

ORDINANCE NO. 3 - 2014

**AN ORDINANCE AMENDING ORDINANCE NO. 5, AS AMENDED, 1994 SERIES,
RELATING TO THE ESTABLISHMENT OF A CODE OF ETHICS
FOR ELECTED AND APPOINTED COUNTY OFFICIALS AND EMPLOYEES
OR CANDIDATES FOR PUBLIC OFFICE IN FRANKLIN COUNTY, KENTUCKY**

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF FRANKLIN,
COMMONWEALTH OF KENTUCKY

WHEREAS, the Franklin 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 Franklin County Government, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, Surveyor, Constable; 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 an 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 or 118.760.
- D. "County government" means Franklin County, Kentucky, and its elected county officials except the Circuit Clerk and Property Valuation Administrator.
 - E. "County government agency" means any board, commission, authority, special taxing or nontaxing districts, nonstock corporation, or other entity formed by the county government or a combination of local governments.
 - F. "County government employee" means any person, compensated by the Franklin County Fiscal Court, whether full-time or part-time, employed by or serving the county government but shall not mean any employee of a county government agency or special district who is not a county government officer nor any employee of a school district or school board.
 - G. "County government officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office.
 - H. "Family member" means a spouse, parent, child, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
 - I. "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 employee or member of his immediate family shall have an 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 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 judgment;
- C. 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 judgment in the exercise of his official duties;

- D. No county government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, political contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by the Kentucky Revised Statutes.
- E. Franklin County Fiscal Court hereby adopts KRS 11A.045(1) and (2) and No Public Servant, his spouse or dependent child shall knowingly accept any gifts or gratuities, including travel expenses, meal, alcoholic beverages, and honoraria, totaling a value greater than fifty dollars (\$50.00) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or lobbying or attempting to influence the actions of Franklin County Fiscal Court, or any agency, department or office in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. **Nothing contained in this subsection shall prohibit employees or officials from receiving meals or beverages at conferences, official events or educational seminars from sponsors provided that the meals etc., are provided equally to all attendees similarly situated.** Furthermore, nothing herein shall prevent the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.
- F. Nothing herein shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.
- G. 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, appearances, ceremonies.
- H. No county government officer or employee shall be prohibited from accepting a gratuity for solemnizing a marriage.
- I. 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 or anyone else;

- J. No county government officer or employee or business organization in which he has an interest shall represent any person or party other than Franklin County government in connection with any cause, proceeding, application or other matter pending before the Franklin County government. Nothing in this section shall prohibit anyone from representing any person or party in connection with any cause, proceeding, application or other matter pending before Franklin County government or any county government agency if he is not an officer or employee of that county government agency.
- K. 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;
- L. 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
- M. 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. Nepotism

After the effective date of this ordinance, a family member of a county officer shall not be initially employed or appointed to a position in a county government office, in the same county in which the officer serves. This provision shall not apply to a public officer's family members who, on the date of the officer's election or appointment, have been employed for at least six months in the same county in which the officer serves. This provision shall not apply to a county government agency.

IV. Financial Disclosure

- A. The following individual shall be required to file a financial disclosure statement:
 - 1. Elected officers;
 - 2. Candidates for elected office;
 - 3. Management personnel such as chief deputies, department head of Franklin County Government;

4. Officers and employees of Franklin County Government with procurement authority exceeding five hundred dollars (\$500) per purchase;

B. The financial disclosure statement should include the following information:

1. Name of filer;
2. Current business address, business telephone number and home address of filer;
3. Title of the 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 nonprofit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$5,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;
6. Name, address, and telephone number of each source of income of the filer and spouse from within the Commonwealth of Kentucky which exceeded \$5,000 during the preceding calendar year;
7. Name, address, and telephone number 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 five thousand dollars (\$5,000) at fair market value or five percent (5%) ownership interest or more during the preceding year;
8. The location and type (commercial, residential, agricultural) 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 an interest of five thousand dollars (\$5,000) or more during the past year;
9. Any officer or employee, or any member of his immediate family, of Franklin 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 or the local ethics commission.
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 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. No officer or employee or member of immediate family of said officer or employee of a county government agency shall file a financial disclosure statement unless they have a private financial interest, directly or indirectly, in any contract, or matter pending before or within such county government agency, they shall disclose such private interest to the governing body of such agency and file a financial disclosure statement with the commission and county clerk and further same shall be noted in the minutes of the county government agency.
 12. 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.
- C. The financial disclosure statement shall be on a form setting forth the above (a sample attached hereto). The financial disclosure statement shall be filed annually by officers and employees no later than July 1. Candidates shall be required to file the statement no later than twenty-one (21) days after the filing date. Newly- appointed officers and employees should be required to file their initial statement no later than twenty-one (21) days after the date of appointment.
 - D. Each statement shall be signed and dated by the individual filing the statement of financial interest. Signing a fraudulent statement shall be Class A misdemeanor.
 - E. 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 \$25 for each day they in noncompliance.
 - F. All financial disclosure statements shall be open records. Each individual or organization requesting to view financial disclosure statements shall complete a form giving full name, address, telephone number and organization /individual represented if other than individual making request. One copy of this form shall be attached to the statement so requested and shall become a part of the record.
 - G. The financial disclosure statements shall be filed with the Franklin County Clerk.

V. COUNTY ETHICS COMMISSION

- A. The county ethics commission shall consist of three (3) members; not more than one (1) member may be a public official. The commission member selected as chairperson shall be a citizen member. The member 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.
- B. Powers and Duties.

1. The commission shall have jurisdiction over the administration of this code and enforcement of the civil penalties prescribed by this code.
2. The commission may receive and initiate complaints; initiate investigations on its own motion; and conduct investigation, inquires, and hearings concerning any matter covered by this code.
3. The commission may administer oaths; issue subpoenas; compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony; and have the deposition of witnesses taken in the manner prescribed by the Kentucky Rules of Civil Procedure for taking depositions in civil actions
4. 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.
5. The commission shall prescribe and provide forms for reports, statements, notices and other documents required by this code.
6. 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.
7. The commission may retain private counsel at the expense of the county if the county attorney has an actual or potential conflict.

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) Not 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:

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 complainant 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 under oath, and to offer evidence in response to the allegations in the complaint.
5. If the commission determines in the preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of this code, the commission shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law.
6. If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this code has occurred, the commission shall notify the alleged violator of the finding, and the commission, may upon majority vote:
 - (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the county, or lack of significant impact on public confidence in government, confidentially reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the county judge.
 - (b) Initiated an adjudicatory proceeding to determine whether there has been a violation.
7. 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. Adjudicatory proceedings; action by commission; appeal.

1. The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all commission adjudicatory hearings. All testimony in a commission adjudicatory proceeding shall be under oath. 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 and any other due process rights, privileges, and responsibilities of a witness appearing before the courts of the Commonwealth of Kentucky. All witnesses shall be entitled to be represented by counsel.
2. Any person whose name is mentioned during adjudicatory proceedings of the commission and who may adversely affected thereby may appear personally before the commission on the person's own behalf, with or without attorney, to give a statement in

opposition to such adverse mention or file a written statement of that opposition for incorporation into the record of proceeding.

3. All adjudicatory proceedings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS. 61.810.
4. Within thirty (30) days after the end of adjudicatory proceeding pursuant to the provisions of this section, the commission shall meet in executive session for the purpose of reviewing the evidence before it. Within thirty (30) days after completion of deliberations, the commission shall publish a written report of its findings and conclusions.
5. The commission, upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of violation of this code, may:
 - (a) Issue an order requiring the violator to cease and desist the violation;
 - (b) Issue an order requiring the violator to file any report, statement, or other information as required by this code;
 - (c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the county judge.
 - (d) Issue an order requiring the violator to pay a civil penalty of not more than five hundred dollars (\$500).
6. The Commission may refer to the County Attorney or Commonwealth's Attorney for prosecution evidence of criminal violations of this code.
7. Finding of fact or final determinations by the commission that a violation of this code 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.
8. Any person found by the commission to have committed a violation of this code may appeal the action to the Franklin 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.
9. Except when the period of limitation is otherwise established by the state law, an action for a violation of this ordinance must be brought within one (1) year after the violation.

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

This Ordinance shall become effective upon adoption.

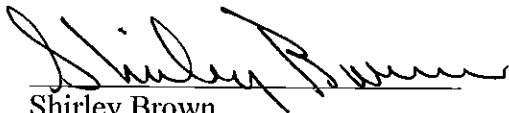
INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 30 day of June, 2014.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 11 day of July, 2014, and of record in Fiscal Court Order Book 26 Page 47.



Ted Collins
Franklin County Judge/Executive

ATTESTED TO:



Shirley Brown
Fiscal Court Clerk