

COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO. 2022-05

AN ORDINANCE AMENDING ORDINANCE NO. 2021-06 ENTITLED “AN ORDINANCE ESTABLISHING A CODE OF ETHICS FOR CITY OFFICERS AND EMPLOYEES IN THE CITY OF LONDON, KENTUCKY, DEFINITIONS AND CITY ETHICS BOARD”

WHEREAS, the City of London has the authority pursuant to KRS Chapter 65 to enact an Ordinance establishing a code of ethics to guide the City of London including members of the City Council, the Mayor, City Clerk, City Attorney, officers as defined herein and all employees of the City of London, and,

WHEREAS, public office and employment are a public trust, a government has a duty both to provide their citizens with standards by which they may determine whether the public is being faithfully served, and to appraise their officers and employees of the behavior which is expected of them while conducting their public duties, and,

WHEREAS, it is the purpose of this Ordinance to provide a method of assuring that standards of ethical conduct for city officers, employees of the City of London and others as stated herein shall be clear, consistent, and uniform in their application and to provide City officers and employees with advice and information concerning possible conflicts of interest that might arise in the conduct of their private and public duties,

BE IT ORDAINED BY THE CITY OF LONDON, KENTUCKY, AS FOLLOWS:

Ordinance No. 2012-19 and Ordinance No. 2021-02 and Ordinance No. 2021-06 are hereby repealed. This Ordinance is intended to replace both Ordinances.

SECTION I: DEFINITIONS

(A) As used in this Ordinance, unless the context clearly requires a different meaning:

“BUSINESS ASSOCIATES” includes the following: a general or limited partnership, a corporation, or private business in which the City officer, or employer, or employee is a shareholder, or officer of such corporation, or general partners of the partnership, or owners of the business entity.

“BUSINESS ORGANIZATION” 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;

“CANDIDATE” means any individual who seeks nomination or election to a City government office. An individual is a candidate when the individual:

- (1) Files a notification and declaration for nomination for office with County Court Clerk; or the Secretary of State; or
- (2) Is nominated for office by a political party.

“CITY AGENCY” or City Department” as used in this Ordinance means any board, commission, authority, non-stock corporation, or other entity created, individually by this City. This Ordinance does not apply to the London Fire Department volunteers because they are not compensated by the City of London.

“EMPLOYEE” as used in this Ordinance means any person employed by the City, whether full time or part time and receives compensation in the form of salary or wages. The term “employee” shall not include any member of a contractor or subcontractor entering into a contract with the City.

“FAMILY MEMBER” as used in this Ordinance means a spouse, including a former spouse, child, step-child, parent, step-parent, grandparent, grandchild, brother, sister, father-in-law or mother-in-law, brother-in-law or sister-in-law, or son-in-law or daughter-in-law, uncle, aunt, niece/nephew, first cousin, or any other person living in the same household, residing in an individual’s household, or a person claimed by the individual or individual’s spouse as a dependent for tax purposes.

“OFFICER” as used in this Ordinance means any person, whether full time or part time, and receives monetary compensation who is one of the following:

- (1) The Mayor
- (2) A City Council Member
- (3) The City Clerk
- (4) The Building Inspector
- (5) Risk Manager
- (6) Fire Chief
- (7) Police Chief
- (8) Public Works Superintendent
- (9) Tourism Director
- (10) London Utility Commission Superintendent
- (11) City Attorney
- (12) Any person who occupies a non-elected office created under KRS 83A.080.
- (13) A member of a governing body of any city agency, Board or Commission who was appointed to that governing body or agency by the City Council and/or Mayor.

SECTION II: STANDARD OF CONDUCT

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

(A) No city government officer or employee shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in conflict with the proper discharge of their duties in the public interest.

(B) No city officer or employee shall use or attempt to use their official position to secure unwarranted privileges or advantages for themselves or a family member.

(C) No city officer or employee shall act in their official capacity in any matter where they, a member of their family, or a business organization in which they have an interest, as a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment.

(D) No city officer or employee shall undertake any employment or service, which might reasonably be expected to impair their objectivity or independence of judgment.

(E) No city officer or employee, member of their family, or business association in which he or she has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future unemployment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise of future employment, or other thing of value was given or offered for the purpose of influencing him or her directly or indirectly in the discharge of their official duties. This provision shall not apply to the solicitation or acceptance of contribution to the campaign of an announced candidate for elected public office as governed by the Kentucky Revised Statutes.

(F) No city officer or employee shall be prohibited from giving or receiving an award publicly presented in recognition of public service, commercially reasonable loans made in the ordinary course of the lender’s business, refreshments, meals, or lodging furnished in connection with public events, appearances, ceremonies, or fact finding trips related to official city government business.

(G) No city officer shall use or allow to be used their public office or employment or any information not generally available to the members of the public which he or she receives or

acquires in the course of and by reason of their office for the purpose of securing financial gain for themselves or any member of his or her family or any business organization with which he or she is associated.

(H) No city officer or employee or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any calls, proceeding, application, or other matter pending before any agency in the local government in which he or she serves.

(I) No city officer shall be deemed in conflict with these provisions if by reason of his or her participation in the enactment of any Ordinance, Resolution, or other matter required to be voted upon or which is subject to executive approval or veto, in which no material or monetary gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

(J) No city officer shall be prohibited from making an inquiry for information or providing assistance on behalf of a constituent if no fee, reward, or other thing of value is promised or given or accepted by the officer or a member of his or her family, whether directly or indirectly in return thereof.

(K) Nothing shall prohibit any city officer or employee or members of their family from representing themselves in negotiations or proceedings concerning their own interests.

SECTION III: FINANCIAL DISCLOSURE:

(A) Any elected City Official, candidates for elected city office, members of the Zoning and Planning Commission and City Board of Adjustment, members of the Board of Ethics created by this ordinance, London Utility Commission, City of London Tourism and Convention Commission, and any other officers or employees of the City or any City Agency who are authorized to make purchases of materials or services or award contracts, leases, or agreements involving the expenditure of more than One Thousand Dollars (\$1,000.00), who shall have any private financial interest directly or indirectly in any contract or matter pending before or within any of the departments or agencies of the City Government, shall disclose such private interests to the City Council or the Board of Ethics.

(B) When to File Statements; Amended Statements.

(1) All statements of financial interest shall be filed no later than 4:30 p.m. on April 5 each year, provided that:

(a) A newly hired or reappointed officer or newly-hired employee with the City or a City Agency shall file his or her initial statement no later than thirty (30) days after the date of the appointment or hire.

(b) A candidate for city offices 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.

(2) The Board of Ethics 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 Board, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

(C) Form of the Statement of Financial Interests. The statement of financial interests shall be filed on a form prescribed by the City Council of the City of London. The City Clerk or the designated administrative official, shall deliver a copy of the form to each officer or employee required to file the statement, by first class mail or hand delivery, no later than March 15 of each year. The failure of the City Clerk 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.

(D) Control and maintenance of the Statement of Financial Interests.

(1) The City Clerk 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 City Clerk such records are deemed “public records” within the definition of KRS 61.870 and are available for inspection upon filing.

(2) A statement of financial interests shall be retained by the City 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 of the City, the City Clerk 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 for elected city office was not elected or nominated, the City Clerk shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(E) Contents of the Financial Interests Statement.

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

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

(b) The title of the filer’s office, or office sought, 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 exceeding Ten Thousand Dollars (\$10,000.00) that has been paid to the filer by the City of London during the preceding calendar year, and the nature of the income (e.g., salary, wages, sales to City, etc.)

(e) The name and address of any business located within the state in which the filer had at any time during the preceding calendar year an interest of Ten Thousand Dollars (\$10,000.00) at fair market value of five percent (5%) ownership interest or more. The value is NOT required to be listed.

(f) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the City during the past three (3) years, or which is anticipated to engage in any business transactions with the City, in which the filer had at any time during the preceding calendar year an interest of Ten Thousand Dollars (\$10,000.00) at fair market value of five percent (5%) ownership interest or more. The value is NOT required to be listed.

(g) Each source by name and address of gifts or honoraria having an aggregate fair market value of Five Hundred Dollars (\$500.00) or more from any single source, excluding gifts received from family members, received by the filer during the preceding calendar year.

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

(F) Non-compliance with Filing Requirement.

(1) The City Clerk or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fail to file the statement by 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.

(2) 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 this Ordinance within the time period established in the notice issued by the City Clerk shall be punishable as a civil fine imposed by London Code Enforcement Board in an amount not to exceed Twenty-Five Dollars (\$25.00) per day, up to a maximum total civil fine of Five Hundred Dollars (\$500.00); all such matters to be heard by the London Code Enforcement Board.

(3) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be reported by the City Clerk to the Ethics Board who may refer the matter to the Code Enforcement Board and/or the County or Commonwealth Attorney.

SECTION IV: NEPOTISM

(A) No City officer shall hire or cause to be hired any member of his or her family nor advocate, recommend or cause the promotion, transfer, or advancement of any member of his or her family to an office or position of employment with the City.

(B) No officer shall exercise any authority where any member of the family of the ~~officer official~~ or employee is employed by or has contracts with persons doing work for the City or City Agency over which the ~~officer official~~ or employees have or exercise contract management authority.

(C) No employee may be hired, promoted, transferred or advanced by the City in a department in which a family member is a city ~~officer official~~.

SECTION V: ENFORCEMENT: BOARD OF ETHICS CREATED:

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

(B) The Board of Ethics shall consist of five (5) members who shall be appointed by the Mayor, subject to the approval of the City Council. Not more than three (3) members shall be elected or appointed ~~officers officials~~, whether paid or unpaid, or any position of employment with the City or any City Agencies. The members shall serve for a term of three (3) years. Each member of the Board of Ethics shall have been a resident of the City of London for at least one (1) year prior to the date of appointment and shall reside in the City throughout the term of office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be reappointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the Mayor subject to the approval of the City Council 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 City Council and the Mayor.

(D) Vacancies on the Board of Ethics shall be filled within sixty (60) days by the Mayor subject to approval by the City Council. If the vacancy is not filled by the Mayor within sixty (60) days the remaining members of the Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

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

(F) The Board of Ethics shall annually elect a Chairperson from among the membership. The Chairperson shall be the presiding officer and a full voting member of the Board.

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

(H) The presence of three (3) or more members shall constitute a quorum and the affirmative vote of three (3) or more members shall be necessary for any official action to be taken. Any member of the Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict and shall disqualify himself or herself from voting on the matter and shall not be counted for purposes of establishing a quorum.

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

SECTION VI: POWERS AND DUTIES OF THE BOARD OF ETHICS

The Board of Ethics shall have the following powers and duties:

(A) To initiate, receive and investigate complaints, hold hearings, and make findings of fact in determination 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. The Board shall make a record of all hearings. However, the Board is subject to the requirements and exceptions of the Kentucky Open Meetings and Open Records laws.

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

(D) To refer any information concerning violations of this ordinance to the Mayor, the City Council, Code Enforcement Board, the County Attorney, the Commonwealth Attorney, or other appropriate persons or bodies as is necessary.

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

(F) To enforce the provisions of this ordinance with regard to all officers and employees of the City and City Agencies who are subject to its terms by issuing appropriate orders referring matters authorized by this ordinance.

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

(H) To adopt rules and regulations and to take other actions as are necessary to implement the provisions of this ordinance, provided that the rules, regulations and actions are not in conflict with the provisions of this ordinance or any Kentucky or Federal law.

(I) Any decision of the Board of Ethics regarding violations shall be appealable to the Circuit Court of Laurel County within thirty (30) days after the date of the final action of the Board of Ethics by filing a petition with the Court against the Board. The Board shall transmit to the Clerk of the Circuit Court all evidence considered by the Board at the public hearing and a record of the public hearing.

SECTION VII: 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. The complaints shall be in writing signed by the Complainant. The Board shall forward a copy of the Complaint within ten (10) working days to any officer or employee of the City or City Agency who is the subject of the complaint; the person who is the subject of the Complaint shall have ten (10) working days to file a written response with the Ethics Board.

(B) Within thirty (30) working days of the receipt of the complaint, the Board shall meet and conduct a preliminary inquiry concerning the allegations contained in the complaint. The complaining party and the person against whom the complaint is made 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 relative to his preliminary inquiry shall be conducted by the Board and shall be confidential until a final determination is made by the Board, except:

(1) The Board may provide information to the Commonwealth Attorney or County Attorney records which might be the basis of any criminal investigation.

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

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and if so whether it alleges a minimal fact basis to constitute a violation of this ordinance. If the Board concludes that the complaint is not within its jurisdiction, is frivolous or without any 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 the person against whom the complaint was filed.

(E) If the Board concludes, based upon its preliminary inquiry that the complaint is within its jurisdiction and on its face contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the person against whom the complaint was made and may;

(1) Due to mitigating circumstances such as lack of significant economic advantage or gain by the person against whom the complaint is made or lack of economic loss to the City and its taxpayers, or lack of significant impact on public confidence, may issue, in writing, a confidential reprimand to the person concerning the alleged violation and provide a copy of the confidential reprimand to the Mayor of the City of London.

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

(3) Refer the matter to the Code Enforcement Board

(F) The Board may notify the County Attorney or Commonwealth Attorney and Mayor of any person who knowingly files with the Board a false complaint alleging a violation of any provision of this ordinance by an officer or employee of the City or City Agency.

SECTION VIII: NOTICE OF HEARINGS

If the Board determines that a hearing is necessary, the Board shall issue an order setting the matter for a hearing within thirty (30) working days of the date the order is issued unless either party requests a later date. The order setting the matter for a hearing shall be sent to the person against whom the complaint was made within three (3) days of the time the order setting the hearing is issued and to the person who made the complaint.

SECTION IX: HEARING PROCEDURE

(A) The hearings shall be conducted in accordance with this section and KRS Chapter 13B.

(B) All testimony in a Board hearing shall be taken under oath. All persons shall have the right to call and examine witnesses, to introduce exhibits, cross examine witnesses, submit evidence and be represented by counsel. All witnesses shall have the right to be represented by counsel.

(C) 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 and give a

statement regarding the adverse mention or may file a written statement regarding the adverse mention for incorporation and inclusion into the record of the proceeding.

(D) All hearings before the Board shall be public subject to the Kentucky Open Meeting Laws and exceptions contained in K.R.S. 61.810. The Board may appoint an attorney to provide advice and rule on motions and objections. Such attorney fees shall be paid by the City of London.

(E) After the conclusion of the hearing, the Board shall begin deliberations in closed session for the purpose of reviewing the evidence and making a determination as to whether a violation of this ordinance has been proven. Within thirty (30) calendar days after the completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(F) 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 person against whom the complaint was made and to the party who filed the complaint.

(G) If the Board concludes in its written report that there is a preponderance of evidence of a violation of this ordinance, the Board may;

- (1) Issue an order requiring the violator to cease and desist the violation. and/or,
- (2) Issue a written public reprimand the violator for the violation and provide a copy of the reprimand to the Mayor, the City Council, and City Clerk, and/or,
- (3) In writing, recommend to the Mayor that the violator be sanctioned as recommended by the Board which may include a recommendation of sanction including but not limited to dismissal or removal from office, and/or,
- (4) Issue an order with a recommendation to the Code Enforcement Board of a civil fine to be paid, and/or
- (5) Refer its findings and all evidence of suspected criminal violations to the County Attorney or Commonwealth Attorney of Laurel County.

SECTION X: APPEALS

Any person who is found guilty of a to be in violation of any part of this ordinance by the Board may appeal the findings to the Circuit Court of Laurel County within thirty (30) days after the date of the written order by filing a petition with the Circuit Court against the Board and the Board shall notify the Mayor, Council, City Clerk, and City Attorney of the same. The Board shall transmit to the Clerk of the Circuit Court all evidence considered by the Board at the public hearing and a copy of the hearing record.

SECTION XI: LIMITATION OF ACTIONS

A complaint for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

SECTION XII: ADVISORY OPINIONS

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction based upon real or hypothetical facts and circumstances either upon its own initiative or when requested to do so by an officer or employee of the City or City Agency.

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

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

(D) The confidentiality of an advisory opinion may be waived either (1) in writing by the person who requested the opinion or (2) by majority vote of the members of the Board.

(E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no different fact or circumstances arises that would change the opinion of the Board. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion the Board shall not be bound by the opinion.

SECTION XIII: REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS
PROHIBITED

(A) No officer or employee of the City or City Agency shall be subject to reprisal, directly or indirectly, or threatened to use any official authority to influence in any manner whatsoever which would tend to discourage, prevent, interfere, coerce or discriminate against any person who in good faith reports, discloses, divulges or otherwise brings to the attention of the Board or any other Agency of official of the City or the Commonwealth any facts or information relative to an actual or suspected violation of the ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the City or Agency discloses information which he or she knows to be false or which he or she discloses with reckless disregard for its truth or falsity or which they disclose and the same is exempt from required disclosure under the provisions of the Kentucky Open Records Act (KRS 61.870 to 61.884) or is confidential under any other provision of law.

SECTION XIV: FINES

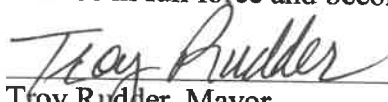
(A) In addition to all other civil fines which may be imposed under this Ordinance or other City Ordinances, any officer or employee of the City or Agency who is found by the Board to have violated any provision of this Ordinance shall forfeit to the City an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the City in a civil action in the nature of debt if the offender fails to pay the amount of the forfeiture within the prescribed period of time.

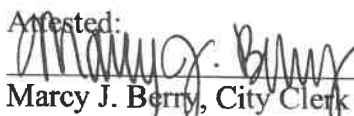
(B) In addition to all other penalties which may be imposed under this Ordinance, a finding by the Board that an officer or employee of the City or Agency has violated this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the Mayor of the City of London. Any action to remove or discipline any officer or employee for a violation of this Ordinance shall be taken in accordance with any other applicable Ordinance of the City or laws of the Commonwealth.

SECTION XV: EFFECTIVE DATE; SEVERABILITY

The definition of "family member" as defined by this Ordinance is expanded from that definition in Ordinances No. 2012-19 and 2021-02. For such reasons, this Ordinance has no ex post facto application; no person who is defined as "family member" and who is an employee, member of a City Agency, or officer are effected by this amended Ordinance. Those persons' positions are "grandfathered in."

That all ordinances or parts of ordinances in conflict herewith are repealed. This ordinance shall be in full force and become effective immediately upon publication.


Troy Rudder, Mayor

Attested:

Marcy J. Berry, City Clerk

First Reading: APRIL 4, 2022
Second Reading: MAY 2, 2022
Publication Date: MAY 11, 2022