

ORDINANCE NO. 1994(10)

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

WHEREAS, Hopkins 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 Hopkins County, including the County Judge/Executive, members of the Fiscal Court, the County Attorney, County Clerk, Jailer, Coroner, Surveyor, Constables and the Sheriff; and,

WHEREAS, public office and employment are a public trust and government has a duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties; and,

WHEREAS, it is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct for local government officers and employees shall be clear, consistent, and uniform in their application, and to provide local officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

NOW THEREFORE, BE IT ORDAINED by the Hopkins County Fiscal Court as follows:

I. DEFINITIONS

"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.

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

"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.

"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 employees of a school district or school board.

"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 serves as a member of a governing body of a special taxing district, but shall not mean any officer of a school district or school board.

"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 dependant for tax purposes.

II. STANDARDS OF CONDUCT

A. No county government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional

activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

B. No county government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself.

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 or judgment in the exercise of his official duties.

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

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

G. 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 received or acquired 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";

H. 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.

I. 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 that any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

J. 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

K. 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.

L. The disclosure by a county government officer or employee or member of his/her immediate family that they have an interest in a business, organization, or engage in any business, transaction, or professional activity, which may be in conflict with these standards of conduct, or the

discharge of a particular duty in the public interest and the voluntary disqualification of said county government official or employee from acting in his official capacity on a particular issue, question or duty, shall prevent said officer or employee from being in violation of this code.

III. FINANCIAL DISCLOSURE

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. All elected officials shall file an annual financial disclosure statement with the duly appointed county ethics commission on or before the 30th day of January, 1996, and the same day of each successive calendar year thereafter, for the proceeding calendar year, which said statement shall include the following information:

- 1) name of filer
- 2) a current business address, business telephone number and home address
- 3) title of public office or office sought
- 4) occupation of filer and spouse
- 5) name and address of each source of income of the filer and spouse which exceeds \$5,000.00 during the proceeding calendar year, with the exception of interest income, IRA income, retirement income, or deferred compensation income.

B. Any County Judge/Executive, Magistrate or Commissioner, Sheriff, Jailer, Coroner, Constable, Surveyor, County Attorney, County Clerk, or a member of his immediate family, who has a private interest in any matter pending before the Fiscal Court shall disclose such private interest on the records of the Court and shall disqualify himself from participating in any decision or vote relating thereto.

C. 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 which independent agency or special district shall disclose such private interest to the governing body of such agency or district.

D. All requirements and provisions concerning financial disclosure, previously set out herein, shall also apply to the announced "candidate" for a political office, in the manner previously defined herein, except that said reports must be filed no later than ten (10) days after the filing deadline, for the proceeding year.

E. The financial statement should be filed with the county ethics commission and the County Court Clerk.

F. The willful failure to comply with this section of the code of ethics may result in a fine being imposed upon the violating party in the amount of not less than One Hundred Dollars (\$100.00), more than Five Hundred Dollars (\$500.00), in the discretion of the local ethics commission.

IV. NEPOTISM

After the effective date of this Ordinance, no elected county government officer or public official shall initially employ a member of his/her immediate family in the same office in which said county government officer or public official also works or otherwise acts in a managerial capacity.

V. COUNTY ETHICS COMMISSION

A. A county ethics commission is hereby established to enforce the provision of this ordinance. The county ethics commission shall consist of three (3) members. No member may be a public official. The commission members shall be appointed on or before the 1st day of January, 1995, by the Fiscal Court, from lists submitted by the County Clerk, County Attorney, Jailer and Sheriff. Members shall receive no compensation but may be reimbursed for all necessary expenses. The terms of membership shall be two (2) years.

B. The ethics commission shall, on the written request of any official, candidate, nominee or employee covered under this code of ethics, render advisory opinions concerning the provisions of this code of ethics, and said commission shall be bound by said opinions.

C. The county ethics commission shall receive, hear and investigate complaints concerning violations or alleged violations of this code of ethics. In any instance where the ethics commission makes a finding that a violation of the code of ethics exist, the Commission may impose the appropriate penalty, as provided herein. In hearing and investigating the complaints concerning the violations of this code of ethics, the commission shall have the power to subpoena witnesses, administer oaths, take testimony and require other production of evidence, as permitted by the Kentucky Revised Statutes. The commission may retain legal counsel at the expense of the County, if the County Attorney has an actual or potential conflict. Any legal counsel must be pre-approved by the Fiscal Court.

D. Complaint Procedure; preliminary investigations.

1. (a) Upon a complaint signed under penalty of perjury by any person, or upon its

own motion, the commission shall investigate any alleged violation of this code.

(b) 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 after the commencement of the inquiry, the commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.

2. All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except the commission may turn over to the Commonwealth's Attorney or County Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and

3. The complaint, complaintant or alleged violator shall not publicly disclose the existence of a preliminary investigation, the commission shall not publicly confirm the existence of the inquiry nor make public any documents which were issued to either party.

4. The commission shall afford a person who is the subject of a preliminary investigation an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard and to offer evidence in response to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard and to offer evidence in response to the allegations in the complaint.

5. Any person who knowingly files with the commission a false complaint of misconduct on the part of any elected or appointed official or other person shall be guilty of a Class A Misdemeanor.

E. Action by Commission.

1. If the Commission 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 Commission may:

(a) Issue an Order requiring the violator to cease and desist the violation.

(b) 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 county or county agency with which the violator serves.

(c) 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 Commission, which may include a recommendation for discipline or dismissal of an employee.

(d) Issue an order requiring the violator to pay a civil penalty of not more than Five Hundred Dollars (\$500).

(e) Refer evidence of criminal violations of this ordinance or state laws to the County Attorney or Commonwealth Attorney of the jurisdiction for prosecution.

2. If the commission concludes that there is no violation of this ordinance, the complaint and all evidence relating thereto shall be destroyed within thirty (30) days and shall not be made public.

F. Appeals


Any person found by the commission to have committed a violation of this code may appeal the action to the Hopkins Circuit Court. The appeal shall be initiated within thirty (30) days

after the date of the final action of the commission by filing a petition with the Court against the commission. The commission shall transmit to the Clerk of the Court all evidence considered by the commission at the public hearing. The Court shall hear the appeal upon the record as certified by the commission.

VI. EFFECTIVE DATE

This Ordinance shall be effective the 31st day of December, 1994, and all reporting periods shall commence on January 1, 1995.

UPON MOTION by Magistrate Hawkins, seconded by Magistrate Rodgers, first reading was held and approved on the 20th day of October, 1994.



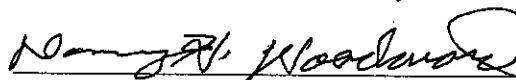
Danny H. Woodward
Hopkins County Judge/Executive

Attest:



Devra S. Heltsley, Clerk

ON MOTION of Magistrate Martin and seconded by Magistrate Barton, second reading held on the 3rd day of November, 1994, and passed on the 3rd day of November, 1994.



Danny H. Woodward
Hopkins County Judge/Executive

Attest:



Devra S. Heltsley, Clerk