and Staff.** Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

**SECTION 18. Power and Duties of the Board of Ethics.** The Board of Ethics shall have the following powers and duties:

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

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

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

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

(E) 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.

(F) 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.

(G) To develop and submit any reports regarding the conduct of its business that may be required by the executive authority of City Council.

(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.

**SECTION 19. Filing and Investigation of Complaints.**

(A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The Board shall forward within ten (10) working days to each officer or employee of the city or city agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.

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

(C) All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except:

(1) The Board may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.

(2) If the alleged violator publicly discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as, lack of significant economic advantage or gain by the officer or employee, lack of economic loss to the city and its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the city or city agency.

(2) Proceed with a formal hearing.

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

**SECTION 20.** Notice of Hearings. If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within thirty (30) days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

**SECTION 21.** Hearing Procedure.

(A) The hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in connection with the matter to be heard.

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

(E) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this 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, and serve same upon the parties and other necessary entities.

(F) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the Board may:

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

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

(3) In writing, recommend to the executive authority that the violator, being an appointed officer or employee, be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office. In writing, recommend to the legislative body that the violator, being an elected official, 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 22.** Appeals. Any person who is found guilty of a violation of any provision of this ordinance by the Board of Ethics may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

**SECTION 23.** 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 hundred-eighty (180) days after the violation is discovered.

**SECTION 24.** Reprisals Against Persons Disclosing Violations Prohibited.

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

(B) This section shall not be construed as:

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

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

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

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

**SECTION 25. Penalties.**

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed 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 Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the 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 26. 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 27. 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 28. Effective Date.** This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

Given first reading on the 10th day of November, 1994.

Given second reading and duly enacted by the legislative body of the City of Crestview Hills on the 8th day of December, 1994.

Harold A. Ries  
Mayor

ATTEST:  
C.R. Monhollen  
City Clerk