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Kenton County Code of Ordinances

CHAPTER 35: CODE OF ETHICS

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GENERAL PROVISIONS

§ 35.01 TITLE.

This Chapter shall be known and may be cited as the Kenton County Code of Ethics.
(Ord. 120.0, passed 12-27-94).

§ 35.02 PURPOSE AND AUTHORITY.

(A) It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers, employees, board or commission members of the county shall be clearly established, uniform in their application, and enforceable, and to provide the officers, employees, board or commission 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 chapter to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the Fiscal Court by KRS Chapter 67.
(Ord. 120.0, passed 12-27-94).

§ 35.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPOINTED OFFICIALS. The Deputy Constable and members of any county or multi-county board, county-wide joint board or political subdivision that have county-wide jurisdiction, or whose authority extends beyond a single city boundary, whether paid or unpaid.

COUNTY and COUNTY GOVERNMENT. All agencies, boards, commissions, special districts, and authorities subject to this chapter.

COUNTY ELECTED OFFICIALS. County Judge/Executive; County Commissioners; County Magistrates; County Attorney; County Clerk; County Coroner; County Jailer; County Surveyor; County Sheriff; Constable; and Executive Level Positions: Deputy Judge/Executive, County Administrator, and all Assistant County Attorneys.

COUNTY GOVERNMENT EMPLOYEE. Any person, whether compensated or not, whether full-time, part-time, or seasonal, employed by or serving the county government or county government agency who is not included in the definitions of **COUNTY ELECTED OFFICIALS** or **APPOINTED OFFICIALS**, except employees of a school district or school board.

FAMILY MEMBER. A spouse, parent, child, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law.

(Ord. 120.0, passed 12-27-94; Am. Ord. 120.1, passed 1-10-95).

§ 35.04 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No county elected official, officer, employee, board or commission member of the county or county agency shall be subject to reprisal, 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 chapter.

(B) This section shall not be construed as prohibiting disciplinary or punitive action if an officer, employee, board or commission member of the county or any county agency discloses 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 provision of law.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99

STANDARDS OF CONDUCT

§ 35.10 FIDUCIARY DUTY.

County elected officials, appointed officials and county government employees should respect and comply with the laws of the Commonwealth of Kentucky and its political subdivisions and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of county government. In addition to criminal acts prohibited by current law, a fiduciary duty is imposed on all county elected officials, appointed officials and county government employees in the performance of their public duties. This fiduciary duty imposes the obligation to act in the public's best interests through the county government agencies in which the person is employed or serves.

(Ord. 120.0, passed 12-27-94).

§ 35.11 USING OFFICE FOR PERSONAL GAIN.

County elected officials, appointed officials and county government employees shall not use their county positions directly or indirectly, for personal gain (e.g., engaging in any business or transaction, having a financial, sexual, personal, exploitative, or other interest, which is in conflict with the proper discharge of their duties). County elected officials, appointed officials and county government employees are to avoid real conflicts between public duties and private financial interests.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.12 CONFLICTS OF INTEREST IN EMPLOYMENT OR SERVICE.

No county elected official, appointed official or county government employee shall undertake any employment or service on any committees, commissions, boards, elected office or with other organized entities whether public or private, which interferes with the proper administration of his/her official duties. Further, no county elected official, appointed official or county government employee shall act in his/her official capacity in any matter where he/she, a family member, or a business organization in which he/she has an interest, has a direct or indirect financial or personal involvement.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.13 RECEIPT OF GIFTS.

(A) No county elected official, appointed official, or county government employee, or a family member, or business organization in which he/she has an interest, shall solicit or accept any cash or legal tender, gift, favor, loan, political contribution, service, promise of future employment, or other

thing of value based upon an understanding that any of these were offered for the purpose of influencing him/her, directly or indirectly, in the discharge of his/her official duties.

(B) Meals, and other favors of an incidental nature and minor value not in excess of \$100 per event, shall not be included in this policy.

(C) This section shall not apply to soliciting or accepting contributions to a campaign for an announced candidate for elective public office which is governed by the Kentucky Revised Statutes.

(D) No county elected official, appointed official, or county government employee shall be denied reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances, or ceremonies. County elected officials, appointed officials, and county government employees must fulfill the responsibilities intended with any county funded trip, training, public appearance, or other activity.

(Ord. 120.0, passed 12-27-94; Am. Ord. 120.6, passed 4-14-98) Penalty, see § 35.99.

§ 35.14 MISUSE OF CONFIDENTIAL INFORMATION.

No county elected official, appointed official, or county government employee shall use, or allow to be used, his/her public office or employment, or any information, not generally available to the public, which he/she receives or acquires by reason of his/her office or employment, for securing financial gain for himself/herself, a family member, or any business organization with which he/she is associated.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.15 REPRESENTATION OF INTERESTS BEFORE LOCAL GOVERNMENT.

(A) No county elected official, appointed official, or business organization in which he/she has a financial 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 of the local government in which he/she serves unless the county elected official or appointed official withdraws from consideration of that issue.

(B) Nothing shall prohibit any county elected official, appointed official, or county government employee, or a family member, from representing himself/herself, or themselves, in negotiations or proceedings concerning his/her own interests.

(C) Any county elected official, Magistrate or Commissioner, Sheriff, Jailer, Coroner, Constable, Surveyor, County Attorney, County Clerk, or their family member, who has a private financial interest in any matter pending before the county shall disclose such private interest on the records of the respective body and shall disqualify him/herself from participating in any decision or vote relating thereto.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.16 MISUSE OF COUNTY PROPERTY.

County elected officials, appointed officials and county government employees shall not abuse,

neglect, waste, or misappropriate county property. All county elected officials, appointed officials and county government employees are responsible for the proper care and safe use of any tools, materials, equipment, or vehicles assigned for the performance of their jobs. No county tools, equipment, materials or vehicles shall be used for any purpose other than authorized work-related activities.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.17 COMMERCIAL ENDORSEMENTS.

County elected officials, appointed officials and county government employees shall not publicly endorse any commercial product or service as a representative, agent, official, or employee of the county.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.18 SERVICE, LEAVE AND REIMBURSEMENT.

Paid appointed officials and county government employees must provide service to the county while in attendance at work in a paid status. Paid appointed officials and county government employees shall request and take only the amount of leave and reimbursement which they are due and entitled pursuant to the applicable policies and procedures manuals.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99

Cross-reference:

Employee and administrative policies adopted by reference, see § 32.02.

§ 35.19 FAVORITISM PROHIBITED.

(A) County elected officials, appointed officials and county government employees who apply for and/or receive any county services or who are being investigated by any county agency shall not receive special consideration or treatment.

(B) County elected officials, appointed officials and county government employees shall provide to the public equal protection in enforcement of the law, and shall not grant any consideration, treatment, advantage, favor, service or item in the discharge of their duties beyond that which it is the general practice to grant or make available to all citizens.

(C) No county elected official shall be prohibited from making an inquiry for information or providing assistance to a constituent, if no fee, reward or other thing of value is promised, given or accepted by the county elected official or a family member, in return.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.20 COUNTY ATTORNEYS; RULES OF PROFESSIONAL CONDUCT.

The County Attorney, Assistant County Attorneys, and any other attorneys employed by the county, and performing their official duties as attorneys, shall strictly follow the Kentucky Rules of Professional Conduct.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.21 HONORARIA; COMMERCIALY REASONABLE LOANS.

No county elected official, appointed official, or county government employee shall be prohibited from giving or receiving an award publicly presented in recognition of public services, commercially reasonable loans made in the ordinary course of the lender's business, or accepting a reasonable gratuity for solemnizing a marriage.

(Ord. 120.0, passed 12-27-94).

§ 35.22 CONFLICT OF INTERESTS; EXCEPTIONS.

No county elected official, appointed official, or county government employee shall be deemed to be in conflict with these standards of conduct if by reason of his/her participation in the enacting of an ordinance or resolution, voting upon a matter or taking of an executory action, duly brought before said person, wherein some benefit is accrued to said participant or his/her family member, provided no greater benefit is bestowed than would otherwise be bestowed upon other members of the same business, profession, occupation or entity similarly situated.

(Ord. 120.0, passed 12-27-94)

FINANCIAL DISCLOSURE

§ 35.30 PERSONS REQUIRED TO FILE.

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

- (A) County elected officials, as defined in this chapter;
- (B) Candidates for elected offices;
- (C) Appointed officials with procurement authority exceeding \$500 per purchase and department heads and supervisory personnel.
- (D) All nominees for any boards, agencies, commissions and paid officials, county departments heads and supervisory personnel working in county government.

(Ord. 120.0, passed 12-27-94; Am. Ord. 121.29A, passed - -) Penalty, see § 35.99.

§ 35.31 CONTENTS OF STATEMENT.

A financial disclosure statement shall be adopted by the Ethics Commission and include the

following information:

- (A) Name of filer and spouse;
- (B) Current business address, business telephone number and home address of filer and spouse;
- (C) Title of the filer's public office or office sought;
- (D) Occupations of filer and spouse (full-time and part-time);
- (E) Positions held by the filer and the filer's spouse in any business organization or nonprofit entity from which the filer or the filer's spouse received compensation in excess of \$5,000 during the preceding calendar year, and the name, address and telephone number of the business organization or nonprofit entity;
- (F) Information that identifies each source of income, e.g., law firm, business, of the filer and the filer's spouse exceeding \$5,000 during the preceding calendar year;
- (G) Name, address, and telephone number of each business organization in which the filer or the filer's spouse had a five percent ownership interest or more (at fair market value) during the preceding year;
- (H) Name, address and telephone number of each organization from which the filer or the filer's spouse received gifts or honoraria annually totaling \$100 or more;
- (I) 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 the filer's spouse has an interest of \$5,000 or more during the past year.

(Ord. 120.0, passed 12-27-94).

§ 35.32 FILING DATE.

The financial disclosure statement shall be filed annually by county elected officials and appointed officials no later than April 30. Candidates shall be required to file the statement no later than 30 days after their respective filing date or the date of nomination. Newly appointed officials shall be required to file their initial statement no later than 30 days after the date of appointment.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.33 SIGNATURE REQUIRED.

Each financial disclosure statement shall be signed and dated by the individual filing. Signing a fraudulent statement shall be a Class A misdemeanor.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.34 STATEMENT OPEN TO PUBLIC INSPECTION.

- (A) All financial disclosure statements shall be open records as defined by KRS chapter 61.

(B) The financial disclosure statement shall be filed with the Ethics Commission which may designate that said records be filed with the County Clerk, or such other depository as the Commission deems appropriate.

(Ord. 120.0, passed 12-27-94)

NEPOTISM

§ 35.40 NEPOTISM PROHIBITED.

(A) No county elected official, appointed official, or county government employee shall advocate, recommend or cause the employment, appointment, promotion, transfer, or advancement of a family member to an office or position of employment with the county.

(B) No county elected official, appointed official, or county government employee shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent a county elected official, appointed official, or county government 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 a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(Ord. 120.0, passed 12-27-94) Penalty, see § 35.99.

§ 35.41 PRE-EXISTING SITUATIONS EXCEPTED.

The prohibitions in this subchapter shall not apply to any relationship or employment situation that would otherwise violate the prohibition, but which existed prior to January 1, 1995.

(Ord. 120.0, passed 12-27-94)

ENFORCEMENT; ETHICS COMMISSION

§ 35.50 ETHICS COMMISSION CREATED.

There is hereby established a permanent Kenton County Ethics Commission. It shall be a Citizen's Committee to consist of five members who are residents of the county, none of whom may be county elected officials, appointed officials, or county government employees, or local city, state or federal government officials. The Clerk of the Circuit Court shall be responsible for secure record keeping of the proceedings of the Commission. Members of the Ethics Commission shall be appointed and approved by the Fiscal Court and shall be registered voters. The County Attorney shall act as legal staff and serve as prosecutor for the Ethics Commission.

(Ord. 120.0, passed 12-27-94).

§ 35.51 MEMBERSHIP; COMPENSATION.

(A) Initial appointees to the Ethics Commission shall be nominated by a nine-member Nominating Committee. The Nominating Committee, to be appointed annually, shall be selected as follows: one member each by the county Judge/Executive, each county Commissioner, the County Attorney, the County Clerk, the County Coroner, the County Jailer, and the County Sheriff. A pool of at least 15 nominees will be presented to the Fiscal Court. The members of the Ethics Commission selected by the Fiscal Court, upon taking of the Kentucky Constitution Oath of Office, shall serve a term of three years; except that with respect to members initially appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter, all appointments shall be for a term of three years. The members may be reappointed for one three-year term. No member may serve more than two consecutive terms. Following the initial selections, the Nominating Committee will submit a list of three nominees for each vacancy or expired term.

(B) Members of the Ethics Commission shall receive compensation at the rate of \$50 per diem and may be reimbursed for all necessary operating expenses.

(Ord. 120.0, passed 12-27-94).

§ 35.52 VACANCIES.

Vacancies on the Ethics Commission shall be filled within 60 days by the Fiscal Court. If a vacancy is not filled by the fiscal court within 60 days, the remaining members of the Commission shall fill the vacancy.

(Ord. 120.0, passed 12-27-94).

§ 35.53 REMOVAL FROM OFFICE.

A member of the Ethics Commission may be removed by the Fiscal Court for misconduct, inability, or willful neglect of duties. Before any member of the Ethics Commission is removed from office under this section, the member shall be afforded the opportunity for a hearing before the Fiscal Court.

(Ord. 120.0, passed 12-27-94).

§ 35.54 CHAIRPERSON; VICE CHAIRPERSON.

The Ethics Commission shall, upon the initial appointment of its members and annually thereafter, elect a chairperson and vice chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Commission. The vice chairperson shall serve in the absence of the chairperson.

(Ord. 120.0, passed 12-27-94).

§ 35.55 MEETINGS.

(A) Meetings of the Ethics Commission shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

(B) The presence of three or more members shall constitute a quorum and the affirmative vote of a majority of the quorum shall be necessary for any official action to be taken. Any member of the Ethics Commission who has a conflict of interest with respect to any matter to be considered by the Commission shall disclose the nature of the conflict, shall disqualify himself/herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(C) Minutes shall be kept for all proceedings of the Ethics Commission and the vote of each member on any issue decided by the Commission shall be recorded in the minutes. The responsibility for the keeping of minutes shall be designated by the Commission and may be someone other than a member of the Commission.

(Ord. 120.0, passed 12-27-94).

§ 35.56 POWERS.

The Ethics Commission shall have the following powers:

(A) Jurisdiction over the administration of this chapter and enforcement of the civil penalties it prescribes;

(B) Authority to initiate, receive, hear, and review complaints and hold hearings regarding possible violations of this chapter;

(C) Authority to 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 Kentucky Rules of Civil Procedure;

(D) Authority to render advisory opinions to county elected officials, appointed officials, county government employees, and candidates for office as to whether a given set of facts and circumstances may constitute a violation of any provision of this chapter;

(E) Authority to prescribe and provide forms for reports, statements, notices, and other documents required by this chapter;

(F) Authority to determine whether required statements and reports have been filed appropriately according to the requirements of this chapter. The Ethics Commission shall promptly require filers to correct or explain any omission or deficiency; and, the

(G) Authority to retain private legal counsel at the expense of the county if the County Attorney has an actual or potential conflict.

(Ord. 120.0, passed 12-27-94).

§ 35.57 COMPLAINT PROCEDURE; PRELIMINARY INVESTIGATIONS.

(A) (1) The Ethics Commission shall investigate any alleged violation of this chapter based upon its own motion or upon a complaint signed under penalty of perjury by any person.

(2) No later than ten days after receipt of a complaint, the Commission shall initiate a

preliminary inquiry into any alleged violations of this chapter.

(3) Within seven days of its initiation of an inquiry, the Ethics Commission shall forward a copy of the complaint and a general statement of the applicable code provision to the party alleged to be in violation.

(B) All Ethics Commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the Commission, except:

(1) The Commission may turn over to the Commonwealth or County Attorney evidence which may be used in criminal proceedings; or

(2) If the complainant publicly discloses the existence of a preliminary inquiry, the Commission may publicly confirm the existence of the inquiry if the alleged violator agrees and, at its discretion, make public any documents which were issued to either party.

(C) The Ethics Commission shall afford a person subject to preliminary investigation an opportunity to respond to 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.

(D) If the Ethics Commission determines in the preliminary investigation the complaint does not allege facts sufficient to constitute a violation of this chapter, the Commission shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation.

(E) If the Ethics Commission, during course of its preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission shall notify the alleged violator of the finding. The Commission may, upon majority vote:

(1) In view of mitigating circumstances such as lack of significant impact on public confidence in government, lack of significant economic advantage or gain to the violator, and lack of significant economic loss to the county; reprimand in writing the alleged violator and provide a copy of the reprimand to the appropriate county elected official. The alleged violator may then ask for a full hearing if desired;

(2) Initiate an adjudicatory proceeding to determine when there has been a violation.

(F) Any person who knowingly files with the Ethics Commission a false complaint of misconduct on the part of any county elected official or appointed official or county government employee shall be guilty of a Class A misdemeanor and be subject to a civil penalty not exceeding the cost of attorney fees incurred in defending the false charge.

(Ord. 120.0, passed 12-27-94).

§ 35.58 ADJUDICATORY PROCEEDING; ACTION BY THE COMMISSION.

(A) The Kentucky Rules of Civil Procedure shall apply to all Ethics Commission adjudicatory hearings. All testimony in such hearings 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. All parties shall be subject to all 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 at their expense.

(B) 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 their own behalf, with or without counsel, to give a statement in opposition to such adverse mention, or they may file a written statement of that opposition for incorporation into the record of the proceedings.

(C) 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 61.210.

(D) The Ethics Commission, upon a finding pursuant to an adjudicatory proceeding that there has been proof by a preponderance of evidence of a violation of this code, may:

(1) Issue an order requiring the violator to cease and desist the violation;

(2) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter;

(3) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the County Judge/Executive;

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$500;

(E) The Ethics Commission shall refer to the county Attorney or Commonwealth Attorney for prosecution evidence of criminal violations of this chapter.

(F) Findings of fact or final determinations by the Ethics Commission that a violation of this chapter has been committed, or any testimony related to the Commission's findings of fact or its final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky. Evidence collected by the Commission, however, may be used in a criminal proceeding.

(Ord. 120.0, passed 12-27-94).

§ 35.59 APPEAL.

Any person found by the Ethics Commission to have committed a violation of this chapter may appeal the action to the Kenton County Circuit Court. The appeal shall be initiated within 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 the record as certified by the Commission.

(Ord. 120.0, passed 12-27-94).

§ 35.99 PENALTY.

(A) Where an act or omission is prohibited or declared unlawful in this chapter, and no other penalty is otherwise provided, the offense shall be deemed a violation and the offender shall be fined not more than \$500 for each offense.

(B) *Violations of §§ 35.30 through 35.34.* All pay and benefits shall be withheld until a

noncomplying county elected official or appointed official is in compliance with the financial disclosure filing requirements. Candidates and nominees who fail to comply with these filing requirements shall be fined \$25 for each day they are in noncompliance.

(Ord. 120.0, passed 12-27-94)