

Chapter 25 - ETHICS ACT

Sec. 25-1. - Title.

This chapter shall be known and may be cited as the "Lexington-Fayette Urban County Government Ethics Act."

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-2. – ~~Findings~~Declarations.

The Council of the Lexington-Fayette Urban County Government finds and declares that:

(1) The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interests of the people, the community, and the government; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, the following code of ethics shall apply to all officers and employees of the Merged Government, whether elected or appointed, paid or unpaid, and to officers and employees of other independent agencies where so provided by special laws applicable to such other independent agencies.

~~(2)~~ Public office and employment are public trusts.

~~(3)~~ The vitality and stability of the government 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 public officer or employee, that confidence is imperiled.

~~(34)~~ The government 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-3. – Purpose and authority.

(1) It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

- (2) It is the further purpose of this chapter to meet the requirements of KRS 65.003.
- (3) This chapter is enacted under the power vested in the urban county government by KRS 67A.060 and 67A.070 and pursuant to the requirements of KRS 65.003.
- (4) This chapter is intended as a minimum standard of conduct for officers and employees. It does not abrogate any stricter or higher standard established either by federal, state or local law, including the common law of the Commonwealth of Kentucky and the Code of Ethics of the Lexington-Fayette Urban County Government Charter; or by any rule or regulation established by the urban county government, an agency or a constitutional officer.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-4. - Definitions.

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

- (1) *Agency* means the Lexington-Fayette Urban County Government Board of Adjustment, ~~Comprehensive Plan Update Committee~~, Ethics Commission, Planning Commission, ~~and~~ the Downtown Lexington Management District Board, and any Special Purpose Governmental Entity as defined in KRS Chapter 65.

The Ethics Commission shall contact the organizations identified as Special Purpose Governmental Entities to request copies of their respective ethics codes. Special Purpose Governmental Entities that have adopted more stringent ethics provisions are exempt from the requirements of this chapter. Special Purpose Governmental Entities that have not adopted more stringent ethics provisions shall be subject to this chapter in its entirety.

- (2) *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.
- (3) *Candidate* means any individual who seeks nomination or election to an "office" listed in subsection (9)(a) of this section. 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.
- (4) *Constitutional officer* means any person who is one of the following: County judge/executive, county clerk, county attorney, sheriff, coroner, surveyor or constable.
- (5) *Employee* means any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the urban

county government or to any "constitutional officer," as the terms are defined in this section. The term "employee" shall include, but not be limited to, those employees occupying the classified civil service positions established at Code section 21-5, the unclassified civil service positions established at Code section 22-5, and the police and fire positions established at Code section 23-5. The term "employee" shall not include any contractor or subcontractor or any of their employees.

(6) *Ethics commission* means the Lexington-Fayette Urban County Government Ethics Commission which is created and vested by this chapter with the responsibility for enforcing the requirements of the Lexington-Fayette Urban County Government Ethics Act.

(7) *Family member* means a spouse, a qualified adult, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(8) *Financial Interest* means a right, title, legal or equitable share in an asset or transaction which (a) will result in an increase or decrease in the income or net worth of an officer or family member of an officer which does not arise from a primary or proximate action by an officer or a family member of an officer or (b) where either no or only a de minimis benefit accrues to an officer or a family member of an officer.

~~(89)~~ *Immediate family member* means a spouse, a qualified adult, an unemancipated child residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse or qualified adult, as a dependent for tax purposes.

~~(910)~~ *Officer* means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

(a) The mayor, county judge/executive, members of the urban county council, county clerk, county attorney, sheriff, coroner, surveyor or constable; or

(b) An appointee or a member of the governing body and chief executive officers, if any, of the urban county government board of adjustment, comprehensive plan update committee, ethics commission, or planning commission.

(11) *Private Interest* means employment, board membership, or participation in the management and/or operations of an entity by an officer or family member of an officer.

(12) *Qualified Adult* means a person of the same or opposite sex who:

(a) Is at least eighteen (18) years of age;

(b) Is not related to the employee;

(c) Has resided with the employee for at least twelve (12) months prior to the enrollment period for LFUCG benefits;

(d) Has been financially interdependent with the covered employee for at least twelve (12) months. Financial interdependence with the covered employee shall be demonstrated by proof of:

(1) Joint ownership of real estate property or joint tenancy on a residential lease;

(2) Joint ownership of an automobile;

(3) Joint bank or credit account;

(4) Joint liabilities;

(5) Joint utility account; or

(6) A combination of the items set forth in paragraphs (a) through (e) of this subsection; and

(e) Is a legal beneficiary or agent of the covered employee. Legal beneficiary or- agent status shall be demonstrated by proof of:

(1) A will designating the eligible qualified adult as primary beneficiary;

(2) A retirement plan or life insurance policy beneficiary designation form designating the eligible qualified adult as primary beneficiary;

(3) A durable power of attorney signed to the effect that the employee and eligible qualified adult have granted powers to another;

(4) Adoption papers or legal guardianship identifying the employee and qualified adult as the joint adopting individuals or joint legal guardians; or

(5) A combination of the items established in paragraphs (a) through (e) of this subsection.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 62-2015, § 1, 6-11-15)

Sec. 25-5. – - Standards of conduct including Cconflicts of interest in general; disclosure.

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

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

(2) No officer or employee shall use or attempt to use his official position to secure inappropriate personal privileges or advantages for himself or others, which are incompatible with the proper discharge of his duties.

- (3) No officer or employee shall 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 or involving the urban county government in the case of urban county government officers and employees; before the agency in the case of urban county government agencies; or before the office of a constitutional officer in the case of a constitutional officer, in order to obtain any improper financial benefit or improper preferential treatment for any of the following:
- (a) The officer or employee;
 - (b) A family member;
 - (c) An outside employer;
 - (d) Any business in which the officer or employee, or any family member has a financial interest; or
 - (e) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.
- (4) The mayor, every councilmember and every board member of an agency who shall have any ~~private~~ financial or private interest, directly or indirectly, in any matter pending before the urban county government or the agency, which is not prohibited by this section or other provisions of law, shall disclose the precise nature of the interest either orally to the council or the agency while in a meeting or in writing to the clerk of the urban county council prior to consideration of the matter by the council or the agency. Every other officer or employee who shall have any ~~private~~ financial or private interest, directly or indirectly, in any matter pending before the urban county government in the case of urban county government officers and employees; or before the office of a constitutional officer in the case of a constitutional officer, which is not prohibited by this section or other provisions of law, shall disclose the precise nature of the interest, in writing, to the clerk of the urban county council prior to consideration of the matter by the government or the constitutional office. The officer or employee shall not take any action with respect to the matter that is the subject of the disclosure.
- (5) No officer or employee shall be deemed in conflict with these provisions if, by reason of participating in the enactment of any ordinance, resolution or other matter required to be voted upon, no financial gain accrues to such officer to any greater extent than any other member of such business, profession, occupation or group.
- (6) No officer or employee shall be deemed in conflict with these provisions, if by reason of participating in the enactment of any ordinance, resolution or other matter required to be voted upon, a financial gain is conferred upon a non-profit or charitable organization in which the officer, employee or family member has a financial or private interest if the officer or employee has disclosed said association to one of the following:

(a) The ethics commission through his or her statement of financial interest or a supplementary statement of financial interest;

(b) The clerk of the urban county council or the secretary of the voting board prior to casting such vote. For purposes of this sections, an officer or a member of his or her family who makes a donation to such organization shall not be considered a financial interest or private interest.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 43-98, § 1, 2-19-98)

Sec. 25-5.1.– Conflicts of interest; neighborhood development funds.

- (1) As used in this section, "neighborhood development funds" or "NDF" shall mean and include any appropriated funds, which are allocated by means of internal bookkeeping to individual members of the urban county council.
- (2) Use of NDF funds by a member of the urban county council shall comply with the standards of conduct in this chapter and shall not give rise to or create any conflict of interest, if the requirements of this section are met.
- (3) Any NDF recipient other than a governmental agency must be a private, nonprofit corporation, which is in good standing with the office of the secretary of state of the Commonwealth of Kentucky.
- (4) A standardized grant agreement shall be executed by the NDF recipient, which shall comply with the following requirements:
 - (a) The agreement shall prohibit the recipient from stating or representing that the grant was made by the urban county council or by any individual member of the urban county council; and
 - (b) The agreement shall recite that the monies granted are for a "public purpose" and specify that public purpose.
- (5) A standardized letter shall accompany NDF checks to the NDF recipient, which shall comply with the following requirements:
 - (a) The letter shall advise the NDF recipient that the monies granted are provided by the Lexington-Fayette Urban County Government from public funds raised from taxes, fees and other governmental revenues; and
 - (b) The letter shall advise the recipient that the recipient shall not state or represent that the grant was made by the urban county council or by any individual member of the urban county council, but may only represent that the grant was made by the Lexington-Fayette Urban County Government.
- (6) The council administrator shall maintain a compilation of information on all NDF grants, which shall be available to the public upon request.

(Ord. No. 25-2000, § 1, 1-27-00)

Sec. 25-5.2.– Official Misconduct

An officer or employee commits misconduct when, in his or her official capacity, he or she commits any of the following acts:

- (1) Intentionally or recklessly fails to perform any mandatory duty required by law;
- (2) Knowingly performs an act which he or she knows is forbidden by law to perform;
- (3) With intent to obtain a personal advantage for him or herself or another, perform an act in excess of his or her lawful authority; or
- (4) Solicits or knowingly accepts for the performance of any act a fee or reward that he or she knows is not authorized by law.

Sec. 25-6. - Conflicts of interest in contracts.

- (1) No officer or employee, or any immediate family member of any officer or employee, 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 urban county government in the case of urban county government officers and employees; by the agency in the case of urban county government agencies; or by the office of a constitutional officer in the case of a constitutional officer, except as follows:
 - (a) The prohibition in subsection (1) of this section shall not apply to contracts entered into before an elected officer filed as a candidate, before an appointed officer was appointed, or before an employee was hired. However, if any contract entered into before the officer or employee became a candidate, was appointed to office, or was hired as an employee, is renewable after he becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (1) of this section shall apply to the renewal of the contract.
 - (b) The prohibition in subsection (1) of this section shall not apply unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded.
- (2) Any contract between the urban county government, any independent agency to which this chapter applies, or any elected constitutional officer; and another party shall be voidable or rescindable at the option of the governmental body or constitutional officer at any time within a period of one (1) year from the date the violation is discovered, if any officer or employee has any disqualifying interest in said contract in violation of this chapter or fails to disclose any nondisqualifying interest in said contract in violation of section 25-5(4).

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-7. - Receipt of gifts.

No officer, employee or immediate family member of an officer or employee shall knowingly accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the urban county government, agency of the urban county government, or constitutional officer by which he is employed, 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 public duties; provided, however, that any such officer, employee or immediate family member who is a candidate for public office may accept campaign contributions and services in connection with any such campaign. A valuable gift does not include ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to other persons; a scholarship or fellowship awarded on the same terms applied to other applicants; or items of a similar nature, as long as the benefit was not given under circumstances in which it could reasonably be inferred that the benefit was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his public duties. In any instance in which an officer or employee has, or as a reasonable person should have, a question as to the propriety of a tendered gift, he shall seek an advisory opinion from the ethics commission pursuant to section 25-28.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 25-2000, § 2, 1-27-00)

Sec. 25-8. - Use of public property, equipment, and personnel.

No officer or employee shall use or permit the use of any public time, funds, personnel, equipment, or other personal or real property for the private use of any person or political party, unless:

- (1) The use is specifically authorized by a stated policy of the urban county government or the ethics commission; or
- (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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-9. - Representation of interests before the government.

- (1) No officer or employee shall represent, except as a part of his official duties, any person or business in connection with any cause, proceedings, application or other matter pending before the urban county government in the case of urban county government officers and employees; before the agency in the case of urban county government agencies; or before the office of the constitutional officer in the case of a constitutional officer.

- (2) 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.
- (3) Nothing in this section shall prohibit any officer or employee from representing himself in matters concerning his own interests.
- (4) 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-10. - Misuse of confidential information.

No officer or employee shall intentionally use or disclose information acquired in the course of his official duties, if the primary purpose of the use or disclosure is to further his 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-11. - Post-employment restriction.

No salaried officer or employee shall appear or practice for compensation before the government or the office in which he served, with respect to any matter for a period of one (1) year after the termination of an appointed officer's or employee's employment or for a period of two (2) years after the termination of an elected officer's term of office; provided, however, that nothing in this section shall prohibit any officer or employee from representing himself in matters concerning his own interests.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-12. - Honoraria.

- (1) No officer or employee shall accept any compensation or honorarium in consideration of an appearance, speech or article related to the officer's or employee's government service.
- (2) Nothing in this section shall prohibit an officer or employee from accepting commemorative gifts of nominal value such as plaques, mugs, posters or photographs, provided that such commemorative gifts are given in consideration for an appearance, speech or article which is related to the officer's or employee's government service.
- (3) Nothing in this section shall prohibit an officer or employee from receiving and retaining from any unit of government or from any nongovernmental unit, actual and

reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received in consideration of his official duties and not primarily for the benefit of the officer or employee or any other person. However, out-of-pocket expenses recoverable from any nongovernmental unit shall be limited to:

- (a) Actual and reasonable transportation costs;
- (b) Actual and reasonable lodging expenses; and
- (c) Actual and reasonable costs of meals not to exceed the actual cost of the meal.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-13. - Financial disclosure—Who must file.

The following persons shall file an annual statement of financial interests with the ethics commission established at section 25-20:

- (1) The mayor, county judge/executive, members of the urban county council, county clerk, county attorney, sheriff, coroner, surveyor and constables;
- (2) Candidates for the offices enumerated in subsection (1) of this section;
- (3) Members and chief executive officers, if any, of the urban county government board of adjustment, comprehensive plan update committee, ethics commission, and planning commission.
- (4) Commissioners, division directors, and employees holding the positions of buyer and buyer senior of the urban county government; and
- (5) All persons formerly occupying the positions identified in subsections (1—4) of this section for the first full calendar year following the end of their term of office or employment.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-14. - When to file statements; amended statements.

(1) ~~The initial statement of financial interests required by this section shall be filed with the council clerk, no later than 5:00 p.m. on April 17, 1995. All subsequent~~ Statements of financial interest shall be filed no later than 5:00 p.m. on April 15 of each year, provided that:

- (a) An officer or employee newly-appointed to fill an office or position of employment, other than a commissioner of the urban county government, shall file his initial statement prior to confirmation.
- (b) A person recommended by the mayor for confirmation as a commissioner of the urban county government shall file his initial statement at the same time his name is submitted to the urban county council by the mayor.

- (c) A candidate for office shall file his initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected office.
 - (2) The commission may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
 - (3) In the event there is a material change in any information contained in a financial statement that has been filed with the commission, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended or supplementary statement with the commission.
- statement with the commission.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-15. - Form of the statement of financial interests.

The statement of financial interests shall be filed on a form prescribed by the ethics commission, or the administrative official designated by the commission. The commission, 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 15 of each year. The failure of the commission, 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-16. - Control and maintenance of the statements of financial interests.

- (1) The council clerk, under direction of the ethics commission, 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 council clerk, as public documents, available for public inspection immediately upon filing.
- (2) A statement of financial interests shall be retained by the council clerk for a period of five (5) years after filing, provided that:
 - (a) Upon the expiration of three (3) years after a person ceases to be an officer or employee, the commission shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.
 - (b) Upon the expiration of three (3) years after any election at which a candidate was not elected or nominated, the commission shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-17. - Contents of the financial interests statement.

- (1) 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.
- (2) The statement of financial interests shall include the following information for the preceding calendar year:
 - (a) The name, current work/business address, work/business telephone number, and home address of the filer.
 - (b) The title of the filer's office, office sought, or position or former office or position of employment.
 - (c) The occupation of the filer and the filer's spouse.
 - (d) Information that identifies each source of income of the filer and the filer's immediate family members, exceeding five hundred dollars (\$500.00) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.)
 - (e) 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 five thousand dollars (\$5,000.00) or more at fair market value or ten (10) percent ownership interest or more, whichever is less.
 - (f) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the urban county government during the past three (3) years or is anticipated to engage in any business transactions with the urban county government, 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 one thousand dollars (\$1,000.00) or more at fair market value or ten (10) percent ownership interest or more, whichever is less, provided that this subsection shall only apply to the mayor, members of the urban county council, commissioners and division directors.
 - (g) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest, having a value exceeding five thousand dollars (\$5,000.00) at the close of the reporting period.
 - (h) A requirement that the filer answer, under penalty of perjury, the following question(s): "To your knowledge, do either you or any immediate family member of your family have any interest in property, tangible or intangible, or any other assets or business that may constitute or cause a conflict with your official duties? If yes, please explain."
 - (i) The name and address of any creditor of the filer and the filer's immediate family who is owed more than ten thousand dollars (\$10,000.00), except debts arising from the purchase of a primary residence or the purchase of consumer

goods which are bought or used primarily for personal, family or household purposes.

(j) The name and address of any board, commission, non-profit or charitable organization in which the officer has a private or financial interest, is a member of the board of directors or in which the officer or immediate family member has made a donation.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 49-96, § 1, 4-4-96)

Sec. 25-18. - Noncompliance with filing requirement.

The ethics commission, 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 commission. 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-19. - Nepotism prohibited.

- (1) As used in this section, the term "relative" shall mean and include an officer or employee's spouse, a qualified adult as defined in section 25-4(12), child, parents, siblings, grandparents, grandchildren, uncles, aunts, nephews, nieces, first cousins, step-mothers, step-fathers, step-brothers/sisters, half-brothers/sisters, sisters/brothers-in-law, or mothers/fathers-in-law.
- (2) No officer or employee shall advocate, recommend, or cause the employment, appointment, promotion, transfer or advancement of his or her own relative to an office or position of employment in the urban county government in the case of urban county government officers and employees; in the agency in the case of urban county government agencies; or in the office of a constitutional officer in the case of a constitutional officer.
- (3) No officer or employee shall supervise or manage the work of a relative.
- (4) No officer or employee shall participate in any action relating to the employment or discipline of a relative.
- (5) The prohibitions in this section shall not apply to any relationship or situation which would violate this prohibition, but which existed prior to six (6) months before the effective date of this chapter. Any officer covered by section 25-4(9)(a), who was serving a term of office and who had any relatives employed by his office prior to six (6) months before the effective date of this chapter, may continue the employment of those relatives during any consecutive terms of office in the same office.
- (6) The prohibitions in this section shall not apply to any relationship or situation created by marriage or by a change in LFUCG policy governing qualified adults

after the effective date of this section, provided, however, that such relationships shall be reported to the ethics commission which may recommend lateral transfer, substitute supervision, or other personnel action to eliminate or ameliorate the adverse effects of the relationship.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 64-99, § 1, 3-25-99; Ord. No. 64-99, § 1, 3-25-99)

Sec. 25-20. - LFUCG Ethics Commission created.

(1) There is hereby created a Lexington-Fayette Urban County Government Ethics Commission which shall have the authorities, duties, and responsibilities as set forth in this chapter to enforce the provisions of this chapter.

(2) The Commission shall reflect in as much possible, equal representation of the two (2) sexes, proportional representation of the two (2) leading political parties and minority racial compositions.

The ethics commission shall consist of nine (9) members appointed by the mayor subject to confirmation by a majority of the council, ~~from the following consisting of members who, on account of their previous vocation, employment, or affiliations, may be individually classed as a representative from one (1) of the following communities for membership purposes:~~

- (a) ~~One (1) member from a list of not less than three (3) names submitted by the Greater Lexington Chamber of Commerce, Inc.~~The local legal community;
- (b) ~~One (1) member from a list of not less than three (3) names submitted by the League of Women Voters of Lexington, Inc.~~The local business community;
- (c) ~~One (1) member from a list of not less than three (3) names submitted by the Fayette County Bar Association~~The local minority community;
- (d) ~~One (1) member from a list of not less than three (3) names submitted by the Better Business Bureau of Central and Eastern Kentucky, Inc.~~The local civic engagement community;
- (e) ~~One (1) member from a list of not less than three (3) names submitted by the John Rowe Chapter of the National Bar Association~~The local young professional community;
- (f) ~~One (1) member from a list of not less than three (3) names submitted by the Professional Women's Forum~~The local educational community;

~~(g) One (1) member from a list of not less than three (3) names submitted by the Citizens for Ethical Government; and~~

~~(hg) Two (2) Three (3) members chosen at large, who are not members of any entities listed in subsection (2)(a)-(g) of this section.~~

~~(3) A nominating organization listed in subsections (2)(a)-(2)(g) of this section may nominate a person regardless of whether that person is a member of the organization.~~

~~(43) The initial members of the ethics commission shall be appointed within sixty (60) days of the effective date of this chapter.~~ No member of the ethics commission shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the urban county government, any urban county government agency, or the office of any constitutional officer. The members shall serve for a term of four (4) years; except that with respect to the members initially appointed, four (4) members shall be appointed for a term of two (2) years, and five (5) members shall be appointed for a term of four (4) years. Thereafter, all appointments shall be for a term of four (4) years. No more than five (5) of the members shall be of the same political party. Each member of the ethics commission shall have been a resident and registered voter of Fayette County for at least one (1) year prior to the date of the appointment and shall reside in Fayette County throughout the term of office. The members may be re-appointed for one consecutive term.

~~(54) A member of the ethics commission shall be removed only by a majority vote of the council, and only for cause, except that a member of the ethics commission shall automatically be removed by operation of law in the event of three (3) unexcused absences, whether consecutive or non-consecutive, in a two (2) year period or in the event of absence from at least twenty-five (25) percent of the meetings in a two (2) year period, beginning after March 1, 1999.~~ An unexcused absence is any absence in which the chair of the ethics commission or the clerk of the urban county council is not notified of the intended absence at least twenty-four (24) hours in advance of a regularly scheduled meeting. In the event of three (3) unexcused absences or the absence from at least twenty-five (25) percent of the meetings over a two (2) year period, within the meaning of this section, the clerk of the urban county council shall notify the mayor and council administrator that a vacancy exists on the ethics commission.

~~(65) The mayor shall notify a nominating organization promptly Upon a vacancy once a seat on the commission becomes vacant by rotation off the commission, by resignation, or otherwise, the mayor shall. Upon receipt of such notice, the nominating organization shall submit to the mayor its list of three (3) nominees appoint a nominee within sixty (60) days of the vacancy. If the nominations are nominee is not received appointed within the prescribed time period, the mayor shall appoint,~~

within thirty (30) days, subject to confirmation by a majority of the council, the member from a list of not less than three (3) names submitted recommended by a majority vote of the remaining members of the ethics commission, to fill the vacancy for that full term or remaining term.

(76) Members of the ethics commission shall serve without compensation, but may be reimbursed for all actual and necessary expenses incurred within the limits of the funds appropriated by the council in the annual budget.

(87) The ethics commission shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson may be reelected for unlimited consecutive terms. The chairperson shall be the presiding officer and a full voting member of the commission.

~~(9) Beginning after February 1, 2000, all groups named as nominating organizations shall submit to the mayor the following information in writing:~~

~~(a) Name of the organization;~~

~~(b) Number of members in good standing;~~

~~(c) Copies of bylaws;~~

~~(d) Names of current officers and directors;~~

~~(e) Schedule of meetings;~~

~~(f) Mission statement if not contained within the bylaws; and~~

~~(g) Percent of the organization's funding provided by the Lexington-Fayette Urban County Government.~~

~~This information shall be updated on a rotating basis to coincide with the end of the term of each commission member nominated by one (1) of the nominating organizations. The chairperson of the ethics commission shall request the updated information no sooner than one (1) year and no later than six (6) months prior to the expiration of the relevant member's term. The nominating organization shall submit the updated information to the mayor within sixty (60) days of the request.~~

~~(10) The mayor shall consider the information submitted pursuant to subsection (9) and relevant other information and evaluate whether the nominating organization's continued participation by nominating members for the commission is consistent with this chapter's objectives. An organization's failure to submit the information within sixty (60) days of the request by the chairperson of the ethics commission shall be prima facie evidence that the organization's continued participation is not consistent with the chapter's objectives. After such consideration the mayor shall make a recommendation to the council that the organization's continued participation is or is not consistent with this chapter's objectives and whether the council should consider an amendment to this chapter to replace the nominating organization with another.~~

- | (~~418~~) The ethics commission shall provide for a schedule of regular meetings by resolution or bylaw. The schedule of regular meetings shall be made available to the public. Special meetings may be called pursuant to the provisions of KRS 61.823 of the Kentucky Open Meetings law.
- | (~~429~~) The presence of five (5) or more members shall constitute a quorum and the affirmative vote of five (5) or more members shall be necessary for any official action to be taken. For purposes of this subsection, "official action" is defined as any motion to adopt an order, issue a reprimand, make findings of fact, recommend discipline, fix a civil penalty, refer the matter for possible criminal prosecution, file charges against classified civil service employees or members of the division of fire and emergency services or the division of police, or make any other final determination of guilt following a hearing upon a complaint. A simple majority of those members present and voting shall be necessary for votes taken on all other matters, including, but not limited to, adoption of minutes, recommending that the urban county council adopt particular ordinances or resolutions, issuing advisory opinions, making determinations based on preliminary inquiries as to whether a complaint is within the commission's jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this chapter. Any member of the ethics commission who has a conflict of interest with respect to any matter to be considered by the commission shall disclose the nature of the conflict, and shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.
- | (~~4310~~) Minutes shall be kept for all proceedings of the ethics commission and the vote of each member on any issue decided by the commission shall be recorded in the minutes.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 75-95, § 1, 4-27-95; Ord. No. 73-99, § 1, 3-25-99; Ord. No. 25-2000, § 3, 1-27-00; Ord. No. 87-2001, § 2, 4-19-01; Ord. No. 88-2001, § 1, 4-19-01; Ord. No. 181-2009, § 1, 8-27-09)

Sec. 25-21. - Facilities and staff.

- (1) Within the limits of the funds appropriated by the council in the annual budget, the urban county government shall provide the ethics commission, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.
- (2) The department of law shall serve as counsel to the ethics commission, provided, however, that the ethics commission may, within the limits of the funds appropriated by the council in the annual budget, retain private counsel at the expense of the urban county government if the department of law has an actual or potential conflict.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-22. - Powers and duties of the ethics commission.

The ethics commission shall have the following powers and duties:

- (1) 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 chapter.
- (2) To issue orders in connection with its investigations and hearings requiring officers and employees 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 commission who has the power to administer oaths.
- (3) To administer oaths through any individual designated by the commission who has the power to administer oaths and to issue orders requiring the attendance and testimony of officers and employees and the production of documentary evidence relating to an investigation or hearing being conducted by the commission which is in the possession of any officer or employee.
- (4) To refer any information concerning violations of this chapter to the executive authority of the urban county government, the council, the county attorney, or other appropriate person or body, as necessary.
- (5) To render advisory opinions to officers, employees, candidates and the public regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.
- (6) To enforce the provisions of this chapter with regard to all officers and employees who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.
- (7) To control and maintain all statements of financial interests that are required to be filed by this chapter and to insure that the statements are available for public inspection in accordance with the requirements of this chapter and the Kentucky Open Records Act.
- (8) To develop and submit any reports regarding the conduct of its business that may be required by the mayor or council, and to recommend any necessary amendments to this chapter or to KRS 65.003, the Kentucky Local Government Ethics Act.
- (9) To educate officers, employees, candidates and the general public regarding the requirements of federal, state and local ethics laws.
- (10) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this chapter, provided that the rules, regulations, and actions are not in conflict with the provisions of this chapter or any state or federal law.

(Ord. No. 255-94, § 1, 12-13-94)

State Law reference— Open records, KRS 61.870 et seq.

Sec. 25-23. - Filing and investigation of complaints.

- (1) Complaints alleging any violation of the provisions of this chapter may be submitted to the ethics commission, or the administrative official designated by the ethics commission, or may be filed as charges against individual officers or employees pursuant to sections 21-44, 23-43, and 23-44 of the Code of Ordinances. All complaints made to the commission shall be in writing, shall be signed by the complainant under penalty of perjury, and shall meet any other requirements established by the ethics commission. The ethics commission shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The commission shall forward within ten (10) working days to each officer or employee who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this chapter.
- (2) Within thirty (30) days of the receipt of a proper complaint, the ethics commission shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The commission 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.
- (3) All proceedings and records relating to a preliminary inquiry being conducted by the ethics commission shall be confidential until a final determination is made by the commission, except:
 - (a) The commission may turn over to the commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.
 - (b) If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the commission may publicly confirm the existence of the inquiry, and, in its discretion, make public any documents which were issued to either party.
- (4) The commission 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 chapter. If the commission concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the commission 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. The conclusion of the commission shall be a public record. Complaints against classified civil service employees and members of the division of fire and emergency services or division of police are pursuant to KRS 67A.280 and 95.450, respectively, outside the commission's jurisdiction, but the commission may after a preliminary inquiry choose to file charges against an employee who is covered by those provisions.
- (5) If the commission 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 commission shall notify the officer or employee who is the subject of the complaint and shall initiate a hearing to determine whether there has been a violation.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-24. - Notice of hearings.

If the ethics commission determines that a hearing regarding allegations contained in the complaint is necessary, the commission 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 commission consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the commission 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.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-25. - Hearing procedure.

- (1) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the ethics commission; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the commission so as to afford all parties the full range of due process rights required by the nature of the proceedings.
- (2) 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 commission in connection with the matter to be heard. The commission shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.
- (3) All testimony in a commission hearing shall be taken under oath, administered by an individual designated by the commission who has the power to administer oaths. All parties shall have the right to call and examine witness, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel.
- (4) Any person, other than a party to the proceeding, whose name is mentioned during the hearing and who may be adversely affected thereby may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.
- (5) All hearings of the ethics commission shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.
- (6) After the conclusion of the hearing, the ethics commission shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination as to whether a violation of this chapter has been proven.

- (7) Within thirty (30) days after completion of the hearing, the commission shall either:
- (a) Adopt by the affirmative vote of five (5) or more members who were present at the hearing a written report giving its findings and its conclusion that a violation of this chapter has occurred; or
 - (b) Dismiss the complaint.

Any vote on the merits of the complaint which results in less than five (5) members who were present at the hearing voting that a violation has occurred shall result in the automatic dismissal of the complaint. In the event of such a dismissal, the complainant shall not be entitled to file a new complaint regarding the same subject matter unless a showing has been made that new evidence exists which was not presented at the previous hearing. The council clerk shall immediately send a copy of a written report adopted by the commission or written notice of the dismissal of a charge, as applicable, to the officer or employee who was the subject of the complaint and to the party who filed the complaint. ~~This subsection shall apply to complaints filed after March 25, 1999.~~

- (8) If the commission concludes in its report that in consideration of the evidence produced at the hearing there is by a preponderance of the evidence proof of a violation of this chapter, the commission may impose one or more penalties as set forth in Section 25-30 of this Chapter.:
- ~~(a) Issue an order requiring the violator to cease and desist the violation.~~
 - ~~(b) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the mayor and council in the case of urban county government officers and employees; to the mayor and the council in the case of the persons covered by section 25-13(3); or to the constitutional officer in the case of officers and employees of constitutional offices.~~
 - ~~(c) In writing, recommend to the mayor and council in the case of urban county government officers and employees; to the mayor and the council in the case of the persons covered by section 25-13(3); or to the constitutional officer in the case of officers and employees of constitutional offices that the violator be sanctioned as recommended by the commission, which may include a recommendation for discipline or dismissal, or removal from office.~~
 - ~~(d) Issue an order requiring the violator to pay a civil penalty of not more than five hundred dollars (\$500.00).~~

~~(e) Refer evidence of criminal violations of this chapter or state laws to the county attorney or commonwealth's attorney for prosecution.~~

- (9) Findings of fact or final determinations by the commission that a violation of this chapter has been committed, or any testimony related to the commission's findings of fact or final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky. Evidence collected by the commission may be used in a criminal proceeding if otherwise relevant.

(Ord. No. 255-94, § 1, 12-13-94; Ord. No. 73-99, § 2, 3-25-99)

Sec. 25-26. - Appeals.

Any person who is found guilty of a violation of any provision of this chapter by the ethics commission may appeal the finding to the Fayette Circuit Court within thirty (30) days after the date of the final action by the ethics commission by filing a petition with the court against the commission. The commission shall transmit to the clerk of the court a certified copy of the charges, the exhibits admitted into evidence, its minutes, and the judgment of the commission. At the request of the appellant, the commission shall at the appellant's cost transmit to the clerk a certified transcript of the public hearing. The court shall hear the appeal upon the record as certified by the commission.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-27. - Limitation of actions.

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

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-28. - Advisory opinions.

- (1) The ethics commission 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, employee, candidate or member of the public in general whose activity is covered by this chapter.
- (2) An advisory opinion shall be requested in writing and shall state relevant facts and answer specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.
- (3) The commission 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.

- (4) The confidentiality of an advisory opinion may be waived either:
 - (a) In writing by the person who requested the opinion; or
 - (b) By majority vote of the members of the commission, 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 commission may vote to make public the advisory opinion request and related materials.
- (5) A written advisory opinion issued by the commission shall be binding on the commission 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 commission if they had existed at the time the opinion was rendered. However, if any fact determined by the commission to be material was omitted or misstated in the request for an opinion, the commission shall not be bound by the opinion.
- (6) A written advisory opinion issued by the commission shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this chapter for actions taken in reliance on that opinion.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-29. - Reprisals against persons disclosing violations prohibited.

- (1) No officer or employee 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, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the ethics commission, any law enforcement agency or its employees, or any other appropriate body or authority, any facts or information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or the urban county government, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety. No officer or employee shall be required to give notice prior to making such a report, disclosure, or divulgence.
- (2) No officer or employee shall subject to reprisal or discriminate against, or use any official authority or influence to cause reprisal or discrimination by others against, any person who supports, aids, or substantiates any officer or employee who makes public any wrongdoing set forth in subsection (1) of this section.
- (3) This section shall not be construed as:
 - (a) Prohibiting a supervisor from requiring that an officer or employee inform him of an official request made to an office for information, or the substance of

testimony made, or to be made, by the officer or employee to the council on behalf of an office;

- (b) Permitting the officer or employee to leave his assigned work area during normal work hours without following applicable law, administrative regulations, rules, or policies pertaining to leave, unless the officer or employee is requested by the ethics commission to appear before the commission, or by a council committee to appear before a council committee;
- (c) Authorizing an officer or employee to represent his personal opinions as the opinions of his supervisor; or
- (d) Prohibiting disciplinary or punitive action if an officer or employee discloses information which he knows:
 - 1. To be false or which he discloses with reckless disregard for its truth or falsity;
 - 2. To be exempt from required disclosure under the provisions of KRS 61.870 to 61.884; or
 - 3. Is confidential under any other provision of law.

(Ord. No. 255-94, § 1, 12-13-94)

Sec. 25-30. - Penalties.

- (1) Upon a determination by the ethics commission of a violation of any of the provisions of the Ethics Act by an officer or employee, the ethics commission shall impose one or more of the following penalties:
 - (a) For any unintentional violation which has been voluntarily corrected by the officer or employee prior to any action by the ethics commission, a notice of mootness shall be issued by the commission;
 - (b) For any violation which is determined by the ethics commission to have been unintentional or the result of good faith misinterpretation of the requirements of the Ethics Act, a letter of technical violation or a letter of reprimand shall be issued by the ethics commission as the commission deems appropriate;
 - (c) For any intentional violation which is acknowledged and rectified by the officer or employee prior to any action by the ethics commission, the commission may take the following actions:
 - (i) Issue a letter to cease and desist;
 - (ii) Issue a letter of public reprimand;
 - (iii) Issue a letter of formal censure;

(iv) Issue a recommendation to the council, the mayor, or the civil service commission for removal, training or remediation.

(2) In addition to any penalties set forth under subsection (c), an intentional violation of the Ethics Act shall be subject to the criminal penalties imposed by a court of competent jurisdiction pursuant to KRS 522.020 and KRS 522.030.

~~The following criminal penalties may be imposed:~~

(a3) Any person who files with the ethics commission a false complaint under section 25-23, alleging a violation of any provision of this chapter which he does not believe, shall be subject to the criminal penalties imposed by a court of competent jurisdiction pursuant to KRS 523.040. ~~be sentenced to pay a fine in an amount not to exceed two hundred fifty dollars (\$250.00), or to be imprisoned for a term not to exceed ninety (90) days, or both.~~

(b4) Any officer or employee who willfully violates the provisions of section 25-29 shall be subject to the criminal penalties imposed by a court of competent jurisdiction pursuant to KRS 61.990(3). ~~be sentenced to pay a fine in an amount not to exceed five hundred dollars (\$500.00), or to be imprisoned for a term not to exceed twelve (12) months, or both.~~

~~(c) Any officer or employee is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:~~

~~(i) Commits an act relating to his office which constitutes an unauthorized exercise of his official duties; or~~

~~(ii) Refrains from performing a duty imposed upon him by law, including this chapter, or clearly inherent in the nature of his office; or~~

~~(iii) Violates any statute or lawfully adopted rule or regulation, including this chapter, relating to his office.~~

~~Any officer or employee who is found guilty of official misconduct in the first degree shall pursuant to KRS 522.020 be sentenced to pay a fine in an amount not to exceed five hundred dollars (\$500.00), or to be imprisoned for a term not to exceed twelve (12) months, or both.~~

~~(d) Any officer or employee is guilty of official misconduct in the second degree when he knowingly:~~

- ~~(i) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or~~
- ~~(ii) Refrains from performing a duty imposed upon him by law, including this chapter, or clearly inherent in the nature of his office; or~~
- ~~(iii) Violates any statute or lawfully adopted rule or regulation, including this chapter, relating to his office.~~

~~Any officer or employee who is found guilty of official misconduct in the second degree shall pursuant to KRS 522.030 be sentenced to pay a fine in an amount not to exceed two hundred fifty dollars (\$250.00), or to be imprisoned for a term not to exceed ninety (90) days, or both.~~

~~(2) The following civil penalties may be imposed:~~

(5) In addition to any of the penalties set forth under subsection (c), an intentional violation of the Ethics Act shall be subject to the civil penalties set forth below:

(a) Any person who is found by the ethics commission to have violated any provision of this chapter shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the ethics commission not to exceed five hundred dollars (\$500.00), which may be recovered by the urban county government 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 chapter, any person who is found by the ethics commission, the urban county council, or the civil service commission to have violated any provision of this chapter shall forfeit to the urban county government or the office of any constitutional officer, an amount equal to the economic benefit or gain which the person is determined by the commission to have realized as a result of the violation. The amount of any forfeiture may be recovered by the urban county government 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.

(36) Nothing in this chapter is intended to, nor is to be construed as, repealing or modifying in any way the provisions of any of the criminal or penal laws of this state, but shall be held and construed as ancillary and supplemental thereto. The civil penalties provided in this chapter shall be levied in conjunction with, and not as an alternative to, the criminal penalties provided in this chapter and in state law.