

MADISON COUNTY

Ordinance No. 94-3

An ordinance establishing a code of ethical conduct applicable to the officers and employees of the county and county agencies.

WHEREAS, the proper operation of democratic government requires that a public official be independent and impartial; that government policy and decisions be made through the established processes of government; that a public official not use public office to obtain private benefits; that a public official avoid action which creates the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its government and public officials; and

WHEREAS, the public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed and public confidence and respect for government can best be promoted if every public official and employee, whether paid or unpaid, and whether elected or appointed, will uniformly treat all citizens with courtesy, impartiality, fairness, and equality under the law and avoid both actual and potential conflicts between their private self-interests and the public interest; and

WHEREAS, the officials of this county are committed to the operations of a county government that manifests the highest moral and ethical standards among its officers and employees.

NOW, THEREFORE, Be it ordained by the fiscal court of Madison County, Kentucky:

SECTION 1. Title. This ordinance shall be known and may be cited as the "Madison County Code of Ethics."

SECTION 2. Findings. The fiscal court of Madison County finds and declares that:

(A) Public office and employment with the county are public trusts. Officers and employees of this county have a duty to act in the public's best interest.

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

(C) The government of this 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 county shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees of the 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 65.003, as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the county by KRS 67.080 and 67.083 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) "Anything of value" includes, but is not limited to: money, bank bills or notes; a contract, agreement, promise or other obligation for a loan, payment, gift, pledge of money or forgiveness of indebtedness; stocks, bonds, notes or other investment in an entity; works of art, antiques, collectibles, automobiles; real estate or an interest in real estate; a rebate or discount on the price of anything of value; a promise of employment; anything of value that is pecuniary or compensatory in value to a person.

(B) "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.

(C) "Board of Ethics" means the Madison County Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirements of the county's code of ethics.

(D) "Candidate" means any individual who seeks nomination or election to a 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.

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

(F) "County agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by this county or a combination of local governments.

(G) "Employee" means any person, whether full-time or part-time, and whether paid, who is employed by or provides service to the county. Employees include not only those persons employed by the county, but employees of boards, agencies, commissions, authorities, or any other entity created by the county. The term "employee" shall not include any contractor or subcontractor or any of their employees, and shall not include any employees of a school district or school board.

(H) "Family member" means an immediate family member or parent, child, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, stepmother, stepfather, stepdaughter, stepson, stepsister, stepbrother, half sister, or half brother.

(I) "Financial benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(J) "Immediate family member" means a spouse, a dependent child, by blood, adoption, or marriage or any other person 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.

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

- (1) The county judge/executive.
- (2) A member of the fiscal court.
- (3) The county clerk.
- (4) The county attorney.
- (5) The sheriff.
- (6) The jailer.
- (7) The coroner.
- (8) The surveyor.
- (9) A constable.

(10) A member of the governing body of any local government agency who has been appointed to the governing body of the agency by the county.

(11) Any person who occupies a nonelected office created under KRS 67.710.

(L) "Procurement Authority" means the right to obtain and pay for, with public monies, something of value on behalf of the county government and/or a political subdivision of county government.

(M) "Reporting Year" means from January 1 to December 31 of the preceding year.

(N) "Securities" mean any readily marketable financial instrument representing an ownership stake or debt obligation of publicly held corporations, governmental agencies, investment companies (mutual funds), etc., including but not limited to instruments whose value is derived from those mentioned and insurance investment contracts (annuities). Examples include: stocks, bonds, mutual funds, annuities, options, and future contracts.

STANDARDS OF CONDUCT

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

(A) No officer or employee shall use or attempt to use his or her official position with the county to secure privileges or benefits for himself or herself or others on any matter before the 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 or business associate will derive a direct monetary gain or suffer a direct monetary loss as a result of the officer's or employee's vote or decision.

(5) Any business which employs a member of the officer or employee's family, whereby the member or officer will derive a direct.

monetary gain or suffer a direct monetary loss as a result of the officer's or employee's vote or decision.

(6) Any person from whom the officer or employee has received election campaign contributions of more than three hundred dollars (\$300) during the past twelve (12) months.

(B) Every officer or employee who has a financial interest affected by his or her participation, vote, decision, or other action taken within the scope of his or her public duties shall, at the next regular session, disclose the precise nature and value of the interest, to the governing body of the county or 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 participating in deliberations and 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 hold or enjoy an interest, in whole or in part, in any contract made, entered into, awarded, or granted by the county or a 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 county office, before an appointed officer was appointed to a county agency or office, or before an employee was hired by the county or a county agency. However, if any contract entered into by a county or county agency officer or employee before he or she becomes 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 or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the powers set forth in the preceding sentence, then the officer or employee shall have no financial 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 all of the following requirements are satisfied:

(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 regular meeting of the governing body of the county or agency.

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

(c) A finding is made by the governing body of the county or county agency that the contract with the officer or employee is in the best interest of the public and the county or county agency because of price, limited supply, emergency, or other reasons covered under state law.

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

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the appropriate court may void any contract entered into in violation of this section. Additionally a violation of this section shall be grounds for removal from office or employment with the county in accordance with any applicable provisions of state law and ordinances, rules or regulations of the county.

(C) No officer or employee shall use or permit the use of county equipment, property or staff, nor remove county equipment from the county premises for personal use unless the use is specifically allowed as a matter of written county policy.

SECTION 7. Misuse of Confidential Information. No officer or employee of the county or any county agency shall 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. This provision does not pertain to information that is not deemed confidential under the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.

SECTION 8. Political Activity. No officer or employee of the county or any county agency shall:

(A) Use official authority or coercion toward an official or employee of the county at any time for a political activity or to effect a nomination or election result.

(B) Attempt, directly or indirectly, to coerce a person in county government to lend, pay, or contribute anything of value to a group or person for any political activity or purpose.

FINANCIAL DISCLOSURE

SECTION 9. Who Must File. The following individuals shall file a financial disclosure statement with the Board of Ethics for the reporting year:

- (A) Elected officers;
- (B) Candidates for county elective office;
- (C) Management personnel, department heads, and anyone with procurement authority;
- (D) Members of county agencies with procurement or regulatory authority.

SECTION 10. 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 by no later than April 15, 1995. All subsequent statements of financial interest shall be filed no later than January 31 of each year provided that:

(1) An officer or employee newly-appointed to fill an office or position with the county or a 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 any county office listed in Section 4 (K) shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate.

(B) 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 thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

SECTION 11. Form of the Statement of Financial Interests.

(A) The statement of financial interests shall be filed on a form prescribed by the Board of Ethics and shall include the following:

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

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

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

(4) Creditors (not including family members) to whom an officer or employee, as set out in Section 9 above, or a member of the officer or employee's immediate family, separately or together, owes five thousand dollars (\$5,000) or more as of December 31 of the reporting year, except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for personal, family, or household purposes.

(5) Offices or directorships held by an officer or employee, as set out in Section 9 above, or a member of the officer or employee's immediate family, as of December 31 of the reporting year.

(6) Securities valued at five thousand dollars (\$5,000) or more owned by an officer or employee, as set out in Section 9 above, or a member of the officer or employee's immediate family, as of December 31 of the reporting year.

(7) Information that identifies each source of income, but not the amount, of the filer and filer's immediate family members exceeding five thousand dollars (\$5,000) as of December 31 of the reporting year, and the nature of the income (e.g. salary, commission, dividends, income from professional practices, retirement fund distribution, etc.).

(8) Anything of value having a total fair market value of one hundred dollars (\$100) or more, received from any single source, excluding gifts from a family member, received by the officer or employee, as set out in Section 9 above, or a member of the officer or employee's immediate family, as set out in Section 9 above, (excluding children living at home) during the reporting year and the name and address of the source.

(9) Business interest, real estate (other than primary residence), rental property, farms and professional practices which the officer or employee, or a member of the officer or employee's immediate family, as set out in Section 9 above, own, or in which at least a five thousand dollar (\$5,000) interest or five (5) percent or greater interest was owned on December 31 of the reporting year.

(10) The source of any unpaid campaign debts or campaign debts forgiven.

(B) 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.

(C) Each statement shall be signed and dated by the officer or employee. Knowingly or willingly signing a fraudulent statement shall be a Class A misdemeanor.

(D) All financial disclosure statements shall be an open record and available for review upon request.

SECTION 12. Noncompliance with Filing Requirement.

(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 Class A misdemeanor and will be referred to the appropriate court.

NEPOTISM AND EMPLOYMENT

SECTION 13. Employment of Family Members.

(A) No officer or employee shall appoint or hire; vote for the appointment or hiring of; or recommend the appointment or hiring of; a family member to an office or position of employment with the county.

(B) No officer or employee shall participate in the employment decision or decision-making process involving a family member who has applied for or holds an office or position of employment with the county, including, but not limited to, decisions and decision-making processes involving appointment, promotion, transfer, supervision, discipline, or dismissal.

(C) No officer or employee shall supervise or manage the work of a family member.

(D) This prohibition shall not prevent an officer or employee 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 group, and the family member benefits to no greater extent than the other similarly situated member of the class or group.

(E) No family member of any fiscal court member shall be employed by the County. This provision shall not apply to a family member employee who was employed prior to his or her family member becoming a magistrate or county Judge/Executive.

(F) No officer or employee shall avoid the prohibition set forth above by delegating any authority.

(G) The prohibitions in this section shall not apply to any relationship or situation which would violate this prohibition, but which existed prior to the effective date of this ordinance.

(H) Nothing in this section shall prohibit the temporary employment of individuals for the purposes of conducting elections.

SECTION 14. Accountability.

(A) The county judge/executive shall file with the county clerk an organizational chart which shows all the departments and divisions of local government. This chart will not be limited to employees, but will include all boards, commissions, committees, advisory committees, special districts and any other entity to which the local government makes appointments, exercises supervision, or sets policy. This chart shall include joint city-county and multi-county entities.

(B) The function of each department or division will be briefly described and the name, title, job descriptions or office for each individual serving on it will be listed. The chart shall be kept current to reflect resignations, vacancies, and appointments.

(C) The county clerk shall post a pictorial organizational chart prominently within the courthouse disclosing all elected officials and department heads.

(D) The county judge/executive shall provide to each officer and employee of the county and all county agencies a copy of the Madison County Code of Ethics. Each of these persons shall be expected to familiarize himself or herself with the code. An opportunity to discuss and review the code shall be provided by the county judge/executive. This duty may be delegated to an appropriate administrator or supervisor. Provision shall be made to read and discuss the code with any non-readers.

(E) The county judge/executive shall, in cooperation with the Board of Ethics, arrange at least one annual training session for officers and employees of the county to familiarize them with the provisions of the Madison County Code of Ethics, to introduce the members of the Board of Ethics, and to otherwise encourage full understanding of the code. The session will include information on how and where complaints may be filed and where public records shall be retained.

ENFORCEMENT

SECTION 15. Board of Ethics Created.

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

(B) The Board of Ethics shall consist of five (5) members who shall be appointed by the county judge/executive, subject to the approval of the fiscal court. 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 county. 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. Thereafter, all appointments shall be for a term of three (3) years. No more than three (3) members shall be of the same political party. Each member of the Board of Ethics shall be at least twenty-one (21) years of age, have been a resident of Madison County for at least one (1) year prior to the date of the appointment, shall reside within the county throughout the term in office, shall have a high school diploma or equivalent, and shall not have been convicted of a felony. The members may be reappointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the county judge/executive, subject to the approval of the fiscal court, 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 county judge/executive and the fiscal court.

(D) Vacancies on the Board of Ethics shall be filled within thirty (30) days by the county judge/executive, subject to the approval of the fiscal court. If a vacancy is not filled by the county judge/executive within thirty (30) days, the fiscal court shall fill the vacancy forthwith. All vacancies shall be filled for the remainder of the unexpired term.

(E) Members of the Board of Ethics shall serve without compensation 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. The Board shall

meet at least annually during the month of February and report to the fiscal court the Board's activities for the preceding year.

(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 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 16. Alternate Members. The county judge/executive of the county, with the approval of fiscal court, may appoint one (1) alternate member of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties. An alternate member shall be appointed for a term of one (1) year. Alternate members shall meet all qualifications and be subject to all of the requirements of this ordinance that apply to regular members.

SECTION 17. Facilities and Staff. The fiscal court shall appropriate funds in the county's annual budget to provide the Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff, including legal counsel, needed for the conduct of its business.

SECTION 18. 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 violations of the provisions of this ordinance.

(B) To administer oaths and 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.

(C) To employ legal counsel, with the approval of the Fiscal Court, to assist it in the performance and discharge of its duties under this ordinance.

(D) To refer any information concerning violations of this ordinance to the county judge/executive, the fiscal court, the Madison County Attorney, the Madison County Commonwealth Attorney, or other appropriate person or body, as necessary.

(E) Upon proper request, to render advisory opinions to county officers and employees 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 and employees of the county who are subject to its terms by issuing appropriate orders and findings.

(G) To control and maintain all statements of financial interests and other records that are required by this ordinance in accordance with retention schedules approved by the Kentucky Archives and Records Commission (KRS 171.410 - 171.740) and to insure that the statements are available for public inspection in the office of the county clerk in accordance with the requirements of this ordinance and the Kentucky Open Records Act.

(H) To adopt rules, regulations, and administrative procedures and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, procedures, 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 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 five (5) working days from the date of receipt. The Board shall forward within five (5) working days to each officer or employee of the county 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 fifteen (15) days of the receipt of a 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) Except where otherwise required under the Open Meetings Act (KRS 61.805 to 61.850) and the Open Records Act (KRS 61.870 to 61.884), 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 Madison County Commonwealth's Attorney or Madison 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 a minimal factual basis to constitute a violation of this ordinance. If the Board concludes the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall 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 county and its taxpayers, or lack of significant impact on public confidence in county government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the county judge/executive and the fiscal court.

(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 county or any county agency shall be guilty of a Class A misdemeanor.

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 expeditiously issue an order setting the matter for hearing not later than 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 forthwith.

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 Board of Ethics. The hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board of Ethics 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 representatives 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. The Board shall provide for a tape recording of the proceedings.

(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 a majority of 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 for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proven. Within five (5) working 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 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 a directive requiring the violator to cease and desist the violation or to otherwise comply with the provisions of this ordinance.

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the county judge/executive and fiscal court.

(3) In writing, recommend to the county judge/executive and fiscal court or the appropriate supervisor that the violator be sanctioned as recommended by the Board of Ethics, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Enforce any cease and desist order through referral to the appropriate court.

(5) Refer evidence of criminal violations of this ordinance or state laws to the Madison County Attorney or Madison County Commonwealth's Attorney of the jurisdiction for prosecution. Findings by the Board of Ethics of a violation of this ordinance shall constitute sufficient grounds to warrant the issuance of a criminal complaint for prosecution.

SECTION 22. Limitations of Actions. Except when the period of limitations is otherwise established by state law, an action for a violation of this ordinance shall be brought within one (1) year after the violation is discovered.

SECTION 23. Advisory Opinions.

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances when requested by any officer or employee of the county or of a county agency covered by this ordinance.

(B) Requests for advisory opinions shall be made in writing, 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 requestor.

(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 24. Reprisals Against Persons Disclosing Violations Prohibited.

(A) No officer or employee of the county or any 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 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 county or any 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 provisions of law.

SECTION 25. Penalties.

(A) Except as otherwise provided under state law, any officer or employee of the county or any county agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a Class A misdemeanor and may

be referred for prosecution in the Madison District Court or the Grand Jury. Each day in which the violation continues shall be considered a separate offense.

(B) A finding by the Board of Ethics that an officer or employee of the county or any 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 county or 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 county and all applicable laws of the Commonwealth.

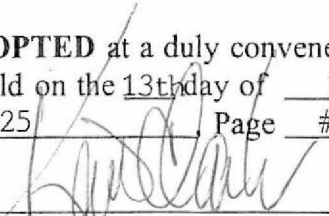
SECTION 26. Severability. If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

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.

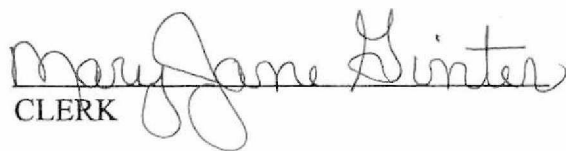
SECTION 28. Effective Date. All current and future officers and employees shall be subject to the provisions of this ordinance which shall take full force and effect immediately upon publication as required by KRS 424.120 and KRS 67.077.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Madison County, Kentucky held on the 30th day of November, 1994.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Madison County, Kentucky held on the 13th day of December, 1994, and of record in Fiscal Court Order Book #25, Page #117.


KENT CLARK
Madison County Judge/Executive

ATTESTED TO:


CLERK