



ORDINANCE NO. 94-008
ORDINANCE NO. 96-001
ORDINANCE NO. 99-002

CODE OF ETHICS

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A CODE OF ETHICS FOR COUNTY OFFICIALS AND EMPLOYEES IN LAWRENCE COUNTY, KENTUCKY

WHEREAS, the Lawrence 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 Lawrence County, including members of the Lawrence Fiscal Court, the Lawrence County Judge Executive, the Lawrence County Attorney, the Lawrence County Clerk, the Lawrence County Sheriff, the Lawrence County Jailer, and the Lawrence County Coroner, Surveyor, and Constables 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 provide local 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. County government agency” means any board, commission, including the Ethics Commission, authority, non stock corporation, or other entity formed by the county government or a combination of local government.

D. “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 employee of a school district or school board.

E. “County government official” means any person, whether compensated or not, whether full-time or part-time, who is elected or appointed to any county government office; or any person who serves as a member of the governing body or any county government agency or special taxing or non taxing district, but shall not mean any officer of a school district or school board.

F. “Member of Immediate family” means a County Government Official’s spouse, father, mother grandfather, grandmother, children and spouses, brothers and sisters and spouses, aunts, uncles, brothers-in-law and sisters-in-law, nieces and nephews, or any other person claimed by the individual or individual’s spouse as a dependent for Kentucky income tax purposes.

II. STANDARDS OF CONDUCT

A. No county government officer or employees of member of his immediately 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 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 manner 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.

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 judgment in the exercise of his official duties.

E. 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, 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 government by the Kentucky Revised Statutes.

F. 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, appearance, ceremonies or fact-finding trips related to official county government business.

G. No county government officer shall be prohibited from accepting a gratuity for solemnizing a marriage.

H. 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 acquires in the course of any by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediately family, or any business organization with which he is associated except under the "rule of necessity."

L. 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 clause, proceeding, application or other matter pending before any agency in the local government in which he serves.

J. 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.

K. 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 immediately family, whether directly or indirectly, in return therefore.

L. Nothing shall prohibit any county government officer or employee, or members of his immediately family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interest.

III. FINANCIAL DISCLOSURE

A. The following individuals shall be required to file a financial disclosure statement:

1. Elected officers;
2. An officer appointed to replace an elected officer;

3. Management personnel such as chief deputies, department heads;
4. Officers and employees with procurement authority exceeding five hundred dollars (\$500) per purchase.
5. Members of boards and commissions which set tax rates, have procurement authority, or vote to adopt budgets.

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

1. Name of filer;
2. Current business address, business telephone number and home address and home telephone number of filer;
3. Title of filer's public office or office sought;;
4. Occupations of filer and spouse;
5. All sources of income earned from salary or wages, business corporations or business investments which exceed \$5,000 per year, shall be listed by name (but not amount); in addition, the following additional disclosures shall be made when and if applicable, *viz*:
 - a. 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 or the local ethics commission, and shall disqualify himself/herself from participating in any election or vote relating thereto.
 - b. 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.

6. Each statement shall be signed and dated by the individual filing the statement of financial interest. Signing a fraudulent statement shall be a Class A misdemeanor.
7. All pay and benefits shall be withheld until a non-complying officer or employee is in compliance with the filing requirements.
8. The financial disclosure statement shall be on a form provided by the local ethics commission. The financial disclosure statement shall be filed annually by officers and employees no later than February 1. Newly-elected or newly-appointed officers and employees shall be required to file their initial statement no later than twenty-one (21) days after the date of appointment.
9. The financial disclosure statement shall be filed with the local ethics commission by all filers who are subject to the jurisdiction of the Commission. Failure to do so will result in a fine of \$500.

C. All financial disclosure statements shall be open for public inspection. Each individual or organization requesting to view financial disclosure statements shall obtain permission from the official custodian, who is an appointed member of the Ethics Commission, and complete a form giving the full name, address, telephone number and the organization and/or individual upon whose behalf the request is made (if other than the individual making the request). One copy of the request form shall be attached to the statement furnished and shall become a part of the official record.

D. All financial disclosure statements and all other documents of the Ethics Commission shall be filed and maintained in the Lawrence County Clerks office, under the control of the Ethics Commission custodian.

IV. NEPOTISM

After the effective date of this ordinance, no immediate family member of a County Government Official, as defined in Section 1, paragraph F hereof, shall be employed within Lawrence County by county government or county agencies, except under the following conditions:

1. An immediate family member of a County Government Official shall not be initially employed or appointed to a position in county government or in a county governmental agency within the same county in which the officer serves unless the spouse or family member is the best qualified, by education and/or experience, to fill such position.
2. In any situation in which a County Government Official desires to employ or appoint an immediate family member (or an immediate family member of another County Government Official) to a position in county government or in a county governmental agency, the Ethics Commission shall make the determination as to whether such family member is best qualified for filing such position, by reviewing the employment applications of all applicants and conducting interviews, if the Commission so desires. Thereafter, the Ethics Commission shall select the most qualified person for the position.
3. Under no circumstances shall more than one (1) immediate family member of a County Government Official be initially employed or appointed within county government or in a county governmental agency, after the effective date of this ordinance, *with the exception of the deputy county judge/executive and a reasonable number of other clerical workers and assistants. The fiscal court does have the authority to limit the number of such personnel and provide for their salary, as long as it is reasonable. (KRS 67.711(1)).*
4. Section IV of this ordinance shall not apply to an immediate family member of a County Government Official who has been employed in county government or in a county governmental agency within Lawrence County for a period of six (6) months prior to the date of the County Government Officials' election or

appointment. Such employee shall be referred to as a *Preelection Employee*.

5. A Preelection Employee, although unaffected by this Ordinance, shall nevertheless, because of his or her employment, act as a bar to the employing of any other immediate family members by a newly elected or appointed County Government Official.
6. In the event more than one (1) immediate family member of a County Government Official is employed in county government or in a county governmental agency within Lawrence County, prior to the effective date of this ordinance, such members may continue employment within county government or in a county governmental agency so long as employment is continuous and such immediate family employee remains an employee within the county office in which he or she was employed on the effective date of this ordinance. Once the immediate family member terminates his or her employment relationship, then such immediate family member cannot be reemployed within county government except as a new employee under the provisions of this Article IV.
7. Notwithstanding any other provision contained herein to the contrary, this ordinance shall not apply to:
 - a. Part-time or summer help, provided by students and/or other family members, shall not be considered as employment under this ordinance to the extent that such use of part-time or summer help does not exceed three hundred (300) hours of service in total for all part-time or summer helper within such office for any given fiscal year.
 - b. Any immediate family member, who is working for or with a student or governmental program, funded by federal, state or non-profit agencies other than the Lawrence Fiscal Court or the offices of any County Government Agency or County Government Office, as defined in Section 1 hereof, for which services are provided to the offices of the various

government officials without compensation by such county officials, shall not be considered as employment under this ordinance.

V. COUNTY ETHICS COMMISSION

A. A **Lawrence County Ethics Commission** is hereby created which shall have the authority, duties and responsibilities as set forth in this Ordinance and shall have the powers to enforce all provisions of the Code of Ethics herein adopted. The initial Ethics Commission shall be appointed within sixty (60) days of the effective date of this Ordinance.

B. The County Ethics Commission shall consist of seven (7) members. Not more than one (1) member may be a public official, but not a County Government Official, a County Government Employee or a member of any other County Government Agency, all of which are defined in Section I hereof. Not less than three (3) of the members shall be members of the opposite political party of the then serving County Judge Executive.

1. The commission member selected as chairperson shall be a citizen member.
2. Members shall receive no compensation but may be reimbursed for all necessary expenses.

C. The membership of the County Ethics Commission shall be appointed by the Lawrence Fiscal Court from lists submitted by the Lawrence County Clerk, Lawrence County Attorney, Lawrence County Sheriff, Lawrence County Jailer, Lawrence County Retired Teachers Association and any other interested individual or group desiring to make a recommendation.

1. All lists for potential membership upon the Commission shall be submitted to the Lawrence County Clerk or to such other designated office or person as stated within the notice of acceptance of recommendations.
2. Notification for recommendations to fill vacancies existing within the Commission membership shall be advertised in the local paper

at least ten (10) days prior to any meeting considering the appointment of members.

D. Membership upon the Commission shall be for a single term of four (4) years, except for the original appointment of the members, which shall be for staggered terms.

1. There shall be no succession in office; however, after a two (2) year absence, a former member can be reappointed as a member of the Commission.
2. The original membership of the Commission shall be appointed for the following terms:
 - a. One (1) member for a one (1) year term, said term ending on December 31, 1995;
 - b. Two (2) members for a two (2) year term, said terms ending on December 31, 1996;
 - c. Two (2) members for a three (3) year term, said terms ending December 31, 1997; and
 - d. Two (2) members for a four (4) year term, said terms ending on December 31, 1998.

E. 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, and in furtherance of same the Commission is hereby granted the right to promulgate any and all necessary rules and regulations for the conduct its operation under this ordinance.
2. The Commission may receive and initiate complaints; initiate investigations on its own volition; and conduct investigations, inquiries, and hearings concerning any matter concerning this code.

3. The Commission may administer oaths; request 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 as to whether a given set of facts and circumstances constitute a violation of any provision of this Ordinance.
5. The Commission shall prescribe and provide forms for reports, statements, notices, and other documents required by this Ordinance.
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 shall appoint a member of the Commission as official custodian of all Commission records including the financial disclosure records.
8. The Commission may retain private counsel, at the expense of the County, if the Lawrence County Attorney has an apparent or potential conflict of interest.

F. ACTIONS TO BE TAKEN BY THE COUNTY ETHICS COMMISSION

1. a. Upon a complaint signed under penalty or 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.

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- 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 to the County Attorney within the jurisdiction in which the offense occurred, evidence which may be use in criminal proceedings.

X

- 3. Neither the complainant nor the alleged violator shall publicly disclose the existence of a preliminary investigation; the Commission shall not publicly confirm the existence of an 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 in person, to question witnesses under oath, and to offer evidence in response to the allegations contained within 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. X

6. If the Commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this Ordinance 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 Executive.
 - b. Initiate an adjudicatory proceeding to determine whether there has been a violation of the Ethics Code.
7. Any person who knowingly files with the Commission a false complaint of misconduct on the part of any elected or appointed official shall be guilty of a Class A misdemeanor.

**G. 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 conducted adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses under oath, to introduce exhibits, to cross-examine witness, to submit evidence, to be represented by counsel, and to all and any other due process rights, privileges, and responsibilities granted a civil litigant appearing before the courts of the Commonwealth of Kentucky. All witness shall be entitled to be represented by counsel.
2. Any aggrieved person whose name is mentioned during adjudicatory proceedings conducted by the Commission and who

may be adversely thereby, may appear personally before the Commission, on his or her own behalf, with or without counsel, to give a statement in opposition to such adverse use of his or her name or file a written statement protesting the incorporation of such aggrieved party's name into the record or 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 completion of an adjudicatory proceeding, conducted 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, after a finding that this Ordinance was violated, based upon an adjudicatory proceeding and established by clear and convincing evidence, 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 Ethics Code;
 - c. In writing, publicly reprimand the violator for violations of this Ordinance and provide a copy of the reprimand to the County Judge Executive.
 - d. Issue an order requiring the violator to pay a civil penalty of not more than Five Hundred Dollars (\$500).
 - e. Issue a public reprimand to the violator for violations of this Ordinance and provide a copy of the reprimand to the

County Judge Executive, and issue an order requiring the violator to pay a civil penalty of not more than Five Hundred Dollars (\$500).

6. The Commission may refer evidence of criminal violations of this Ordinance to the Lawrence County Attorney or Commonwealth's Attorney for the criminal prosecution of such violators.
7. Findings of fact or final determination by the Commission that a violation of this Ethics 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 Ordinance may appeal the Commission's decision to the Lawrence Circuit Court. The appeal shall be initiated within thirty (30) days after the date of the final action of the Commission by the filing of a petition with the Court, naming the Lawrence County Ethics Commission as party defendant, with service of process to be made upon the Lawrence County Attorney. The Commission shall transmit to the Lawrence Circuit Clerk all evidence considered by the Commission in arriving at its decision. The Court shall hear the appeal upon the record as certified by the Commission.
9. Any attempted coercion or influence to or upon any Commission member by any individual to whom this ordinance applies, either personally or through others, shall be punishable as a Class A. misdemeanor.

VI. AMENDMENT OF ETHICS CODE

Pursuant to **KRS 65.003(4)**, the **CODE OF ETHICS OF LAWRENCE COUNTY, KENTUCKY**, may be amended but not repealed.

This Ordinance, as amended, shall become effective upon publication.

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of the Fiscal Court of Lawrence County, Kentucky, held on 15th day of March, 1999.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Lawrence County, Kentucky, held on the 12th day of April, 1999.

<u>Name</u>	<u>Absent</u>	<u>Yea</u>	<u>Nay</u>
David L. Compton	_____	_____	_____
Gary Nelson	_____	_____	_____
Steve Sparks	_____	_____	_____
Orville Rowe	_____	_____	_____
Roger Jordan	_____	_____	_____

PUBLISHED in the Big Sandy News on March 17, 1999.

Ordinance 96-001, as amended by this Ordinance No. 99-002 shall become effective upon publication.

Executed this 12th day of April, 1999.

David L. Compton, Judge Executive

Attest:

Gallie Isaac, Jr. County Clerk