

COMMONWEALTH OF KENTUCKY
SHELBY COUNTY FISCAL COURT
ORDINANCE NO. 12-1-07 , SERIES 2020

AN ORDINANCE RELATING TO THE AMENDMENT
OF THE SHELBY COUNTY CODE OF ETHICS ORDINANCE
PREVIOUSLY ENACTED ON NOVEMBER 7, 1994

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, previously enacted an ordinance on November 7, 1994, pursuant to KRS Chapter 65, which established a code of ethics to guide the conduct of elected and appointed officers and employees of Shelby County, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, Surveyor and Constables, as well candidates for those county government elective offices, and

WHEREAS, Shelby County Fiscal Court has reviewed that ordinance and wishes to make certain amendments to said ordinance as provided by KRS 65.003(4),

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court, County of Shelby, Commonwealth of Kentucky, that the Shelby County Code of Ethics as enacted by Ordinance on November 7, 1994, be amended to read as follows:

SEE "EXHIBIT A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

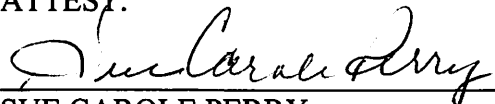
INTRODUCED, SECONDED AND GIVEN A FIRST READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the ~~4th~~ day of November, 2020.

INTRODUCED, SECONDED AND GIVEN A SECOND READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the ~~14~~ day of December, 2020.



DAN ISON,
Shelby County Judge/Executive

ATTEST:



SUE CAROLE PERRY,
Shelby County Clerk

SHELBY COUNTY CODE OF ETHICS

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 include family members; and
4. A corporation, business association, **limited liability company**, or any other business entity which the county government ~~officer~~ ~~or employee~~ **elected official, appointed official or employee or any candidate for the county government elective office** serves as a compensated agent or representative.

B. "Business organization: means any corporation, partnership, sole proprietorship, firm, **limited liability company**, firm, enterprise, franchise, 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, non stock 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 agency regardless of whether or not that person is a county government officer. This 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 non-taxing district.

~~G. "Member of immediate family" means a spouse, an unemancipated child residing in an individual's household, or a person claimed by the individual or individual's spouse as a dependent for tax purposes.~~

G. "Family member" or "member of their family" means a spouse, parent, child, sibling, grand parent, 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, half-sister, or any other relative who is a 3rd cousin or closer in relationship.

~~H. "Family member" means any relative who is 2nd cousin or closer in relationship.~~

H. "Personal relationship" means a regular and ongoing relationship that is romantic, familial, or financial in nature.

II. STANDARDS OF CONDUCT

A. No county government officer or employee or family member ~~immediate family~~ shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of ~~his~~ **their** duties in the public interest.

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

C. No county government officer shall act in ~~his~~ **their** official capacity in any matter where ~~he~~ **they**, a member of ~~his~~ **their** family, or a business organization

in which ~~he has~~ they have an interest, ~~has~~ have a direct or indirect financial or personal involvement that might reasonably be expected to impair ~~his~~ their objectivity or independence of judgment.

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

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

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

G. No county government officer or employee shall use, or allow to be used, in his public office or employment any information not generally available to the members of the public, which ~~he~~ they receive or acquire in the course of and by reason of ~~his~~ their office or employment, for the purposes of securing financial gain for ~~himself~~ themselves, any member of ~~his~~ their family, or any business organization with which ~~he~~ they are associated.

H. No county government officer or employee or business organization in which ~~he has~~ they have 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~~ they serves.

I. No county government officer shall be deemed in conflict with these ordinance provisions if, by reason of ~~his~~ their 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, any material or monetary gain accruing to ~~him~~ them 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~~ their immediate family, whether directly or indirectly, in return therefore; ~~And~~

K. Nothing shall prohibit any county government officer or employee, or member of ~~his~~ their family, from representing ~~himself, or~~ themselves, in negotiations or proceedings concerning ~~his or~~ their own interests.

L. Any elected official or employee of county government who takes a specific action (vote or otherwise) on a subject matter in which said individual is later determined to be in violation of these Code of Ethics shall subject that decision to being voidable.

III. HIRING POLICY

There shall be no restrictions on hiring of county employees or making county appointments to public agencies or commissions as long as they comply ~~to~~ with the following:

1. Said person must be qualified to perform the job for which ~~he is~~ they are hired or appointed.
2. The compensation for the job, if any, shall be reasonable and consistent with relation to others in county government performing the same or similar duties.
3. Said employee shall be treated in a like and similar manner as other employees in said working environment and with similar duties.

IV. NEPOTISM

No person, by reason of family connection or personal relationship, shall gain advantage by reason of such family connection or personal relationship, in the hiring or appointment or other employment or business opportunity with the county. Any such relationship must be disclosed to the hiring or appointing authority and the county ethics commission at the time of the hiring, appointment or securing of the business relationship is entered into.

~~VI.~~ V. FINANCIAL DISCLOSURE

A. The following individuals shall be required to file a financial disclosure statement ~~by January 31, 1996 for the preceding year, and~~ on or before January 31, of each year thereafter:

1. Elected county officers;
2. Candidates for elected county offices;
3. Management personnel such as chief deputies, and department heads;
4. Officers and employees with procurement authority exceeding five hundred dollars (\$500) per purchase; and
5. Boards and commissions which set tax rates, have procurement authority, or vote to adopt budgets ~~shall~~ and which provide an annual budget to the Fiscal Court.

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

1. Name of filer;
2. Current business address, business telephone number and home address of the filer;
3. Title of filer's public office or office sought;
4. Occupation of filer and spouse;
5. Positions held by the filer and any member of the filer's family in any business organization or nonprofit entity from which the filer or any member of the filer's family received compensation from Shelby County government funds during the preceding calendar year and the name, address, and telephone number of the business organization or nonprofit entity;

6. Name and address of each source of income involving revenue receipt from Shelby County government funds, of the filer and spouse, which exceed \$5,000 during the preceding calendar year;
7. The location of all (commercial) property within the county, in which the filer, ~~his~~ **their** spouse or children had an interest of ten thousand dollars (\$10,000) or more during the past year;
8. ~~Any officer, employee, or appointee of county government (which includes independent agencies or special districts) or~~ **Whether any filer** or member of ~~his~~ **their** immediate family ~~who shall have~~ had any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government, **and, if so, they** shall disclose such private interest to the fiscal court and the agency or special district prior to any decision being made on ~~this~~ the matter and disqualify ~~himself~~ **themselves** from any **consideration** or participation thereof; and
9. **Whether** [a]ny county judge/executive, magistrate or commissioner, sheriff, jailer, coroner, constable, surveyor, county attorney, county clerk, or a member of ~~his~~ **their** family ~~who~~ has a private interest in any matter pending **or coming** before the court, **and, if so, they** shall disclose such private interest on the records of the court and shall disqualify ~~himself~~ **themselves** from participating in any decision or vote relating thereto.

C. Each statement shall be signed and dated by the individual filing the statement or financial interest. Knowingly signing a fraudulent statement shall be a Class A misdemeanor.

D. 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 comply wit these filing requirements shall be fined \$50 for each day they are in non-compliance.

E. The financial disclosure statements shall be filed with the Shelby County Clerk: **and the county ethics commission.**

~~V.~~ VI. COUNTY ETHICS COMMISSION

A. The county ethics commission shall consist of three (3) members, and not more than one (1) member may be a public official. The commission member selected as chairperson shall be a citizen member. Members shall receive no compensation, but they may be reimbursed all necessary expenses. The terms of members shall be staggered and no longer than two (2) years.

1. All appointments shall be made no later than sixty (60) days after the adoption of this ordinance.
2. Vacancies on the County Ethics Commission shall be filled within ~~sixty (60)~~ **fourteen (14) calendar** 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 ~~sixty (60)~~ **fourteen (14) calendar** days, the remaining members of the County Ethics Commission shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

B. Powers and Duties

1. The commission shall have jurisdiction over the administration of this code.
2. The commission may receive verified complaints and conduct investigations, inquiries and hearings ~~concerning this verified complaint.~~ **in response thereto.**
3. 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.
4. The commission shall prescribe and provide forms for reports, statements, notices and other documents required by this code.
5. 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.

6. The commission may retain private counsel, at the expense of the county, if the county attorney has an actual or potential conflict. Any **conflict counsel and the fee of said conflict counsel** must be pre-approved by the fiscal court.

C. Complaint procedure; preliminary investigations

- 1.(a) Upon **the filing of** a complaint signed under penalty of perjury by any person **alleging a violation of this code**, the commission shall investigate ~~any alleged violation of this code~~ **said complaint**.
 - (b) No later than ten (10) business days after the commission receives ~~the a~~ complaint, the commission shall initiate a preliminary inquiry into any alleged violation of this code.
 - (c) Within thirty (30) business days of the commencement of the inquiry, the commission shall forward a copy of the complaint and a general statement of the applicable **law provision of this ordinance** 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~~ the commission may turn over to the Commonwealth's attorney or the county attorney of the jurisdiction in which the **offense code of ethics violation** allegedly occurred, evidence which may be used in criminal proceedings; ~~and.~~
 3. **Neither** ~~The~~ complainant **nor** the alleged violator shall ~~not~~ publicly disclose the existence or a preliminary investigation. The commission shall not publicly confirm the existence of the inquiry or make public any documents ~~which were~~ issued to either party **during the preliminary investigation stage**.

4. The commission shall afford a person, who is the subject of a preliminary investigation, an opportunity to respond to the complaint allegations ~~in the complaint~~. The person shall have the right to be represented by counsel, to appear before the commission to be heard and to offer evidence and information for the board's consideration in response to the allegations in the complaint during the board's preliminary investigation.
5. Any person who knowingly files ~~with the commission~~ a false complaint of ~~misconduct on the part of any elected or appointed official or other~~ with the commission against any person subject to this code of ethics shall be guilty of a Class A Misdemeanor.

D. Action by Commission

1. If the commission concludes ~~it its report in consideration of the evidence produced at the hearing there~~ upon the completion of its investigation and based upon all evidence and information presented that there is clear and convincing evidence of a violation of this ordinance that any person subject to this code of ethics is guilty of violating the provisions of this ordinance, the commission may:
 - (a) Issue an order requiring the violator to cease and desist from continuing the act or acts which constitute the violation;
 - (b) In writing, publicly reprimand the violator for the violations or violations and provide a copy of the reprimand to the executive authority and governing body (if different than the executive authority) of the county or county agency with which the violator serves;
 - (c) In writing recommend to the executive authority and the governing body (if different than the executive authority) that the violator be sanctioned as recommended by the commission, which may include a recommendation for discipline or dismissal if the executive authority or governing power is authorized to discipline or dismiss the violator from his or her position.

- (d) Issue an order requiring the violator to pay a civil penalty of not more than \$100.00 to the county's general fund; and
- (e) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or Commonwealth's Attorney ~~of the~~ having jurisdiction for potential criminal prosecution.

2. If the commission determines that the complaint is unsubstantiated it shall make a written determination of its finding and dismiss the complaint accordingly.

E. APPEALS

Any person found by the commission to have committed a violation or violations of this code may appeal the action to the Shelby Circuit Court. The appeal shall be ~~initiated~~ filed 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 circuit court clerk ~~of the court~~ all evidence and information considered by the commission ~~at the public hearing~~ in making its finding of a violation or violations of this code.

VII. PROTECTION AGAINST REPRISALS

A. No one subject to the provisions of this code of ethics 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, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any employee who in good faith files a complaint under the provisions of this code. No one subject to the provisions of this code shall require any employee to give notice prior to making a complaint under the provisions of this code.

B. No one subject to the provisions of this code of ethics shall subject to reprisal or discriminate against, or use any official authority or influence to cause reprisal or discrimination by others against, any person who supports, aids, or substantiates any employee who files a complaint of a violation of this code of ethics.

VIII. RECORDS

All files, records or any other documents maintained by or in the possession of any office, board or agency of this county generated pursuant to this code of ethics shall be delivered to the commission which shall retain those records for a period of no less than five (5) years.