

ORDINANCE # 83

**AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A
CODE OF ETHICS WHICH SHALL APPLY TO ALL CANDIDATES
FOR OFFICE AND ALL ELECTED AND APPOINTED OFFICIALS
OF BOYD COUNTY, KENTUCKY AS REQUIRED BY KRS CHAPTER 65**

BE IT ORDAINED BY THE FISCAL COURT OF BOYD COUNTY, KENTUCKY:

WHEREAS the General Assembly of the Commonwealth of Kentucky enacted House Bill 238 (codified as KRS 65.003) requiring the establishment of codes of ethics by cities and counties no later than January 1, 1995;

WHEREAS the Fiscal Court of Boyd County is the governing body of the unincorporated areas of Boyd County, Kentucky;

WHEREAS failure of the fiscal court to comply with the mandate of the General Assembly shall result in the denial of state services and payments to the county of Boyd;

**THERE BE AND HEREBY IS ESTABLISHED THE FOLLOWING CODE OF
ETHICS WHICH SHALL APPLY TO ALL ELECTED AND APPOINTED
OFFICIALS OF BOYD COUNTY, KENTUCKY:**

SECTION 1. STANDARDS OF CONDUCT

- (A). All candidates for county office and all elected and appointed officials shall perform their duties in accordance with the laws of the Commonwealth of Kentucky.
- (B). All elected and appointed officials shall refrain from purchasing, leasing or otherwise acquiring goods and/or services from any source in which the elected official has a direct or indirect financial interest unless previously approved by the fiscal court after disclosure of the interest by the official.
- (C). All elected and appointed officials shall keep the Fiscal Court and county attorney apprised of all matters within their purview and relevant to the operation and maintenance of county government.
- (D). All candidates for county office and all elected and appointed officials shall refrain from expending for personal reasons any public sums, funds, monies or accounts maintained by said official.

SECTION 2. FINANCIAL DISCLOSURE

- (A). No later than March 1 of each year following the effective date of this ordinance, all elected and appointed officials shall file a financial disclosure

statement with the Boyd County Ethics Board. All candidates for county office shall file the same financial disclosure statement within _____ days of filing candidacy papers with the county clerk. The financial disclosure statement shall be signed by the official and shall set forth the elected or appointed official's name and title and shall identify all sources, other than Boyd County or the Commonwealth of Kentucky, from which the official earned or received income of more than \$5,000.00 in the 12 months immediately preceding.

SECTION 3 - POLICY ON EMPLOYMENT OF FAMILY MEMBERS

It is the policy of the Fiscal Court of Boyd County, Kentucky that elected and appointed officials shall not employ family members in county government. "Family member" means an official's spouse, child, parent, brother, sister, step-relative or in-law.

SECTION 4 - ENFORCEMENT

(A). There is hereby created a body to be known as the Boyd County Ethics Board (hereafter "the board") which shall be responsible for the enforcement of this code of ethics, and maintenance of financial disclosure statements and the performance of such other duties as required by KRS 65.003(3)(d).

(B). The board shall consist of not less than three (3) persons who shall be appointed to staggered terms upon majority vote of the fiscal court in the same manner as persons appointed to other county boards. The initial board members shall be appointed for one, two and three years respectively and shall be appointed no later than the first meeting of the fiscal court following the adoption of the foregoing Code of Ethics. Appointment to the board may be made upon order or resolution.

(C). The following procedures shall apply upon the filing of a sworn complaint charging an official with violation of the Code of Ethics:

1. (a) Not later than ten (10) days after the board receives the complaint, the board shall initiate a preliminary inquiry into any alleged violation of this code. This time may be extended upon majority vote of the board.

(b) Within thirty (30) days of the commencement of the inquiry, the board 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 board proceedings and records relating to a preliminary investigation

attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings.

3. The complainant or alleged violator shall not disclose the existence of a preliminary investigation, and the board and members thereof shall not confirm the existence of the inquiry, nor make public any documents which were issued to either party. A violation hereof by either the complainant or board shall result in a dismissal of the action with prejudice.

4. The board 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 board determines in the preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of this code, the board shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation. The board may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law.

6. If the board, during the course of the preliminary investigation, finds probable cause to believe that a violation of this code has occurred, the board shall notify the alleged violator of the finding, and the board 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.

(b) Initiate an adjudicatory proceeding to determine whether there has been a violation.

SECTION 5 - ADJUDICATORY PROCEEDINGS; ACTION BY COMMISSION; APPEAL

(A). With the exception of rules applicable to hearsay which shall be strictly enforced, formal rules of courtroom procedure shall not apply but 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.

(B). Any person whose name is mentioned during adjudicatory proceedings of the

board and who may be adversely affected thereby may appear personally before the board 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 or proceeding.

(C). All adjudicatory proceedings of the board 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.

(D). Within thirty (30) days after the end of an adjudicatory proceeding, the board shall meet in executive session for the purpose of reviewing the evidence before it. Within (30) days after completion of deliberations, the board shall publish a written report of its findings and conclusions.

(E). The board, upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of a violation of this code, may:

1. Issue an order requiring the violator to cease and desist the violation;
2. Issue an order requiring the violator to file any report, statement, or other information as required by this code;
3. Publicly reprimand the violator;
4. Issue an order requiring the violator to pay a civil penalty of not more than five hundred dollars (\$500)

(F). The board may refer to the county attorney, or Commonwealth's attorney for prosecution evidence of criminal wrongdoing.

(G). Findings of fact or final determination by the board that a violation of this code has been committed, or any testimony related to the board's findings of fact or final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky, however, evidence collected by the board may be used in a criminal proceeding if otherwise relevant or admissible.

(H). Any person found by the board to have committed a violation of this code may appeal the action to the Boyd Circuit Court. The appeal shall be initiated within thirty (30) days after the date of the final action of the board by filing a petition with the court against the board. The board shall transmit to the clerk of the court all evidence considered by the board at the public hearing. The court shall hear the appeal upon the record as certified by the board and may order briefs, memoranda or other pleadings be filed as may aid the court.

SECTION 6 - EFFECTIVE DATE AND "GRANDFATHER CLAUSE"

The foregoing Code of Ethics shall apply to all candidates for county office and all persons elected or appointed to the official offices of Boyd County, Kentucky on or after January 1, 1995. However, no person shall be terminated nor otherwise divested of his or her employment in county government solely for the reason that such person is a member of an official's family.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Boyd County, Kentucky held on 7TH day of December, 1994.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Boyd County, Kentucky, held on the 21ST day of December, 1994, and of record in Fiscal Court Order Book 21, Page 210.

The foregoing Ordinance shall become effective upon its adoption, re-adoption and publication according to law. The clerk shall cause a copy of this Ordinance to be sent to the the Department of Local Government within 21 days of passage. Copies of any amendments to the foregong Ordinance shall be sent to the Department of Local Government within 21 days of passage.

Billy Joe Ross
BILLY JOE ROSS, BOYD COUNTY JUDGE EXEC.

ATTEST:
Debbie Jones
DEBBIE JONES, FISCAL COURT CLERK