

ORDINANCE NO. 4

SERIES 1994

CITY OF WORTHINGTON HILLS

An ordinance establishing a code of ethical conduct applicable to the officers of the city.

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 beginning no later than January 1, 1995; and

WHEREAS, the officials of this city are committed to the operation of a city government that manifests the highest moral and ethical standards among its officers and desire to comply with all requirements of the Commonwealth's local government ethics law.

NOW, THEREFORE, Be it ordained by the legislative body of the CITY OF WORTHINGTON HILLS, Kentucky:

SECTION 1. Title.

This ordinance shall be known and may be cited as the "CITY OF WORTHINGTON HILLS Code of Ethics."

SECTION 2. Findings.

The legislative body of the CITY OF WORTHINGTON HILLS finds and declares that:

(A) Public office and employment with the city are public trusts.

(B) The vitality and stability of the government of this city depends upon the public's confidence in the integrity of its elected and appointed officers. Whenever the public perceives a conflict between the private interests and public duties of a city officer, that confidence is imperiled.

(C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

SECTION 3. Purpose and Authority.

(A) It is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers of the city shall be clearly established, uniform in their application, and enforceable, and to provide the officers of the city with advice and information

concerning potential conflicts of interest which might arise in the conduct of their public duties.

(B) It is the further purpose of this ordinance to meet the requirements of KRS 65.003, as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

SECTION 4. Definitions.

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

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

(B) "Board of Ethics" means the CITY OF WORTHINGTON 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. This includes an individual administrator.

(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 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 WORTHINGTON HILLS, Kentucky.

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

(F) "Immediate family member" means a spouse, an unemancipated child residing in the officer's household, or a person claimed by the officer, or the officer's spouse, as a dependent for tax purposes.

(G) "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.

STANDARDS OF CONDUCT

SECTION 5. Conflicts of Interest in General.

Every officer of the city shall comply with the following standards of conduct:

(A) No officer, or any immediate family member of any officer, 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.

(B) No officer 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 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 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 of the City.
- (2) A family member of an officer of the City.
- (3) An outside employer of an officer of the City.
- (4) Any business in which the officer of the City, or any family member has a financial interest.
- (5) Any business with which the officer or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) No officer shall be deemed in violation of any provision in this section if, by reason of the officer's participation, vote, decision, action or inaction, no financial benefit accrues to the officer, 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.

(E) Every officer who has a prohibited financial interest which the officer believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city served by the officer, and the

disclosure shall be entered on the official record of the proceedings of the governing body. The officer shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

SECTION 6. Conflicts of Interest in Contracts.

(A) No officer of the city shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city, except as follows:

(1) The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office. However, if any contract entered into by a city officer before he or she became a candidate or was appointed to office, is renewable after he or she becomes a candidate or assumes the appointed office, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer has any of the authorities set forth in the preceding sentence, then the officer shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.

(3) The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction and the nature of the officer's interest in the contract are publicly disclosed at a meeting of the governing body of the city.

(b) The disclosure is made a part of the official record of the governing body of the city before the contract is executed.

(c) A finding is made by the governing body of the city that the contract with the officer is in the best interests of the public and the city because of price, limited supply, or other specific reasons.

(d) The finding is made a part of the official record of the governing body of the city before the contract is executed.

(B) A violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

SECTION 7. Receipt of Gifts.

No officer of the city shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred dollars (\$100), 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 in the performance of his or her public duties.

SECTION 8. Use of City Property, Equipment, and Personnel.

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

(1) The use is specifically authorized by a stated city policy.

(2) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

SECTION 9. Representation of Interests Before City Government.

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

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

(C) 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 10. Misuse of Confidential Information.

No officer of the city 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.

SECTION 11. Post-Employment Restriction.

No officer of the city shall appear or practice before the city with respect to any matter on which the officer personally worked while in the service of the city for a period of one (1) year after the termination of the officer's service with the city.

SECTION 12. Honoraria.

(A) No officer of the city shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's activities outside of municipal service and is unrelated to the officer's service with the city.

(B) Nothing in this section shall prohibit an officer of the city from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer 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 on behalf of the city and primarily for the benefit of the city and not primarily for the benefit of the officer or any other person.

FINANCIAL DISCLOSURE

SECTION 13. Who Must File.

The following classes of officers of 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.
- (C) Members of the Board of Ethics created by this ordinance.

SECTION 14. When to File Statements; Amended Statements.

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 5:00 p.m. December 31, 1995. All subsequent statements of financial interest shall be filed no later than 5:00 p.m. on December 31st each year, provided that:

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

(2) A candidate for city office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected 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 shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

SECTION 15. 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 required to file the statement, by first class mail or hand delivery, no later than December 31st of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer shall not relieve the officer of the obligation to file the statement.

SECTION 16. 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 as the "custodian," of 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 three (3) years after filing, provided that:

(1) Upon the expiration of three (3) years after a person ceases to be an officer of the city, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

SECTION 17. Contents of the Financial Interests Statement.

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

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

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

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

(4) Information that identifies each source of income of the filer and the filer's spouse 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 in which the filer or the filer's spouse 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) Each source by name and address of gifts or honoraria having an aggregate fair market value of one hundred dollars (\$100) or more from any single source, excluding gifts received from family members, received by the filer or the filer's spouse during the preceding calendar year.

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

SECTION 18. Noncompliance With Filing Requirement.

(A) The Board of Ethics, or the 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 subject to a fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total fine of five hundred dollars (\$500).

(C) Any person who intentionally files a statement of

financial interests which he or she knows to contain false information or intentionally omits required information may be charged with a Class A misdemeanor.

NEPOTISM

SECTION 19. Nepotism Prohibited.

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

- (1) employment;
- (2) appointment;
- (3) promotion;
- (4) transfer; or
- (5) advancement

of a family member to an office with the city.

(B) 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 20. 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. The legislative body may appoint a single administrator. If there is more than one member of the Board of Ethics, then one shall be designated as Chairman.

(B) The Board of Ethics shall consist of from one (1) to three (3) member(s) who shall be appointed by 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 office, whether paid or unpaid. 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.

(C) A member of the Board of Ethics may be removed by the legislative body for misconduct, inability, or willful neglect of duties. 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 legislative body.

(D) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the legislative body.

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

(F) 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 21. 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 persons subject to the terms of the Ethics Ordinance 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 city legislative body.

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

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

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

(H) To develop and submit any reports regarding the conduct of its business that may be required by the legislative body of the city.

SECTION 22. 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. 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 of the city who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this 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, provided that this provision is not in conflict with the provisions of any federal or state law, and except:

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

(2) If the complainant or alleged violator publicly disclose the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.

(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 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 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, 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 concerning the alleged violation and provide a copy of the confidential reprimand to the governing body of the city.

(2) Initiate a hearing to determine whether there has been a violation.

SECTION 23. 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 24. Hearing Procedure.

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

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

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

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

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

(F) After the conclusion of the hearing, the 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.

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

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the Board 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 governing body of the city with which the violator serves.

(3) In writing, recommend to the governing body that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Issue an order requiring the violator to pay a fine of not more than \$500.

(5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or

commonwealth's attorney for prosecution.

SECTION 25. Appeals.

Any person who is found in 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.

SECTION 26. Limitation of Actions.

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

SECTION 27. Reprisals Against Persons Disclosing Violations Prohibited.

(A) No officer or employee of the city shall be 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 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 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 28. Penalties.

Except when another penalty is specifically set forth in this ordinance, any officer of the city who is found by the Board of Ethics to have violated any provision of this ordinance may be fined by the Board of Ethics up to five hundred dollars (\$500),

which may be recovered by the city in a civil action in the nature of a debt if the offender fails to pay the penalty within a prescribed period of time.

SECTION 29. Severability.

If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

SECTION 30. Conflicting Ordinances Repealed.

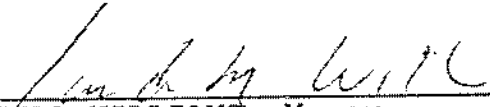
All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 31. Effective Date.

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

Given first reading on the 18th day of October, 1994.

Given second reading and duly enacted by the legislative body of the City of Worthington Hills on the 15th day of November, 1994.



LINDA WILLIAMS, Mayor

ATTEST:



SANDY PHILLIPS, City Clerk

Prepared By:



STEPHEN A. SCHWAGER, City Attorney