

**AN ORDINANCE AMENDING AND ADOPTING AS
AMENDED AN ORDINANCE STYLED:
ORDINANCE NO. 150.102-2**

An Ordinance Relating to the Establishment, Regulation and Administration of a single Joint Code of Ethical Conduct applicable to the elected and appointed officials, certain employees and agencies of the Cities of Bardstown, Fairfield, and the County of Nelson, in the Commonwealth of Kentucky.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring this city/county to enact and enforce a code of ethics governing the conduct of city/county officers and employees beginning no later than January 1, 1995; and

WHEREAS, the officials of this city/county are committed to the operation of a city/county government that manifests the highest moral and ethical standards among its officers and employees and desire to comply with all requirements of the Commonwealth's local government ethics law;

NOW THEREFORE, Be it ordained by the Board of Commissioners for the City of Fairfield, Kentucky; and

Be it ordained by the Council for the City of Bardstown, Kentucky; and

Be it ordained by the Fiscal Court of Nelson County, Commonwealth of Kentucky,

That the following be and the same is hereby adopted as the applicable Code of Ethical Conduct and requirements for all elected and appointed officials and certain employees and agencies for each of the respective governmental bodies:

SECTION 1. Title. This ordinance shall be known and may be cited as the "Code of Ethical Conduct of the Cities of Bardstown, Fairfield and County of Nelson."

SECTION 2. Findings. The legislative body of the Cities of Bardstown, Fairfield, and County of Nelson and declare that:

(A) Public office and employment with the city/county are public trusts.

(B) The vitality and stability of the government of this city/county depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceived a conflict between the private interest and public duties of a city/county officer or employee, that confidence is imperiled.

(C) The government of this city/county 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 and employees 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 and employees of the city/county shall be clearly established, uniform in their application and enforceable, and to provide the officers and employees of the city/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 65.210 to 65.300 as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the city/county by KRS 82.082 and pursuant to requirements of KRS 65.003.

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 Joint Board of Ethics of the Cities of Bardstown, Fairfield, and the of Nelson, Kentucky which is created and vested by this ordinance with the responsibility of enforcing the requirements of the city/county's code of ethics.

(C) "CITY/COUNTY." Refers respectively to the cities of Bardstown, Fairfield, and the County of Nelson, Kentucky.

(D) "CITY/COUNTY AGENCY." Means any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city/county.

(E) "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/county. The term "employee" shall not include any contractor or subcontractor or any of their employees.

(F) "FAMILY MEMBER." Means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(G) "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.

(H) "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 County Judge/Executive.
- (3) A legislative body member.
- (4) The City Clerk.
- (5) The City Attorney.
- (6) The County Clerk.
- (7) The County Attorney.
- (8) The City Manager.
- (9) The City Administrator.
- (10) The Deputy Judge/Executive.
- (11) The County Sheriff.
- (12) The Chief of Police.
- (13) The County Jailer.
- (14) The County Coroner.
- (15) The County Surveyor.
- (16) Any person who occupies a nonelected office created under KRS 83A.080.
- (17) A member of the governing body of any city/county agency who has been appointed to the governing body of the agency by the city or county.
- (18) The County Constable.

STANDARDS OF CONDUCT

SECTION 5. Conflicts Of Interest In General. Every officer and employee of the city and county and every city/county agency shall comply with the following standards of conduct:

(A) No officer or employee, or any immediate family member of any officer or employee, 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 or employee's public duties.

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city/county to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action or agree to take or refrain from taking any discretionary action or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action on any matter before the city/county in order to obtain a financial benefit for any of the following:

- (1) The officer or employee.
- (2) A family member.
- (3) An outside employer.
- (4) Any business in which the officer or employee, or any family member has a financial interest.

(5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) Every officer or employee who has a substantial financial interest, as defined in subsection (A) through (C) of this section, which the officer or employee believes or has reason to believe may be affected by his participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city/county or city/county agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

SECTION 6. Conflicts Of Interest In Contracts.

(A) No officer or employee of the county or any 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 county or a county agency including, but not limited to the following:

(1) No magistrate, while a member of the Fiscal Court shall:

(a) Become interested in or receive benefits or emoluments from any contract let by the fiscal court of his county with relation to the building of roads or any internal improvements;

(b) Work or supervise work, for compensation, on any public road, bridge, culvert, fill, quarry pit or any other road work or internal improvement under any contract made with the fiscal court; or

(c) Furnish, for compensation, any material to the county to be used in the construction of any road or bridge or other internal improvement.

(2) No County Judge/Executive or county attorney shall, directly or indirectly, receive any benefits or emoluments from, furnish any material or other thing of value to be used in, or be interested in any contract let by the fiscal court for the construction of any roads, bridges or parts thereof, or any other public or internal improvement.

(3) Any officer who violates any of the provisions of this section shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail not less than ten (10) nor more than forty (40) days or both, and shall forfeit his office.

(B) No officer or employee of the city or any city agency shall directly or indirectly 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 a city agency including, but not limited to the following:

(1) The prohibition in this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to the office, or before an employee was hired by the city or city agency; provided that if the contract is renewable, the prohibition shall apply to any renewal of the contract that occurs after the officer is elected or appointed, or after the employee is hired, unless the provisions of paragraph (3) of this subsection are satisfied;

(2) The prohibition in this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, or awarding, or managing the contract, in which case the provisions of paragraph (3) of this subsection shall be satisfied;

(3) The prohibition in this section shall not apply if the following requirements are met:

(a) The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.

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

(c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interests of the public and the city or city agency because of price, supply, or other specific reasons; and

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

(C) Violation of this section is a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, violation of this section shall be grounds for removal from office or employment, in accordance with applicable provisions of law.

SECTION 7. Receipt Of Gifts. No officer or employee of the city/county or any city/county agency shall directly or indirectly through any other person or business, solicit or accept any gift, 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 or employee in the performance of his or her public duties. Excluded from this section are the following:

(A) Gifts received from relatives.

(B) Gifts accepted on behalf of the city/county and transferred to the city/county.

(C) Reasonable travel and travel-related expenses, cost of admission, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.

(D) Usual and customary loans made in the ordinary course of business.

(E) Awards presented in recognition of public service.

SECTION 8. Use Of City/County Property, Equipment And Personnel.

(A) No officer or employee of the city/county shall use or permit the use of any city/county time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(1) The use is specifically authorized by a stated city/county policy.

(2) 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. Representation Of Interests Before City/County Government.

(A) No officer or employee of the city/county or any city/county agency shall represent any person or business, other than the city/county, in connection with any cause, proceeding, application or other matter pending before the city/county or any city/county agency.

(1) This prohibition does not apply where the officer or employee specifically discloses their position with the City or County on the record at a public meeting of the Agency, and that the Agency makes a specific finding, on the record that despite the conflict, it is in the best interests of the Agency and the public to allow the specific representation to occur.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

(C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interest.

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

SECTION 10. Misuse Of Confidential Information. No officer or employee of the city/county or any city/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 11. Post-Employment Restriction. No officer or employee of the city/county or any city/county agency shall appear or practice before the city/county or any city/county agency with respect to any matter on which the officer or employee personally worked while in the service of the city/county or city/county agency for a period of one (1) year after the termination of the officer's or employee's service with the city/county or city/county agency.

SECTION 12. Honoraria.

(A) No officer or employee of the city/county or a city/county agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's or employee's activities outside of municipal service and is unrelated to the officer's or employee's service with the city/county.

(B) Nothing in this section shall prohibit an officer or employee of the city/county or any city/county agency from receiving and retaining from the city/county or on behalf of the city/county actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city/county or city/county agency and primarily for the benefit of the city/county or city/county agency and not primarily for the benefit of the officer or employee or any other person.

FINANCIAL DISCLOSURE

SECTION 13. Who Must File. The following classes of officers and employees of the city/county and city/county agencies, , shall file an annual statement of financial interests with the Board of Ethics:

(A) All elected city/county officials.

(B) Members of the city/county planning and zoning commission and boards of adjustment, tourist commission, historic review board and the Bardstown Industrial Development Corporation.

(C) Members of the Board of Ethics created by this ordinance.

(D) Non-elected officers, department heads, and employees of the city/county or any city/county agency who are authorized to make purchases of materials or services or award contracts, leases or agreements involving the expenditure of more than One Thousand Five Hundred Dollars (\$1,500).

SECTION 14. When To File Statements; Amended 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 Board of Ethics, no later than 5:00 p.m. April 1, 1995. All subsequent statements of financial interest shall be filed no later than 5:00 p.m. on December 31 each year, provided that:

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

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

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than ninety (90) days after becoming aware of the material change, file an amended statement with the Board.

(D) In the event there has been no change in any information in the most recent financial statement filed with the Board the officer or employee may comply with the annual filing of the financial statement by filing with the Board's custodian a statement dated and signed setting out "There are no changes in any information contained in my financial statement dated _____ (insert appropriate date)."

SECTION 15. Form Of The Statement Of Financial Interest. The statement of financial interests shall be filed on a form prescribed by the Board of Ethics or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than March 1, 1995 and subsequent years no later than October 1 of each year. The failure of the Board or the designated administrative official to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

SECTION 16. Control And Maintenance Of The Statements Of Financial Interests.

(A) The 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, or the administrative official designated by the Board of Ethics as the "custodian" as public documents, available for public inspection immediately upon filing.

(B) All statements of financial interests shall be retained by the Board, or the designated administrative official, for a period consistent with that authorized by the Kentucky Archives and Records Commission.

SECTION 17. Contents Of The Financial Interests Statement.

(A) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

(B) The statement of financial interests shall include the following information for the preceding calendar year:

(1) The name, current business address, business telephone number, and home address of the filer.

(2) The title of the filer's office, , or position of employment.

(3) The occupation of the filer and the filer's spouse.

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding Five Hundred Dollars (\$500) during the preceding calendar year and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.)

(5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of five percent (5%) ownership interest or more.

(6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city/county during the past three (3) years, or which is anticipated to engage in any business transactions with the city/county, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of five percent (5%) ownership interest or more.

(7) A designation as commercial, residential, or rural and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of Ten Thousand Dollars (\$10,000) or more.

(8) Each source by name and address of gifts or honoraria having a fair market value of One Hundred Dollars (\$100) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

(9) The name and address of any creditor owed more than Two Thousand Dollars (\$2,000), except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for person, family or household purposes (e.g., credit cards, auto loans, etc.)

SECTION 18. Noncompliance With Filing Requirements.

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed Twenty-Five Dollars (\$25) per day, up to a maximum total civil fine of Five Hundred Dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city/county in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

NEPOTISM

SECTION 19. Nepotism Prohibited.

(A) No officer or employee of the city/county or a city/county agency shall advocate, recommend or cause the employment, appointment, promotion, transfer or advancement of a family member to a paid office or position of employment with the city/county or a city/county agency.

(B) No officer or employee of the city/county or a city/county agency shall supervise or manage the work of a family member.

(C) No officer or employee 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.

(D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibitions, but which existed prior to adoption of this ordinance and to the County Attorney's appointment of an assistant county attorney who is licensed to practice law in the Commonwealth of Kentucky.

ENFORCEMENT

SECTION 20. Board Of Ethics Created.

(A) There is hereby created a 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 Board of Ethics shall consist of five (5) members who shall be appointed by the executive authority of each city and the county, with the county having one (1) appointee, the City of Bardstown having one (1) appointee, the County and the City of Bardstown having two (2) appointees jointly, and the City of Fairfield having one (1) appointee, subject to the approval of the respective legislative body. The initial members of the Board of Ethics shall be appointed within sixty (60) days of the effective date of this ordinance. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city/county or any city/county agency. The members shall serve for a term of three (3) years; except that with respect to the members initially appointed two (2) members shall be appointed for a term of one (1) year (such two (2) appointments shall be one (1) by the City of Bardstown and one (1) by the County), two (2) members shall be appointed for a term of two (2) years such two (2) appointments shall be jointly appointed by the City of Bardstown and the County), and one (1) member shall be appointed for a term of three (3) years (such one (1) appointment to be made by the City of Fairfield). Thereafter, all appointments shall be for a term of three (3) years. No more than three (3) of the members shall be of the same political party. Each member of the Board of Ethics shall have been a resident of Nelson County for at least one (1) year prior to the date of the appointment and shall reside in Nelson County throughout the term in office. The members of the 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 Board of Ethics may be removed by the executive authority subject to the approval of the legislative body 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.

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

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

(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 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 four (4) or more members shall constitute a quorum and the affirmative vote of four (4) or more members shall be necessary for any official action to be taken. Any member of the 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 Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

SECTION 21. Funding.

(A) Members of the Board of Ethics shall serve at no salary. Expenses incurred in conducting the business of the Board will be divided among the three governments using the following formula Nelson County - 75.38%; Bardstown - 23.58%; and Fairfield – 1.04%.

(B) The Board's office of record shall be at a location designated from time to time by the Board, however, such location shall be owned or leased by the city or county government. The official records of the Board shall be kept and maintained at such location in a secure manner and in the exclusive care, custody and control of a designated custodian. Such records, unless otherwise classified as confidential, are to be made available only upon written request and during usual business hours fixed by the Board.

SECTION 22. Facilities And Staff. Within the limits of the funds appropriated by the legislative body in the annual budget, the city/county shall provide the 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 23. Power And Duties Of The Board Of Ethics. The Board of Ethics shall have the following powers and duties:

(A) To initiate on its own motion, 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 refer any information concerning violations of this ordinance to the executive authority of the city/county, the city/county legislative body, the governing body of any city/county agency, the county attorney, or other appropriate person or body, as necessary.

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

(D) 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.

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

(F) 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 24. Filing And Investigation Of Complaints.

(A) 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 at the location designated by the Board. 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 or employee of the city/county or city/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 consistent with the Kentucky Open Meetings and Open Records Act 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 by 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 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.

(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 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 city/county and its taxpayers, or lack of significant impact on public confidence in city/county government issue, in writing, a reprimand to the officer or employee concerning the alleged violation and provide a copy of the reprimand to the executive authority and governing body of the city/county or city/county agency, if agreed to by the officer or employee: or

(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 or employee of the city/county or any city/county agency shall be guilty of a Class A misdemeanor.

SECTION 25. 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.

SECTION 26. 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 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 or employee 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 of the city/county or city/county agency with which the violator serves.
- (3) In writing, recommend to the executive authority and the governing body 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 One Thousand Dollars (\$1,000.00).

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

SECTION 27. 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 of 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.

SECTION 28. 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.

SECTION 29. Advisory Opinions.

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative and shall render an advisory opinion when requested by any officer or employee of the city/county or a city/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.

(C) 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.

(D) 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 30. Reprisals Against Persons Disclosing Violations Prohibited.

(A) No officer or employee of the city/county or any city/county agency shall 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 or employee of the city/county or any city/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, 61.870 to 61.884.

(c) Is confidential under any other provision of law.

SECTION 31. Penalties.

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city/county or any city/county agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed One Thousand Dollars (\$1,000.00), which may be recovered by the city/county in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

(B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city/county or any city/county agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city/county or the city/county agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city/county in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city/county or any city/county agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city/county or city/county agency or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city/county and all applicable laws of the Commonwealth.

SECTION 32. 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 33. 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 34. Effective Date. This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

SECTION 35. The Mayors of the Cities of Bardstown and Fairfield and the County Judge/Executive of Nelson County, Kentucky having called a special meeting of their respective legislative bodies for the purpose of reviewing the Ethics Code; and the Mayors and the County Judge/Executive respectively, then and thereupon, advised their legislative bodies that the law requires that an Ethics Code be adopted on or before January 21, 1995, and in the absence of same, government funds could be withheld and, that the state government could impose its own Ethics Code upon the applicable officials; and, thereupon announced that it was imperative that immediate action be taken and that an emergency does exist and, that the within amended ordinance be adopted without compliance, otherwise to statutory procedures.

Adopted this 1st day of March, 2011, by 5 ayes and 0 nays.

NELSON FISCAL COURT



County Judge/Executive

ATTEST:



Nelson County Court Clerk

KOC NUMBER 150.102-2

Book 35, Pp 213-24
March 1, 2011