

CALLOWAY COUNTY

CODE OF ETHICS

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A CODE OF ETHICS FOR ELECTED AND APPOINTED COUNTY OFFICIALS AND EMPLOYEES OR CANDIDATES FOR PUBLIC OFFICE IN CALLOWAY COUNTY, KENTUCKY.

Whereas, the Calloway County Fiscal Court has the authority pursuant to KRS Chapter 65, to enact an ordinance establishing a code of ethics to guide the conduct of elected and appointed officers and employees of Calloway County, including members of the fiscal court, the County Attorney, County Clerk, Jailer, Coroner, Surveyor, Constable, and the Sheriff; Be it Ordained by the Fiscal Court; and,

Whereas, public office and employment are a public trust and government has a duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise 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 local government officers and employees shall be clear, consistent, and uniform in their application, and to provide local officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

I. DEFINITIONS:

- A. "Business associate" includes the following:
1. a private employer;
  2. a general or limited partnership, or a general or limited partner within the partnership;
  3. a corporation that is family-owned or in which all shares of stock are closely-held, and the shareholders, owners and officers of such a corporation;
  4. a corporation, business association, or other business entity in which the county government officer or employee serves as a compensated agent or representative.

- B. "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 for profit;
- C. "Candidate" means any individual who seeks nomination or election to a county government office. An individual is a candidate when the individual:
  - 1. files a notification and declaration for nomination for office with a county clerk or the Secretary of State; or
  - 2. is nominated for office by a political party under KRS 118.105, 118.115, 118.325, or 118.760.
- D. "County government agency" means any board, commission, authority, nonstock corporation, or other entity formed by the county government or a combination of local governments.
- E. "County government employee" means any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government or county government agency who is not a county government officer, but shall not mean any employees of a school district or school board.
- F. "County government officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or nontaxing district, but shall not mean any officer of a school district or school board.
- G. "Member of immediate family" means a spouse, an unemancipated child residing in an individual's household, or a person claimed by the individual or individual's spouse as a dependent for tax purposes.

II. STANDARDS OF CONDUCT:

- A. No county government officer or employees or member of his immediate family shall have any interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.
- B. No county government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

- C. No county government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgement.
- D. No county government officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice his independence of judgement in the exercise of his official duties.
- E. No county government 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, or reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, ceremonies or fact-finding trips related to official county government business.
- F. No county government officer shall be prohibited from accepting a gratuity for solemnizing a marriage.
- G. No county government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated.
- H. No county government officer or employee or business organization in which he has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he serves.
- I. No county government officer shall be deemed in conflict with these provisions if, by reason of his 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, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

- J. No elected county government 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 to, given to or accepted by the officer or a member of his immediate family, whether directly or indirectly, in return therefore; and
- K. Nothing shall prohibit any county government officer or employee, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.

### III. FINANCIAL DISCLOSURE

- A. The following individuals shall be required to file a financial disclosure statement:
  - 1. Elected officers;
  - 2. Candidates for elected office.
- B. The financial disclosure statement shall include the following information:
  - 1. Name of filer;
  - 2. Current business address, business telephone number and home address of filer;
  - 3. Title of filer's public office or office sought;
  - 4. Occupations of filer and spouse;
  - 5. Positions held by the filer and any member of the filer's immediate family in any business organization or non-profit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$5,000.00 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;
  - 6. Name and address of each source of income of the filer and spouse from within the Commonwealth of Kentucky which exceed \$5,000.00 during the preceding calendar year;
  - 7. Name and address of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of ten thousand dollars (\$10,000.00) at the fair market value;
  - 8. The location of all commercial property within the county, in which the filer or any member of the filer's immediate family had an interest of ten thousand dollars (\$10,000.00) or more during the past year;
  - 9. Any officer or employee, or any member of his immediate family, of the county government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government shall disclose such private interest to the fiscal court.

10. Any county judge/executive, magistrate or commissioner, sheriff, jailer, coroner, constable, surveyor, county attorney, county clerk, or a member of his immediate family, who has a private interest in any matter pending before the court shall disclose such private interest on the records of the court and shall disqualify himself from participating in any decision or vote relating thereto;
  11. Any officer or employee, or a member of his immediate family, of an independent agency or special district to which this code of ethics applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such independent agency or special district shall disclose such private interest to the governing body of such agency or district.
- C. Each statement shall be signed and dated by the individual filing the statement of financial interest. Knowingly signing a fraudulent statement shall be a Class A misdemeanor.
- D. All pay and benefits shall be withheld until a non-complying officer or employee is in compliance with the filing requirements. Candidates and nominees who fail to comply with these filing requirements shall be fined \$50.00 for each day they are in non-compliance.
- E. The financial disclosure statements shall be filed with the Calloway County Clerk.

#### IV. NEPOTISM

- A. No county government officer or county government employee shall act in his/her official capacity to hire or cause to be hired any member of his/her immediate family at an hourly pay rate or with benefits in excess of any other employee with similar job duties, responsibilities and qualification requirements.
- B. No officer or employee shall exercise contract management authority where any member of the immediate family of the official or employee is employed by or has contracts with persons doing county government work over which the official or employee has or exercises contract management authority.

#### V. COUNTY ETHICS COMMISSION

- A. The county ethics commission shall consist of five (5) members; no ethics commission member may be a public official. The commission member selected as chairperson shall be a citizen member. The members shall be appointed by the county judge/executive with the approval of the fiscal court. Members shall receive no compensation but may be reimbursed all necessary expenses. The terms of members shall be staggered and no longer than four (4) years.

1. All appointments shall be made no later than sixty (60) days after the adoption of this ordinance.
2. Vacancies on the County Ethics Commission shall be filled within sixty (60) days by the county judge/executive subject to the approval of the fiscal court. If a vacancy is not filled by the county judge/executive within sixty (60) days, the remaining members of the County Ethics Commission shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

B. Powers and Duties

1. The commission shall have jurisdiction over the administration of this code.
2. The commission may receive complaints; initiate investigations on its own motion; and conduct investigations, inquiries, and hearings concerning any matter covered by this code.
3. The commission may render advisory opinions whether or not a given set of facts and circumstances constitute a violation of any provision of this code.
4. The commission shall prescribe and provide forms for reports, statements, notices, and other documents required by this code.
5. The commission shall determine whether the required statements and reports have been filed and, if filed, whether they conform with the requirements of this code. The commission shall promptly give notice to the filer to correct or explain any omission or deficiency.
6. The commission may retain private counsel at the expense of the county if the county attorney has an actual or potential conflict. Any counsel must be pre-approved by the fiscal court.

C. Complaint procedure; preliminary investigations.

1. (a.) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall investigate any alleged violation of this code.  
(b.) No later than ten (10) days after the commission receives the complaint, the commission shall initiate a preliminary inquiry into any alleged violation of this code.  
(c.) Within thirty (30) days of the commencement of the inquiry, the commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.
2. All commission proceedings and records relating to a preliminary investigation 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 of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and
3. The complaint or alleged violator shall not publicly disclose the existence of a preliminary investigation, the commission shall not publicly confirm the existence of the inquiry nor make public any documents which were issued to either party.

4. The commission shall afford a person who is the subject of a preliminary investigation 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 and to offer evidence in response to the allegations in the complaint.
5. Any person who knowingly files with the commission a false complaint of misconduct on the part of any elected or appointed official or other person shall be guilty of a Class A misdemeanor.

D. Action by Commission.

1. If the Commission 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 Commission may;
  - (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 executive authority and governing body (if different than the executive authority) of the county or county agency with which the violator serves.
  - (c.) In writing, recommend to the executive authority and the governing body (if different than the executive authority) that the violator be sanctioned as recommended by the Commission, which may include a recommendation for discipline or dismissal.
  - (d.) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000.00.
  - (e.) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

E. Appeals

1. Any person found by the commission to have committed a violation of this code may appeal the action with the Calloway Circuit Court. The appeal shall be initiated within thirty (30) days after the date of the final action of the commission by filing a petition with the court against the commission. The commission shall transmit to the clerk of the court all evidence considered by the commission at the public hearing. The court shall hear the appeal upon the record as certified by the commission.

IF any part of this Code of Ethics Ordinance is found to be illegal or unconstitutional, the remainder is still in effect as adopted by the Calloway County Fiscal Court.

B. Williams  
COUNTY JUDGE EXECUTIVE

Don Miller  
MAGISTRATE

Steve Goff  
MAGISTRATE

Bill Siefert  
MAGISTRATE

Clyde Hale  
MAGISTRATE

Attest:

Jessie Rushing  
CALLOWAY COUNTY COURT CLERK

1-4-99