

COUNTY OF SIMPSON, KENTUCKY
ORDINANCE NO. 220.51

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

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

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

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

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

SECTION 2: Findings. The fiscal court of Simpson County, Kentucky finds and declares that:

- (A) Public office and employment with the county are public trusts.
- (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 officials and employees. Whenever the public perceives a conflict between the private interests and the public duties of a county official or employee, that confidence is imperiled.
- (C) The government of this county has a duty to provide its citizens with standards by which they determine whether

public duties are being faithfully performed, and to make its officials and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their 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 officials and employees of the county shall be clearly established, uniform in their application, and enforceable, and to provide the officials 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 further the 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 pursuant to the 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" means the Barren River Regional Board of Ethics which is vested by this ordinance with the responsibility of enforcing the requirements of the county's code of ethics.
- (C) "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.
- (D) "County" refers to Simpson County, Kentucky.

- (E) "County Agency" means any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this county.
- (F) "Employee" means any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the county. The term "employee" shall not include any contractor or subcontractor or any of their employees.
- (G) "Immediate family member" means a spouse, an unemancipated child residing in the official's or employee's household, or a person claimed by the official or employee, or the official's or employee's spouse, as a dependent for income tax purposes.
- (H) "Official" means county judge/executive, magistrates, county clerk, county attorney, sheriff, jailer, coroner, surveyor and constable.

STANDARDS OF CONDUCT

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

- (A) No official or employee, or any immediate family member of any official or employee, shall have interest in a business or engage in a business, transaction, or activity, which is in substantial conflict with the proper discharge of the official's or employee's public duties.
- (B) No official or employee shall intentionally use or attempt to use his or her official position with the county to secure unwarranted privileges or advantages for himself or herself or others.
- (C) No official 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 official or employee to take or refrain from taking any discretionary action, on any matter before the county in order to obtain a financial benefit for any of the following:
 - (1) The official or employee.

- (2) An immediate family member of the official or employee.
 - (3) An outside employer of the official or employee.
 - (4) Any business in which the official or employee, or any immediate family member of the official or employee has a financial interest.
 - (5) Any business with which the official or employee or any immediate family member of the official or employee is negotiating or seeking prospective employment or other business or professional relationship.
- (D) No official or employee shall be deemed in violation of any provision in this section if, by reason of the official's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the official or employee, an immediate family member, an outside employer, or a business as defined by subsections (C)(4) and (C)(5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.
- (E) Every official or employee who has a prohibited financial interest which the official or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of said interest, in writing, to the governing body of the county or county agency served by the official or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The official 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 official or employee of the county or any 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, except as follows:
- (1) The prohibition in subsection (A) of this section shall not apply to contracts entered into before an

elected official filed as a candidate for a county office, before an appointed official filed as a candidate for a county office, before an appointed official was appointed to a county or agency office, or before an employee was hired by the county or a county agency. However, if any contract entered into by the county 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 official 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 official or employee has any of the authorities set forth in the preceding sentence, then the official or employee shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.
- (3) The prohibition of subsection (A) of this section shall not apply in any case where the following requirements are satisfied:
 - (a) The specific nature of the contract transaction and the nature of the official's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the county or county agency;
 - (b) The disclosure is made a part of the official record of the governing body of the county or county 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 official or employee is in the best interest of the public and the county agency because of price, limited supply or other specific reasons; and
 - (d) The finding is made a 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, any contract entered into in violation of this section shall be void. 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.

SECTION 7. Receipt of Gifts. No official or employee of the county or any county agency shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred fifty dollars (\$150) per 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 official or employee in the performance of his or her public duties.

SECTION 8. Use of County Property, Equipment, and Personnel. No official or employee of the county shall use or permit the use of any county time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless authorized by law and unless:

- (A) The use is specifically authorized by a stated county policy; or
- (B) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

SECTION 9. Representation of Interests Before County Government.

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

- (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 official or employee from representing himself or herself in matters concerning his or her own interests.
- (D) No elected official 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 official, whether directly or indirectly, in return for the inquiry.

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

SECTION 12. Who Must File. The following classes of officials and employees of the county and county agencies shall

file an annual statement of financial interests with the Barren River Regional Board of Ethics:

- (A) Elected county officials.
- (B) Candidates for elected offices.
- (C) Members of the Planning and Zoning Commission and Board of Adjustment appointed by the county or county officials.

SECTION 13. When to File Statements, Amended Statements.

- (A) Pursuant to the Memorandum of Agreement between the county and the Barren River Area Development District, the initial statements of financial interests required by this section shall be filed with the Barren River Regional Board of Ethics, c/o Barren River Area Development District Records Administrator, no later than 3:00 p.m. March 1, 1995. All subsequent statements of financial interests shall be filed no later than 3 p.m. on March 1 each year, provided that:
 - (1) An official or employee newly appointed or hired 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 appointment or hiring.
 - (2) A candidate for county office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected county office.
- (B) The Barren River Regional 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 the current financial statement on file with the Board, the official or employee shall, no later than thirty (30) days after said material change file an amended statement with the Board.

SECTION 14. Form of Statement of Financial Interests.

The statement of financial interests shall be filed on a form prescribed by the Barren River Regional Board of Ethics. The Board

shall deliver to the county a copy of the form for each official and employee required to file the statement, no later than February 15, of each year. The failure to deliver the form shall not relieve the official or employee of the obligation to file the statement.

SECTION 15. Control and Maintenance of the Statement.

- (A) The Barren River Regional Board of Ethics shall be the "official custodian" of the statements of financial interests. The statements of financial interests shall be maintained by the Board, or the Records Administrator designated by the Board as "custodian" of public documents, available for public inspection immediately upon filing.
- (B) A statement of financial interests shall be retained by the Board, or the "custodian," for a period of five (5) years after filing, provided that:
- (1) Upon the expiration of three (3) years after a person ceases to be an official or employee of the county or a county agency, the Board shall destroy any statements of financial interests or copies of those statements filed by the person.
 - (2) Upon the expiration of three (3) years after any election at which a candidate for elected county office was not elected or nominated, the Board shall destroy any statements of financial interests or copies of those statements filed by the person.

SECTION 16. Contents of the Financial Interests Statement.

- (A) 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, office sought, or position of employment.
 - (3) The occupation of the filer and the filer's spouse.
 - (4) Information that identifies each source of net income of the filer and the filer's immediate family

members exceeding five thousand dollars (\$5,000) during the preceding calendar year, and the nature of the net 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 held an interest at any time during the preceding calendar year.
 - (6) A designation as either 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 an interest during the preceding calendar year valued at ten thousand dollars (\$10,000) or more.
- (B) Nothing in this section shall be construed to require any official or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

SECTION 17. Noncompliance With Filing Requirement.

- (A) The Barren River Board of Ethics, or the Records Administrator, 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 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 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 Board in a civil action in the nature of a debt if the offender fails or refuses to pay the penalty within a prescribed 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 18. Prohibitions.

- (A) No official or employee of the county or a county agency shall advocate, recommend or cause the:
- (1) employment;
 - (2) appointment;
 - (3) promotion; or
 - (4) advancement of an immediate family member to an office or position of employment with the county or a county agency.
- (B) No official or employee of the county or a county agency shall supervise or manage the work of an immediate family member.
- (C) No official or employee shall participate in any action relating to the employment or discipline of an immediate 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 immediate family member is included only as a member of a class of persons or a group, and the immediate 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 employment situation that would otherwise violate the prohibitions, but which existed prior to January 1, 1995.

ENFORCEMENT

SECTION 19. Board of Ethics.

- (A) Pursuant to the Memorandum of Agreement setting forth the Barren River Regional Board of Ethics, all authority for the establishment of procedures for formation and maintenance of the Barren River Board of Ethics appropriate thereto are hereby delegated to said Board provided:

- (1) That the Board shall comply with all terms and conditions as set forth in the Act establishing a Code of Ethics for counties;
- (2) That any hearings or related procedures shall comply with the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence;
- (3) That any regulations adopted by the Board governing its procedures shall be consistent with the Kentucky Open Records Law;
- (4) That the county shall bear its proportionate share of any costs for investigations, hearings, preparation of findings, and the issuance of any advisory opinions by the Board; and
- (5) That no member of the Board shall hold a position in any local government or be subject to the terms of this ordinance.

SECTION 20. Reprisals Against Persons Disclosing Violations Prohibited.

- (A) No official or employee of the county or any county agency shall be subject to reprisal, or directly or indirectly use or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Barren River Regional 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 prohibiting disciplinary or punitive action if an official or employee of the county or any county agency disclosed information which he or she knows:
 - (1) To be false or which he or she discloses with reckless disregard for its truth or falsity;
 - (2) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884; or
 - (3) Is confidential under any other provision of law.

SECTION 21. Penalties.

- (A) Except when another penalty is specifically set forth in this ordinance, any official or employee of the county or any county agency who is found by the Barren River 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), which may be recovered by the Board in a civil action in the nature of a 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 official 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 forfeit to the county or the county agency an amount equal to the economic benefit or gain which the official or employee is determined by the Board of Ethics to have realized as a result of the violation. The amount of any forfeiture may be recovered by the 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 official 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 official or agency having the power of removal or discipline. Any action to remove or discipline any official 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.

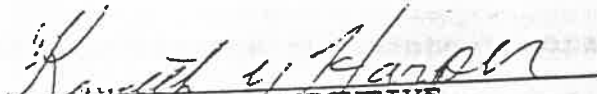
SECTION 22. Severability. If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

SECTION 23. 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 24. Effective Date. This ordinance shall take full force and effect January 1, 1995.

Given first reading on the 13th day of December, 1994.

Given second reading and duly enacted by the legislative body of the county of Simpson on the 13th day of December, 1994.


COUNTY JUDGE/EXECUTIVE

CSB:esp
(Coatty\Ethics.Ord)