

OWEN COUNTY  
CODE OF ETHICS

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A  
CODE OF ETHICS FOR ELECTED AND APPOINTED  
COUNTY OFFICIALS AND EMPLOYEES OR CANDIDATES  
FOR PUBLIC OFFICE IN OWEN COUNTY.

WHEREAS, the Owen 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 Owen County, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, Surveyor, Constable; 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 advise and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

I. DEFINITIONS

- A. "Business associate" includes the following:
  - 1. A private employer;
  - 2. A General or limited partnership, or a general or limited partner within the partnership;
  - 3. A corporation that is family-owned or in which all shares of stock are closely-held, and the shareholders, owners, and officers of such a corporation;
  - 4. A corporation, business association, or other business entity in which the county government officer or employee serves as a compensated agent or representative.
  
- B. "Business organization" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;

C. "Candidate" means an 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.

D. "County government agency" means any board, commission, authority, nonstock corporation, or other entity formed by the county government or a combination of local governments.

E. "County government employee" means any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government or county government agency who is not a county government officer, but shall not mean any employee of a school district or school board.

F. "County government officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or nontaxing district.

G. "Family member" means a spouse, parent, child, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

## II. STANDARDS OF CONDUCT

A. No county government officer 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 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, if said officer or employee has actual knowledge of said involvement;

C. No county government officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice his independence of judgement in the exercise of his official duties;

D. No county government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an

understanding that the gift, favor, loan, political contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by the Kentucky Revised Statutes.

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, appearance, ceremonies.

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 receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated or anyone else;

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 if the county has an interest in the outcome of such matter.

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 than 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.

III. NEPOTISM

A. No person by reason of family or other personal relationship shall gain an advantage by reason of such relationship in hiring or appointment or other business opportunity with the county. However any such relationship shall be disclosed to the commission at the time of appointment or hiring or securing of county business.

IV. FINANCIAL DISCLOSURE

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

- 1. Elected officers;
- 2. Candidates for elected office;
- 3. Management personnel such as chief deputies, department heads;
- 4. Officers and employees with procurement authority exceeding five hundred dollars (\$500.00) per purchase;
- 5. None of the above shall include unpaid appointees.

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

- 1. Name of filer;
- 2. Current business address, business telephone number and home address of filer;
- 3. Title of the filer's public office or office sought;
- 4. Occupations of filer and spouse;
- 5. Positions held by the filer and any member of the filer's immediate family in any business organization or nonprofit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$1,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity, if said business organization or nonprofit entity does business with the county of more than \$1,000.00 per calendar year;
- 6. 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 one thousand dollars (\$1,000) at fair market value or five percent (5%) ownership interest or more during the preceding year, if said business organization or nonprofit entity does business with the county of more than \$1,000.00 per calendar year;
- 7. The location and type (commercial, residential, agricultural) of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had an interest of one thousand dollars (\$1,000) or more during the past year;

8. 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.
9. 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 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.
10. Any officer or employee, or their family members, of an independent agency or special district who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such independent agency or special district shall disclose such private interest to the governing body of such agency or district and file a financial disclosure statement with the Commission and County Clerk and, further, same shall be noted in the minutes of the agency or district.
11. Any disclosure required which requires information not within the possession of the filer shall not be required of the filer but shall be required from the person or entity having possession of said information and if the required disclosure is not made by the person or entity in the possession thereof, said person or entity shall forfeit any position or business relationship with the county.

C. The financial disclosure statement shall be on a form setting forth the above. The financial disclosure statement shall be filed annually by officers and employees no later than July 1. Candidates shall be required to file the statement no later than twenty-one (21) days after the filing date or the date of nomination. Newly-appointed officers and employees should be required to file their initial statement no later than twenty-one (21) days after the date of appointment.

D. 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.

E. All pay and benefits shall be withheld until a non-complying officer or employee is in compliance with the filing requirements. Candidates and nominees who fail to comply with these filing requirements shall be fined \$25.00 for each day they are in non-compliance.

F. 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 the this form shall be attached to the statement so requested and shall become a part of the record. A copy of the request shall be forwarded to the person who is the subject of the request.

G. The financial disclosure statements shall be filed with the Owen County Clerk.

V. COUNTY ETHICS COMMISSION

A. The county ethics commission shall consist of three (3) members; not more than one (1) member may be a public official. The commission member selected as chairperson shall be a citizen member. The members shall be appointed by the county judge/executive with the approval of the fiscal court. Members shall receive no compensation but may be reimbursed all necessary expenses. The terms of members shall be staggered and no longer than four (4) years.

B. Powers and Duties.

1. The commission shall have jurisdiction over the administration of this code and enforcement of the civil penalties prescribed by this code.
2. The commission may receive and initiate complaints; initiate investigations on its own motion; and conduct investigations, inquiries, and hearings concerning any matter covered by this code.
3. The commission may administer oaths; issue subpoenas; compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony; and have the deposition of witnesses taken in the manner prescribed by the Kentucky Rules of Civil Procedure for taking depositions in civil actions.
4. The commission may render advisory opinions whether or not a given set of facts and circumstances constitute a violation of any provision of this code.
5. The commission shall prescribe and provide forms for reports, statements, notices, and other documents required by this code.
6. The commission shall determine whether the required statements and reports have been filed and, if filed, whether they conform with the requirements of this code. The commission shall promptly give notice to the filer to correct or explain any omission or deficiency.
7. The commission may retain private counsel at the expense of the county if the county attorney has an actual or potential conflict.

C. 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) Not later than ten (10) Days after the commission receives the complaint, the commission shall initiate a preliminary inquiry into any alleged violation of this code.
- (c) Within thirty (30) days of the commencement of the inquiry, the commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.
2. All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:
  - (a) The commission may turn over to the Commonwealth's attorney or county attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and
3. The complainant 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 under oath, and to offer evidence in response to the allegations in the complaint.
5. If the commission determines in the preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of this code, the commission shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law.
6. If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this code has occurred, the commission shall notify the alleged violator of the finding, and the commission may, upon majority vote:
  - (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the county, or lack of significant impact on public confidence in government,

confidentially reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the county judge.

- (b) Initiate an adjudicatory proceeding to determine whether there has been a violation.
- 7. Any person who knowingly files with the commission a false official complaint of misconduct on the part of any elected or appointed official or other person shall be guilty of a Class A misdemeanor.
- D. Adjudicatory proceedings; action by commission; appeal.
  - 1. The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all commission adjudicatory hearings. All testimony in a commission adjudicatory proceeding shall be under oath. 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 and any other due process rights, privileges, and responsibilities of a witness appearing before the courts of the Commonwealth of Kentucky. All witnesses shall be entitled to be represented by counsel.
  - 2. Any person whose name is mentioned during adjudicatory proceedings of the commission and who may be adversely affected thereby may appear personally before the commission on the person's own behalf, with or without attorney, to give a statement in opposition to such adverse mention or file a written statement of that opposition for incorporation into the record of proceeding.
  - 3. All adjudicatory proceedings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.
  - 4. Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the provisions of this section, the commission shall meet in executive session for the purpose of reviewing the evidence before it. Within thirty (30) days after completion of deliberations, the commission shall publish a written report of its findings and conclusions.
  - 5. The commission, upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of a violation of this code, may:
    - (a) Issue an order requiring the violator to cease and desist the violation;
    - (b) Issue an order requiring the violator to file any report, statement, or other information as required by this code;
    - (c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the county judge.



- (d) Issue an order requiring the violator to pay a civil penalty or not more than five hundred dollars (\$500.00).
- 6. The commission may refer to the county attorney, or Commonwealth's attorney for prosecution evidence of criminal violations of this code.
- 7. Findings of fact or final determination by the commission that a violation of this code has been committed, or any testimony related to the commission's findings of fact or final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky. Evidence collected by the commission may be used in a criminal proceeding if otherwise relevant.
- 8. Any person found by the commission to have committed a violation of this code may appeal the action the Owen 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 records as certified by the commission.

GIVEN FIRST READING on the 10th day of November 1994.

PUBLISHED in the Owen County News Herald on the 16th day of November, 1994.

GIVEN SECOND READING, PASSED ADOPTED AND APPROVED by the Fiscal Court of Owen County, Kentucky, upon motion of Magistrate G.L."Red"Shryock second by Magistrate Eugene Vannarsdall, at a duly convened meeting thereof held on the 13th day of December, 1994 with yea and nay votes as follows:

Eugene Vannarsdall	<u>Yes</u>
Bobby Gaines	<u>Yes</u>
Noel True	<u>Yes</u>
Garroll Shryock	<u>Yes</u>

GIVEN FINAL PUBLICATION in the Owen County News Herald on the 21st day of December, 1994.

Tom Olds  
Tom Olds,  
County Judge/Executive

ATTEST:

Eugene Young  
Eugene Young,  
County Clerk