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DEC 29 1994

ORDINANCE NO. 300-05-1994

COUNTY AND
MUNICIPAL ACCOUNTING

CODE OF ETHICS

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

BE IT ORDAINED BY THE FISCAL COURT OF THE
COUNTY OF METCALFE, COMMONWEALTH OF KENTUCKY,
AS FOLLOWS:

WHEREAS, the Metcalfe 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 Metcalfe County, including members of the fiscal court, the County Attorney, County Clerk, Jailer, Coroner, Constables, and the Sheriff; and,

WHEREAS, the public office and employment are a public trust and government and 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

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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 of the Secretary of State; or,
2. is nominated for office by a political party under KRS 118.105, 118.115, 118.325, 118.760.

D. "County government agency" means any board, commission, authority, non-stock 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 employee 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.

H. "Rule of necessity" means the county government, agency or district may make or enter into a contract in which an officer or employee or members of his immediate family or a business associate has an economic interest if (a) the nature of the transaction and the nature of the interest is publicly disclosed on the record prior to the time it is engaged in, and (b) a specific finding is made by the county government, agency, or district and entered on the official record of the proceedings of the governing body that notwithstanding the conflict, it is in the best interests of the local government because of limited supply, price, or documented emergency.

II. STANDARDS OF CONDUCT

A. No county government officer or employees 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 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 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, political contribution, service, promise of future employment, or other things of value based upon an understanding that the 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 governed 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 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 except under the "rule of necessity".

I. 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.

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 immediate family, whether directly or indirectly, in return therefore, and

L. 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;
3. members of boards and commissions which set tax rates, have procurement authority, or vote to adopt budgets.

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 filer's public office or office sought;
4. occupation 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 five thousand dollars (\$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 from within the Commonwealth of Kentucky of both the filer and spouse which exceeded five thousand dollars (\$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 ten thousand dollars (\$10,000.) at fair market value or five percent (5%) ownership interest or more during the preceding calendar 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 members of the filer's immediate family had an interest of ten thousand dollars

(\$10,000.) or more during the preceding calendar year.

C. 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. Candidates shall be required to file the statement no later than twenty-one (21) days after the filing date or the date of nomination. 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.

D. The financial disclosure statement shall be filed with the local ethics commission by all filers who are subject to the jurisdiction of the Commission.

IV. NEPOTISM

A. A spouse, child, parent, or sibling of a public officer shall not be employed or appointed to a position in a county government, a county government agency or special district in the county in which the officer serves unless a "Rule of Necessity" has been issued.

B. This ordinance shall not apply to any employee, deputy, or board member who was hired prior to the effective date of the final passage of this ordinance.

V. COUNTY ETHICS COMMISSION

A. A Metcalfe County Ethics Commission is hereby created which shall have the powers to enforce all provisions of the Code of Ethics adopted by Ordinance No. _____.

B. The commission shall be composed of five (5) members to be appointed by the fiscal court. The appointments shall have a member from each magisterial district and one (1) from the county at-large. The appointments shall be staggered with three (3) members appointed for four (4) years and two (2) members appointed initially for two (2) years, however after the initial two (2) year period all subsequent appointments shall be for four (4) years.

C. Decisions of the county ethics commission regarding violations may be appealed to the circuit court.

D. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Board of Ethics shall be guilty of a Class A misdemeanor.

E. In addition to the criminal penalty setout in V (D), the Board of Ethics shall have the authority to impose a civil penalty up to One Thousand Dollars (\$1,000.).

F. In addition to other penalties any offender who fails to

correct or otherwise comply with an order of the Board of Ethics shall be subject to having their county salary withheld and not paid for the number of days said official, employee, or deputy shall remain in a state of non-compliance.

G. All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the day of receipt. The Board shall forward within ten (10) working days to each officer or employee of the county or county agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this ordinance.

H. Within thirty (30) days of the receipt of a proper complaint, the Board of Ethics shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint 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.

I. All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except:

(1) The Board may turn over to the Commonwealth's Attorney or County Attorney evidence which may be used in criminal proceedings.

(2) If the complainant or alleged violator publicly disclose the existence of a preliminary inquiry, the Board may publicly confirm from the existence of the inquiry, and, at its discretion, make any documents which were issued to either party.

J. 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 factual basis to constitute a violation of this ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without 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 to all officers or employees against whom the complaint was filed.

K. If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as, lack of significant economic advantage or gain by the officer or

employee, lack of economic loss to the county and its taxpayers, or lack of significant impact on public confidence in county government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provided a copy of the confidential reprimand to the executive authority and governing body of the county or county agency.

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

K. Notice of Hearings. If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within thirty (30) days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

L. Hearing Procedure.

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in connection with the matter to be heard. The Board shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.

(C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. 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. All witnesses shall have the right to be represented by counsel.

(D) 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, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.

(E) All hearings of the Board of Ethics shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(F) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proved. Within thirty (3) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) 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 officer or employee who was the subject of the complaint and to the party who filed the complaint.

M. Appeals: Any person who is found guilty of a violation of any provision of this ordinance by the Board of Ethics may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the Board of Ethics 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.

N. Limitation of Actions. Except when the period of limitation is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

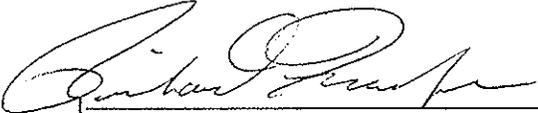
O. Severability. If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

P. Conflicting Ordinances Repealed. All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

Q. Effective Date. This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

Given first reading on the 22 day of November, 1994.

Given second reading and duly enacted by the legislative body of the county of Metcalfe, Kentucky on this 13th day of December, 1994.


RICHARD FROEDGE
METCALFE COUNTY
JUDGE/EXECUTIVE

ATTEST:

Sherry Lee
SHERRY LEE
CLERK
METCALFE COUNTY

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Order No. 17
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