

COMMONWEALTH OF KENTUCKY

ORDINANCE NO. 107, 1994

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

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring cities and counties to enact and enforce a Code of Ethics governing the conduct of city and county officers, employees, board and commission members beginning no later than January 1, 1995; and

WHEREAS, the officials of the cities in Hardin County and the County of Hardin are committed to the operation of a government that manifests the highest moral and ethical standards among its officers, employees, board or commission members, and desires to comply with all requirements of the Commonwealth's local government ethics law.

NOW; THEREFORE, be it ordained by the Fiscal Court of County of Hardin, Commonwealth of Kentucky as follows:

**SECTION 1. Title.** This Ordinance shall be known and may be cited as the "Hardin County Code of Ethics".

**SECTION 2. Finding.** The Hardin County Fiscal Court body finds and declares that:

(A) Public office and employment with the City and County are public trusts.

(B) The vitality and stability of the City and County government depends upon the public's confidence in the integrity of its elected and appointed officers, employees, board or commission members. Whenever the public perceives a conflict between the private interests and public duties of a city or county officer, employee, board or commission member that confidence is imperiled.

(C) The city and county government has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers, employees, board or commission members aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

**SECTION 3. Purpose and Authority.**

(A) It is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers, employees, board or commission members of the city and county shall be clearly established, uniform in their application, and enforceable, and to provide the officers, employees, board or commission of the city and county with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

(B) It is the further purpose of this ordinance to meet the requirements of KRS 65.230 as enacted by the 1994 Kentucky General Assembly.

(C) This Ordinance is enacted under the power vested in the city and county by KRS 82.082 and pursuant to requirements of KRS 65.230.

**SECTION 4. Definitions.** As used in this Ordinance, unless the context clearly requires a different meaning:

(A) "Business" 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.

(B) "Board of Ethics" means the Hardin County Board of Ethics which is created and vested by this Ordinance with responsibility of enforcing the requirements of the cities and county's Code of Ethics.

(C) "Candidate" means any individual who seeks nomination or election to a city or county office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the County Clerk or Secretary of State, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the County Clerk or Secretary of State.

(D) "City" refers to the City of Elizabethtown, Radcliff, Vine Grove and West Point, Kentucky.

(E) "County" refers to Hardin County, Kentucky.

(F) "City or county agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by the city or county.

(G) "Employee" means any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the city or county. The term "employee" shall not include any contractor or subcontractor or any of their employees.

(H) "Immediate Family member" means a spouse, an unemancipated child

residing in the officer's or employee's household, or a person claimed by the officer or employee or the officer's or employee's spouse as a dependent for tax purposes.

(I) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The Mayor.
- (2) The legislative body member.
- (3) The City and County Clerk.
- (4) Circuit Court Clerk.
- (5) County Attorney.
- (6) Jailer.
- (7) Coroner.
- (8) Surveyor.
- (9) Constable.
- (10) Sheriff.
- (11) County Judge Executive.
- (12) Any person who occupies a non-elected office created under KRS 83A.080.

## **STANDARD OF CONDUCT**

**SECTION 5. Conflicts of Interest in General.** Every officer and employee of the city and county shall comply with the following standards of conduct:

(A) No officer, employee, board or commission member, nor any immediate family member of any officer, employee, or board or commission member, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's, employee's, board or commission member's public duties.

(B) No officer, employee, board or commission member shall intentionally use or

attempt to use his or her official position with the city or county to secure unwarranted privileges or advantages for himself or herself or others.

(C) No city or county government officer, employee, board or commission member 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 city or county government officer, employee, board or commission member 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) Every officer, employee, board or commission member who has a prohibited financial interest which the officer, employee, board or commission member believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the interest to the governing body of the city or county or city or county agency served by the officer, employee, board or commission member and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer, employee, board or commission member shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

(F) No city or county government officer, employee, board or commission member or 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, 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 of government by the Kentucky Revised Statutes.

(G) No city or county government officer, employee, board or commission member shall be prohibited from giving or receiving an award publicly presented in recognition of public service, or reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances, ceremonies or fact-finding trips related to official city or county government business, commercially reasonable loans made in the ordinary course of a lender's business,.

(H) No city or county government officer shall be prohibited from accepting a gratuity for solemnizing a marriage.

(I) No city or county government officer, employee, board or commission member, 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 city or 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 city or 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 city or county government officer, employee, board or commission member or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his or their own interests.

(M) No officer, employee, board or commission member shall be deemed in violation of any provision in this section if, by reason of the officer's, employee's, board or commission member's participation, vote, decision, action or inaction, no financial benefit accrues to the officer, employee, board or commission member, a family member, an outside employer, or a business in which the officer, employee, board or commission member, or any family member has a financial interest, or any business with which the officer, employee, board or commission member, or any family member is negotiating or seeking prospective employment, or other business or professional relationship, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

#### **SECTION 6. Conflict of Interest in Contracts.**

(A) No officer, employee, board or commission member of the city or county, or any city or county agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or county, or a city or county agency, except as follows:

(1) The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city or county office, before an appointed officer was appointed to a city or county, or city

or county agency office, or before an employee was hired by the city or county, or city or county agency. However, if any contract entered into by a city or county, or city or county agency officer, employee, board or commission member, before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer, employee, board or commission member is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer, employee, board or commission member has any of the authorities set forth in the preceding sentence, then the officer, employee, board or commission member shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.

(3) The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction and the nature of the officer's, employee's, board or commission member's interest in the contract are publicly disclosed at a meeting of the governing body of the city or county, or city or county agency and refrain from participating in voting.

(b) The disclosure is made a part of the official record of the governing body of the city or county, or city or county agency before the contract is executed.

(c) A finding is made by the governing body of the city or county, or city or county agency that the contract with the officer, employee, board or commission member is in the best interest of the public and the city or county, or city or county agency because of price, limited supply, or other specific reasons.

(d) The finding is made a part of the official record of the governing body of the city or county or city or county agency before the contract is executed.

(B) Any violation of this section shall result in a civil fine payable to the Commission not to exceed five hundred dollars. Additionally, a violation of this section shall be grounds for removal from office or employment with the city or county in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city or county.

**SECTION 7. Receipt of Gifts.** No officer, employee, board or commission member of the city or county, or any city or county agency shall directly or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred dollars (\$100.00), whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, employee, board or commission member in the performance of his or her public duties.

**SECTION 8. Use of City or County Property, Equipment, and Personnel.** No officer, employee, board or commission member of the city or county shall use or permit the use of any city or county time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(A) The use is specifically authorized by a stated city or county policy; or

(B) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

**SECTION 9. Misuse of Confidential Information.** No officer, employee, board or commission member of the city or county or any city or county agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.

**SECTION 10. Honoraria.**

(A) No officer, employee, board or commission member of the city or county or a city or county agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100.00 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's, employee's, board or commission member's activities outside of government service and is unrelated to the officer's, employee's, board or commission member's service with the city or county.

(B) Nothing in this section shall prohibit an officer, employee, board or commission member of the city or county from receiving and retaining from the city or county or on behalf of the city or county actual and reasonable out-of-pocket expenses incurred by the officer, employee, board or commission member in connection with an appearance, speech or article, provided that the officer, employee, board or commission member can show by clear and convincing evidence that the expenses were incurred or

received on behalf of the city or county or city or county agency and primarily for the benefit of the city or county and not primarily for the benefit of the officer, employee, board or commission member or any other person.

## **FINANCIAL DISCLOSURE**

**SECTION 11. Who Must File.** The following classes of officers, employees, board or commission members of the city and county or city and county agencies shall file an annual statement of financial interests with the Hardin County Board of Ethics:

- (A) Elected city and county officials.
- (B) Candidates for elected city and county office.

## **SECTION 12. When to File Statements.**

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Hardin County Board of Ethics, no later 4:00 p.m. on the 15th day of April, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on the 15th day of April, each year, provided that:

(1) An officer, employee, board or commission member newly-appointed to fill an office or position of employment with the city or county or city or county agency shall file his or her initial statement no later than thirty (30) days after the date of the appointment.

(2) A candidate for city or county office shall file his or her initial statement no later than ninety (90) days after the date on which the person becomes a candidate for elected city or county office. A write-in candidate shall file within 24 hours from the date of the filing of his affidavit for write-in candidacy.

(B) The Hardin County Board of Ethics may grant a reasonable extension of time for filing a statement of financial interest for good cause shown.

## **SECTION 13. Control and Maintenance of the Statements of Financial Interests.**

(A) The Hardin County Board of Ethics shall be the "official custodian" of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics as the "custodian," as public documents, available for public inspection immediately upon filing.

**(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five (5) years after filing, provided that:**

**(1) Upon the expiration of three (3) years after a person ceases to be an officer, employee, board or commission member of the city or county or city or county agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.**

**(2) Upon the expiration of three (3) years after any election at which a candidate for elected city or county office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.**

**SECTION 14. Financial Interests Statement in General.**

**(A) The financial disclosure statement should 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 civil fine of \$500.00 payable to the Commission.**

**(B) Nothing in this section shall be construed to require any officer, employee, board or commission member to disclose any specific dollar amounts nor the names of individual clients or customers of business listed as sources of income.**

**(C) 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.**

**(D) 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.**

**The financial disclosure statement should include the following information:**

**(A) Name of filer.**

**(B) Current business address, business telephone number and home address of filer.**

**(C) Title of filer's public office or office sought.**

**(D) Occupations of filer and spouse.**

**(E) Position 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 \$10,000.00 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity.

(F) Name, address and telephone number of each source of income from within the Commonwealth of Kentucky of both filer and spouse which exceeded \$10,000.00 during the preceding calendar year.

(G) 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 (\$10,000.00) at fair market value or five percent (5%) ownership interest or more during the preceding calendar year;

(H) The location any type (commercial, residential, agricultural) of all real property within the county, other than the filer's primary residence, in which the filer or the filer's spouse had an interest of ten thousand dollars (\$10,000.00) or more during the preceding calendar year;

(I) Offices or Directorships held by the officer, candidate, nominee, employee, board or commission member, or members of his immediate family as of December 31 of the reporting year. Non profit, charitable, and religious organizations shall be excluded from this disclosure.

## **NEPOTISM**

**SECTION 15.** Nepotism is hereby prohibited and the city and county's personnel policies and procedures shall specifically define the rules and regulations concerning nepotism.

(A) No officer, employee, board or commission member shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(B) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to January 1, 1995.

## ENFORCEMENT

### SECTION 16. Board of Ethics Created.

(A) There is hereby created a Hardin County Board of Ethics which shall have the authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.

(B) The Hardin County Board of Ethics shall consist of five (5) members who shall be appointed by the executive authority of the city or county, subject to the approval of the legislative body (if different from the executive authority). The Executive Authorities of the City of Elizabethtown, Radcliff, Vine Grove, and West Point, and the Judge Executive of Hardin County shall each appoint one of the five members of the Hardin County Board of Ethics as outlined in this Section. The initial members of the Hardin County Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Hardin County Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or county or any city or county agency. The members shall serve for a term of three (3) years; except that with respect to the members initially appointed, one (1) member shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and two (2) members shall be appointed for a term of three (3) years. The length of the initial term of a member appointed by an Executive Authority shall be determined by a random draw. Thereafter, all appointments shall be for a term of three (3) years. Each member of the Hardin County Board of Ethics shall have been a resident of the city or county for at least one (1) year prior to the date of the appointment and shall reside in the city or county throughout the term in office. The members of the Hardin County Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Hardin County Board of Ethics may be removed by the executive authority appointing them, subject to the approval of the legislative body (if different from the executive authority) for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body (if different from the executive authority).

(D) Vacancies on the Hardin County Board of Ethics shall be filled within sixty (60) days by the executive authority appointing them, subject to the approval of the legislative body (if different from the executive authority). If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the Hardin County Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(E) Members of the Hardin County Board of Ethics shall serve without compensation, unless otherwise approved by the legislative bodies, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties, subject to authorization by each legislative body.

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.

(G) Meetings of the Hardin County Board of Ethics shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

(H) The presence of three (3) or more members shall constitute a quorum and the affirmative vote of three (3) or more members shall be necessary for any official action to be taken. Any member of the Hardin County Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(I) Minutes shall be kept for all proceedings of the Hardin County Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

**SECTION 17. Facilities and Staff.** Within the limits of the funds appropriated by the legislative body in the annual budget, the legislative bodies shall provide the Hardin County Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

**SECTION 18. Power and Duties of the Hardin County Board of Ethics.** The Hardin County Board of Ethics shall have the following powers and duties:

(A) To receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.

(B) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.

(C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

(D) To refer any information concerning violations of this ordinance to the executive authority of the city or county, the city or county legislative body, the governing body of any city or county agency, the city or county attorney, or other appropriate person or body, as necessary.

(E) To render advisory opinions to the city or county and city or county agency officers, employees, board or commission members regarding whether a given set of facts and circumstances would constitute a violation of any provision of this ordinance.

(F) To enforce the provisions of this ordinance with regard to all officers, employees, board or commission members of the city or county and city or county agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.

(G) To control and maintain all statements of financial interests that are required to be filed by this ordinance and to insure that the statements are available for public inspection in accordance with the requirements of this ordinance and the Kentucky Open Records Act.

(H) To develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the city or county.

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provisions of this ordinance or any state or federal law.

#### **SECTION 19. Filing and Investigation of Complaints.**

(A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the Hardin County 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 date of receipt. The Board shall forward within ten (10) working days to each officer, employee, board or commission member of the city or county or city 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.

(B) 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.

(C) 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 discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents, which were issued to either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges reasonable grounds to believe that a violation of this ordinance has occurred. 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, employees, board or commission members against whom the complaint was filed.

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish reasonable grounds to believe that a violation has occurred, the Board shall notify the officer, employee, board or commission member 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, employee, board or commission member, lack of economic loss to the city or county and its taxpayers, or lack of significant impact on public confidence in city or county government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the city or county or city or county agency.

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

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this ordinance by an officer, employee, board or commission member of the city or county or any city or county agency shall be subject to a Civil fine not to exceed \$500.00 payable to the Commission.

**SECTION 20. 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. The alleged violator shall have at least ten (10) days notice of any hearing.

**SECTION 21. Hearing Procedure.**

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Hardin County 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, intended to be introduced at the hearing, 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 Hardin County 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 Hardin County 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 proven. Within thirty (30) 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, employee, board or commission member who was the subject of the complaint and to the party who filed the complaint.

(H) If the Board 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 Board may:

(1) Issue an order requiring the violator to cease and desist the violation.

(2) 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 city or county or city or county agency with which the violator serves.

(3) 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 Board, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$500.00.

(5) Refer evidence of criminal violations of this ordinance or state law to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

**SECTION 22. Appeals.** Any person who is found guilty . of a violation of any provision of this ordinance by the Hardin County 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 Hardin County 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.

**SECTION 23. 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 from the time the party complained about leaves office, board, commission or employment.

**SECTION 24. Advisory opinions.**

(A) The Hardin County Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer, employee, board or commission member of the city or county or a city or county agency who is covered by this ordinance.

(B) An advisory opinion shall be requested in writing and shall state relevant

facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requester.

(C) The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.

(D) The confidentiality of an advisory opinion may be waived either:

(1) in writing by the person who requested the opinion.

(2) by majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.

(E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the Board if they had existed at the time the opinion was rendered. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion, the Board shall not be bound by the opinion.

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this ordinance for actions taken in reliance on that opinion.

#### **SECTION 25. Reprisals Against Persons Disclosing Violations Prohibited.**

(A) No officer, employee, board or commission member of the city or county or any city or county agency shall be subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city, county or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer, employee, board or commission member of the city or county or any city or county agency

discloses information which he or she knows:

- (a) to be false or which he or she discloses with reckless disregard for its truth or falsity.
- (b) to be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (c) is confidential under any other provision of law.

**SECTION 26. 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.

**SECTION 27. Conflicting Ordinances Repealed.** All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

**SECTION 28. Effective Date.** This ordinance shall take full force and effect on January 1, 1995.

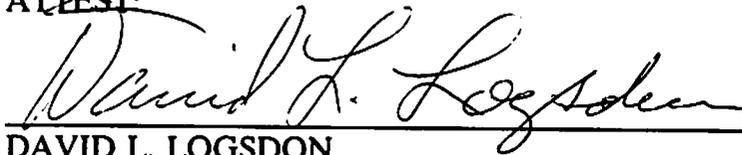
Given first reading on the 24 day of October, 1994.

7 Given second reading and duly enacted by the Hardin County Fiscal Court on the day of November, 1994.



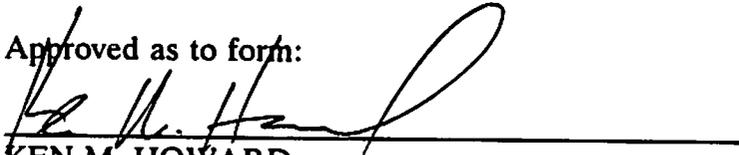
GLEN D. DALTON  
HARDIN COUNTY JUDGE/EXECUTIVE

ATTEST:



DAVID L. LOGSDON  
HARDIN COUNTY COURT CLERK

Approved as to form:



KEN M. HOWARD  
HARDIN COUNTY ATTORNEY