

COMMONWEALTH OF KENTUCKY
DAVISS COUNTY FISCAL COURT
ORDINANCE NO. _____

and

CITY OF OWENSBORO, KENTUCKY
ORDINANCE NO. 17-2016

AN ORDINANCE OF THE DAVIESS COUNTY FISCAL COURT AND THE CITY OF OWENSBORO AMENDING THE INTRACOUNTY OWENSBORO-DAVISS COUNTY CODE OF ETHICS TO INCLUDE ADDITIONAL CANDIDATES, DESIGNATED EMPLOYEES, AND ELECTED OFFICIALS IN THE DEFINITIONS; AND FURTHER AMENDING ARTICLE II, SECTION 1 TO INCREASE THE AMOUNT OF PROCUREMENT AUTHORITY NECESSITATING THE FILING OF A STATEMENT OF FINANCIAL INTERESTS; AND FURTHER AMENDING ARTICLE II, SECTION 3 TO AMEND THE DATE BY WHICH THE BOARD SHALL DELIVER A STATEMENT OF FINANCIAL INTERESTS TO A CANDIDATE FOR ELECTIVE CITY OFFICE; AND FURTHER AMENDING ARTICLES II AND IV TO DELETE OUTDATED LANGUAGE.

WHEREAS, in 1994, the Daviess County Fiscal Court in Ordinance No. C.3 and the City of Owensboro in Ordinance 62-94 created a joint Intracounty Code of Ethics; and

WHEREAS, it has become necessary to revise and update provisions of the Intracounty Code of Ethics.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODIES OF DAVIESS COUNTY, KENTUCKY AND THE CITY OF OWENSBORO, KENTUCKY:

Section 1. That Daviess County Ordinance No. C.3 and City of Owensboro Ordinance 62-94 be, and hereby is, amended to read as follows:

Definitions. As used in this Ordinance, the following definitions shall apply, unless the context clearly indicates or requires a different meaning

- A. "AGENCY" shall mean any board, commission, authority, nonstock corporation, or other entity created by the City or County, either individually or jointly with any other unit of government.
- B. "BOARD" shall mean the Owensboro-Daviess County Board of Ethics or its designee.
- C. "CANDIDATE" shall mean any person who has filed a petition for candidacy with the County Clerk for the elective offices of the Mayor, County Judge/Executive, members of each respective governing body, County Clerk, County Attorney, Sheriff, Jailer, Coroner, Surveyor, Justice of the Peace, and Constable but does not include candidates for election to any school board.
- D. "CITY" shall mean the City of Owensboro, Kentucky.
- E. "CODE" shall mean the Intracounty Code of Ethics of the City of Owensboro and Daviess County, Kentucky.
- F. "CONTRACT" shall mean any agreement for the sale, lease or purchase of any interest in real or personal property or the provision of any service.
- G. "COUNTY" shall mean the County of Daviess, Kentucky.
- H. "DEPENDENT FAMILY MEMBER" shall mean a spouse, an unemancipated child (including a stepchild) residing in the Filer's household, or an individual claimed as a dependent for tax purposes by the Filer.
- I. "DESIGNATED EMPLOYEE" shall mean the Deputy Judge/Executive, County Treasurer, County Engineer, County Parks Director, County Fire Chief, City Manager, ~~[Assistants to the]~~ Assistant City Manager, City Community Development Director, ~~[City Personnel Director,]~~ ~~[City Information Services Director,]~~ City Fire Chief, City Police Chief, City Engineer, and City Director of Finance and Support Services, City Director of Parks and Recreation, City Public Events Director, City Public Works Director and City Deputy Director of Public Works, Manager of Owensboro-Daviess County Airport, Director of Owensboro Riverport Authority, Executive Director of Regional Water Resource Agency, Board Chairman of Regional Water Resource Agency, Director of Human Relations Commission, and Director of Elizabeth Munday Senior Center. ~~[Finance.]~~
- J. "ELECTED OFFICIAL" shall mean the City Mayor, County Judge/Executive, members of the governing bodies of the City and County, County Clerk, County Attorney, Sheriff, Jailer, Coroner, Justice of the Peace, and Constable but does not include members of any school board.
- K. "FAMILY MEMBER" shall mean a spouse, child, parent, sister, brother, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister.
- L. "FILER" shall mean the person responsible for filing the Statement of Financial Interest.

M. "IMMEDIATE FAMILY MEMBER" shall mean a spouse, child (including stepchild), brother, sister, or individual claimed as a dependent for tax purposes by the Public Official.

N. "PUBLIC OFFICIAL" shall include, but is not limited to, all Elected Officials and appointed officials and all employees of City and County government.

O. "STATEMENT" shall mean Statement of Financial Interest.

ARTICLE I—STANDARDS OF CONDUCT

Section 1. Policy Statement

Public Officials must maintain their conduct at the highest standards in accordance with the Declaration of Policy set forth in this Code of Ethics (Code). No Public Official shall knowingly make a false statement or report, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold any information about wrongdoing, in connection with their employment or service with the City, County or Agency in connection with the work-related conduct or service of any Public Official.

Section 2. Prohibitions/Conflicts of Interest

All Public Officials shall actively avoid conflicting interests. Such conflicting interests include, but are not limited to, the following:

A. Use of Public Property. No Public Official shall request, use, or permit the use or removal of any publicly owned or supported property, labor, service, or personnel for the personal or financial gain of any person or ~~[other]~~ entity, other than City, County or Agency use, except when such publicly owned or supported property, labor, service, or personnel is available to the general public or if such is provided as a matter of stated policy for the use of Public Officials in the conduct of official business.

B. Political Activities. No appointment to, or employment in, any City, County or Agency position shall be dependent on political activity. No Public Official shall require any person to engage in any political activity as a condition of appointment or employment.

C. Confidentiality. All Public Officials shall maintain strict, confidentiality and not misuse for personal or financial gain any and all matters exempt from public disclosure under KRS Chapter 61, and shall maintain confidentiality with respect to discussions, decisions, or official actions that pertain to industrial recruitment, unless disclosure is required by applicable state or local statutes, rules, regulations or ordinances.

D. Performance of Official Functions. Public Officials shall:

(1) Discharge ~~[discharge]~~ public duties without favor, compensation or reward, except from the City or County or Agency involved;

(2) Not ~~[not]~~ use or attempt to use their official position to secure unwarranted personal or financial gain, or to avoid consequences of illegal acts, for themselves or others; or

(3) Not ~~[not]~~ act in their official capacity in any matter when the Public Official or a Family Member has a direct or indirect financial

or personal involvement, or when the Public Official has reason to know that their action may result in a personal financial benefit for the Public Official or Family Member.

E. Gifts

(1) No Public Official shall accept or solicit directly or indirectly, any gift (whether in the form of a gratuity, money, service, loan, travel, entertainment, hospitality, thing or promise) from any person, corporation, or other legal entity that the Public Official should know is interested directly or indirectly in any manner in business dealings with the City, County or Agency.

(2) Notwithstanding Section 2.E.(1), a Public Official may accept:

(a) Unsolicited, [~~unsolicited,~~] occasional gratuities, not to exceed fifty dollars (\$50.00) from any one source;

(b) Unsolicited [~~unsolicited~~] gratuities, regardless of value, when such gratuities are offered to and remain the property of the City, County or Agency;

(c) Admission [~~admission~~] to events to which they are invited in their official capacity as a Public Official;

(d) Gratuities [~~gratuities~~] offered in appreciation for that Public Official speaking or making a presentation before any group, provided that such speech or presentation is both related to the Public Official's employment or activities outside of municipal service and unrelated to the Public Official's service with the City, County or Agency;

(e) Campaign [~~campaign~~] contributions or services in connection with their political campaign;

(f) Loans [~~loans~~] made in the ordinary course of business;

(g) Gifts [~~gifts~~] received from Family Members; and or

(h) An [~~an~~] occasional non-monetary award publicly presented by a nonprofit organization for performance of public service.

F. Financial Interests

No Public Official, or their Immediate Family Member, shall directly or through other legal entities undertake, execute, hold, or enjoy, in whole or in part, any Contract made, entered into, awarded, or granted by the City, County or Agency, which they represent, with the following exceptions:

(1) The prohibition in Section 2.F. shall not apply to Contracts entered into before an appointed Public Official was appointed to the office, or before a Public Official was hired by the City, County or Agency; provided that if the Contract is renewable, the prohibition shall apply to any renewal of the Contract that occurs after the Public Official is elected or appointed, or after the Public Official is hired, unless the provisions of Subsection 2.F.(2) are satisfied;

(2) The prohibition in this Section 2.F. shall not apply if the Contract is awarded after public notice and competitive bidding, unless the

Public Official is authorized to participate in establishing the contract specifications, or awarding, or managing the Contract, in which case the following provisions shall apply:

- (a) The specific nature of the Contract and the nature of the Public Official's or their Immediate Family Member's interest in the Contract are publicly disclosed at a meeting of the governing body of the City, County or Agency;
- (b) The disclosure is made a part of the official record of the governing body of the City, County or Agency before the Contract is executed;
- (c) A finding is made by the governing body of the City, County or Agency that the Contract with the Public Official or their Immediate Family Member is in the best interests of the public and the City, County, or Agency because of price, supply or other specific reasons;
- (d) The finding is made a part of the official record of the governing body of the City, County or Agency before the Contract is executed; and
- (e) The Public Official shall refrain from taking any official action with respect to the matter that is the subject of the disclosure.

G. Private Employment

No Public Official, either currently serving or within one (1) year after leaving their position with the City, County or Agency, shall represent any private interest in any action, litigation or proceeding before or against the interests of the City, County or Agency for which they serve. This standard of conduct shall not be construed to prevent a Public Official from appearing, without compensation, before any governmental body of the City, County or Agency to express personal views as a private citizen.

ARTICLE II—STATEMENT OF FINANCIAL INTERESTS

Section 1. Who Must File

The following officers and employees of the City, County or Agency shall file an annual Statement with the Board.

- A. Elected officials;
- B. Candidates;
- C. Members of the Metropolitan Planning and Zoning Commission;
- D. Members of the Board created by this Ordinance; ~~and~~
- E. Officers and employees with procurement authority exceeding One Thousand Dollars (\$1,000) ~~[five hundred dollars (\$500)]~~ per purchase; and
- F. Designated Employees.

Section 2. When to File Statements; Amended Statements

- A. ~~[The initial Statement required by this section shall be filed with the Board no later than 5:00 p.m., March 31, 1995. All subsequent]~~

Statements shall be filed no later than 5:00 p.m. on March 31st each year, with the following exceptions.

(1) An officer or employee newly appointed to fill an office or position of employment with the City, County or Agency shall file the initial Statement no later than thirty (30) days after the date of appointment.

(2) ~~[Any person who is a candidate for an elective office at the time of the adoption of this ordinance, shall file the Statement required herein within thirty (30) days after the effective date of this ordinance. Henceforth, all]~~ All candidates for the elective offices defined herein shall file the annual Statement required in Section (1) above within thirty (30) days after the date on which said person becomes a candidate.

B. The Board may grant reasonable extension of time for filing a Statement for good cause shown.

C. In the event there is a material change in any information contained in a Statement that has been filed with the Board, the Filer shall submit an amended Statement with the Board, no later than thirty (30) days after becoming aware of the material change.

Section 3. Form of the Statement of Financial Interests

A. The Statement shall be filed on a form prescribed by the Board.

B. Except as provided in subsection (C), the ~~[The]~~ Board shall deliver a copy of the form to each person required to file the Statement, by first class mail or hand delivery, no later than January 31 of each year.

C. The Board shall deliver a copy of the form to each person who is a candidate for an elective City office, by first class mail or hand delivery, no later than August 31 in the year in which the election is to be held.

D. The failure of the Board, to deliver a copy of the form to any person shall not relieve the Filer of the obligation to file the Statement.

Section 4. Control and Maintenance of the Statements of Financial Interests

A. The Board shall be the official custodian of the Statements and shall have control over the maintenance of the Statements. The Statements shall be maintained by the Board as public documents, available for public inspection immediately upon filing.

B. A Statement shall be retained by the Board for a period of three (3) years after filing, except that upon the expiration of one (1) year after any election for which a Candidate, who was not otherwise required to file a Statement, was not elected or nominated, the Board shall cause to be destroyed any Statements or copies of those Statements filed by the person. No public records shall be destroyed in any manner inconsistent with the Record Retention Schedule required by the Kentucky State Department of Libraries and Archives.

Section 5. Contents of the Financial Interests Statements

A. The Statement 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 Filer's spouse.

B. Except for the individuals listed in Article II, Section 1.C., the Filer shall disclose the following information as it applies to the Filer and the Filer's Dependent Family:

- (1) Each source of income exceeding Five Thousand Dollars [~~five thousand dollars~~] (\$5,000) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, rents, etc.).
- (2) The name and address of any business in which at any time during the preceding calendar year there was an interest of Ten Thousand Dollars [~~ten thousand dollars~~] (\$10,000) at fair market value or Five Percent [~~five percent~~] (5%) ownership interest or more.
- (3) Each source by name and address of any creditor for which there is a personal liability of more than Ten Thousand Dollars [~~ten thousand dollars~~] (\$10,000), except debts arising from the purchase of consumer goods or a primary residence.
- (4) Each source, by name and address, of gifts or honoraria having an aggregate fair market value of Two Hundred Dollars [~~two hundred dollars~~] (\$200) or more from any single source, excluding gifts received from Family Members during the preceding calendar year.

C. The individuals in Article II, Section 1.C., and ONLY those in Section 1.C. shall list the location of all real property within the County, other than the Filer's primary residence, in which the Filer or the Filer's Dependent Family Member had during the preceding calendar year an interest of Ten Thousand Dollars [~~ten thousand dollars~~] (\$10,000) or more, and designate such property as commercial, residential, or agricultural.

D. Nothing in this Article shall require the disclosure of any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

E. Each Statement shall be signed and dated by the Filer.

ARTICLE III—NEPOTISM

Section 1. Prohibitions

A. No Immediate Family Member of any Elected Official or Designated Employee shall be appointed to and/or employed in any office or position of employment if the Elected Official or Designated Employee will have

any responsibility, directly or indirectly, to supervise, manage or control the work of the Immediate Family Member.

B. No Elected Official or Designated Employee shall influence, advocate, or cause the employment, appointment, promotion, transfer or advancement to an office or position with the City or County of an Immediate Family Member.

Section 2. Exceptions

A. The prohibition of Article III, Section 1. shall not apply to any person elected or appointed to a City or County office, or hired as an employee, prior to December 31, 1994. ~~[the effective date of this Ordinance.]~~

B. The provisions of Article III, Section 1. shall not apply or be interpreted to prevent the candidacy or election of any otherwise qualified candidates from being elected to a public office of the City or County.

C. Nothing contained herein shall disqualify any person from becoming a Designated Employee provided the appointing authority is in compliance with Article III, Section 1.B., nor shall such Immediate Family Member be dismissed, transferred, or otherwise adversely impacted.

ARTICLE IV—ENFORCEMENT

Section 1. Board of Ethics Created

A. There is hereby created a Board which shall have the authorities, duties and responsibilities as set forth in this Code to enforce the provisions of this Code.

B. The City and County shall provide the Board, either directly or indirectly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

C. The Board shall consist of three (3) members: one (1) shall be appointed by the Mayor and approved by the City Commission; one (1) shall be appointed by the County Judge Executive and approved by the County Fiscal Court; and one (1) shall be appointed by the Daviess County Bar Association and approved by the City Commission and County Fiscal Court. ~~[The initial members of the Board shall be appointed within sixty (60) days of the effective date of this Code.]~~ No member of the Board shall hold any elected or appointed office; whether paid or unpaid, or any position of employment or representation, which shall not include the provision of legal services, with the City, County or Agency. The members shall serve for a term of three (3) years. ~~[years, except with respect to the members initially appointed. The one (1) member from the Bar Association shall be appointed for a term of one (1) year; and one (1) member each from the City and County shall be appointed for a term of two (2) years. Thereafter, all appointments shall be for a term of three (3) years.]~~ No more than two (2) of the members shall be of the same political party. Each member of the Board shall have been a resident of the County for at least one (1) year prior to the date of the appointment and shall reside in the County throughout the term in office. The members of the Board shall

be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. Any member may be re-appointed for up to three (3) consecutive terms.

D. Vacancies on the Board shall be filled within sixty (60) days, subject to the approval of the appropriate legislative body for that appointment. If a vacancy is not filled within sixty (60) days, the remaining members of the Board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired terms.

E. Members of the Board shall serve without compensation, unless otherwise approved by the City Commission or County Fiscal Court, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

F. The Board shall annually [~~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 shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

H. The presence of two (2) or more members shall constitute a quorum and the affirmative vote of two (2) or more members shall be necessary for any official action to be taken. Any member of the Board 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 and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

J. A member of the Board may be removed by the City Commission or County Fiscal Court depending upon which body approved the appointment for misconduct, inability, or willful neglect of duties. Before any member of the Board is removed from office, the member shall be afforded the opportunity for hearing before the body which approved the appointment and in the case of the member appointed by the Bar Association, a hearing shall be before a body composed of two (2) members of the City Commission and two (2) members of the County Fiscal Court.

Section 2. Power and Duties of the Board of Ethics

The Board shall have jurisdiction over the administration of this Code and imposition of the penalties prescribed in this Code. The Board may:

A. Initiate on its own motion, receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provision of this Code.

B. Issue orders in connection with its investigations and hearings requesting persons to submit in writing and under oath reports and

answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.

C. Administer oaths and to issue orders requesting the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

D. Refer any information concerning violations of this Code to the Mayor, County Judge Executive, City Commission, County Fiscal Court, County Attorney, or other appropriate person or body, as necessary.

E. Render advisory opinions in accordance with Article IV, Section 8.

F. Control and maintain all Statements that are required to be filed by this Code and to ensure that the Statements are available for public inspection in accordance with the requirements of this Code and the Kentucky Open Records Act.

G. Develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the City or County.

H. Adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this Code, provided that the rules, regulations, and actions are not in conflict with the provisions of this Code or any state or federal law.

Section 3. Filing and Investigation of Complaints

A. All complaints alleging any violation of the provisions of this Code shall be submitted to the Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board. The Board shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The Board shall forward within ten (10) working days to each person who is the subject of the complaint, a copy of the complaint and a general statement of the applicable provisions of this Code.

B. Within thirty (30) days of the receipt of a proper complaint, the Board 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. All proceedings and records relating to a preliminary inquiry being conducted by the Board shall be confidential, to the extent allowable by the Kentucky Open ~~[Opening [Open]]~~ Meeting and Records Acts, until a final determination is made by the Board, except that the Board may turn over to the Commonwealth Attorney or County Attorney evidence which may be used in criminal proceedings.

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 Code. If the Board concludes that the complaint is outside of its jurisdiction, or is frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all persons against whom the complaint was filed.

E. If the Board concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a probable cause that a violation exists, the Board shall notify the person who is the subject of the complaint and may initiate a hearing to determine whether there has been a violation. Should the Board determine mitigating circumstance exists, such as lack of: ~~[as:]~~

(1) ~~[lack of significant]~~ Significant economic advantage or gain by the officer or employee,

(2) ~~[lack of economic]~~ Economic loss to the City or County and its taxpayers, or

(3) ~~[lack of significant]~~ Significant impact on public confidence in City or County government issue. ~~[, the]~~

The Board may issue, in writing, a confidential reprimand to the person and provide a copy to the governing body of the City or County.

F. Any ~~[Any,]~~ person who knowingly files with the Board a false complaint alleging a violation of any provision of this Code by any person shall be guilty of a Class B misdemeanor, pursuant to KRS 523.040.

Section 4. Notice of Hearings

If the Board determines that a hearing is necessary, the Board shall issue an order setting the matter for a hearing. This hearing shall be conducted within thirty (30) days from the date of the order. The Board may allow a continuance for just cause. The order setting the matter for hearing, together with a copy of any regulations of the Board relating to the hearing, shall be sent to the person against whom the complaint was filed within twenty-four (24) hours of the time the order setting a hearing is issued.

Section 5. Hearing Procedure

A. The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board. The hearings shall be conducted in accordance with this Section 5. and in accordance with any additional rules and regulations adopted by the Board to afford all parties due process.

B. Prior to the commencement of the hearing, the person against whom the complaint was filed, or their representative, 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. ~~[heard [heard].]~~ The Board shall inform the person against whom the complaint was filed, or their 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, introduce exhibits, cross-examine witnesses, submit evidence, and be represented by counsel. All witnesses shall have the right to be represented by counsel.

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 shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

F. After the conclusion of the hearing, the Board shall begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this Code has been proven. Within thirty (30) 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 Code has occurred, it shall immediately send written notice of this determination to the person against whom the complaint was filed 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 Code, the Board may:

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

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the Mayor, County Judge Executive, City Commission and County Fiscal Court.

(3) In writing, recommend to the City Commission and County Fiscal Court that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Issue an order requiring the violator to pay a civil penalty of not more than One Thousand Dollars [~~one thousand dollars~~] (\$1,000) to the City or County treasury as directed by the Board.

(5) Refer evidence of criminal violations of this Code or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

Section 6. Appeals

Any person who is found guilty of a violation of any provision of this Code by the Board may appeal the finding to the Circuit Court of the jurisdiction within thirty (30) days after the date of the final action by the Board by filing a petition with the court against the Board. The Board shall transmit

to the clerk of the court all evidence considered by the Board at the public hearing.

Section 7. Limitation of Actions

Except when the period of limitation is otherwise established by state law, an action for a violation of this Code must be brought within one (1) year after the violation is discovered but in no event later than four (4) years after the violation occurred.

Section 8. Advisory Opinions

A. Upon its own initiative, the Board may render advisory opinions concerning matters under its jurisdiction, or when requested by any Public Official.

B. An advisory opinion shall be requested in writing and 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 Code for actions taken in reliance on that opinion.

Section 9. Reprisals Against Persons Disclosing Violations Prohibited

A. ~~[No Public Official shall be subject to reprisal, in any manner, any]~~ Any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board or any other agency or official of the City or County or the Commonwealth any facts or information relative to an

alleged violation of this Code shall not be subject to reprisal by any Public Official. [~~Code.~~]

B. Article IV, Section 9. shall not prohibit disciplinary or punitive action if a Public Official discloses information which they know:

- (1) To [~~to~~] be false or which they disclose with reckless disregard for its truth or falsity;
- (2) To [~~to~~] be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884; or
- (3) Is [~~is~~] confidential under any other provision of law.

Section 10. Penalties

A. Except when another penalty is specifically set forth in this Code, any Public Official who is found by the Board to have violated any provision of this Code shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board not to exceed One Thousand Dollars [~~one thousand dollars~~] (\$1,000), which may be recovered by the City or County in a civil action in the nature of 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 Code, any Public Official who is found by the Board to have violated any provision of this Code, may be ordered to forfeit to the City, County or Agency an amount equal to the economic benefit or gain which the Public Official is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the City or 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 any and all other penalties which may be imposed under this Code, a finding by the Board that a Public Official of the City, County or Agency is guilty of a violation of this Code shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the governing body of the City, County or Agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any Public Official for a violation of this Code shall be taken in accordance with all applicable ordinances and regulations of the City, County, and all applicable laws of the Commonwealth.

D. Any violation of Article I, Section 2.F. is a Class A misdemeanor, pursuant to the provisions of KRS Chapter 61, and upon conviction of the Public Official, the court may void any Contract entered into in violation of Article I, Section 2.F.

E. Any person who intentionally files a Statement, as specified in Article II, which the Filer knows to contain false information or intentionally omits required information, or files an otherwise fraudulent Statement, shall be guilty of a Class B misdemeanor, pursuant to KRS 523.040.

F. Signing a Statement containing a material misstatement or omission will be considered a violation. Anyone who fails to comply with Article II,

Section 2.A. filing requirements shall be fined Twenty-five Dollars [~~twenty five dollars~~] (\$25) for each day they are in noncompliance.

G. Any penalty collected shall be paid to the City or County treasury as directed by the Board.

Section 11. Severability

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

Section 12. Conflicting Ordinances Repealed

All other ordinances and parts of ordinances in conflict with this Code are hereby repealed to the extent of the conflict.

~~[Section 13. Effective Date~~

~~This Code shall take full force and effect immediately upon publication as required by KRS 83A.060.]~~

Section 2. This Ordinance shall become effective immediately upon passage and publication.

INTRODUCED AND PUBLICLY READ ON FIRST READING, by the Daviess County Fiscal Court this the ___ day of _____, 2016.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the ___ day of _____, 2016.

Al Mattingly, County/Judge Executive

ATTEST:

Jennifer Warren, Fiscal Court Clerk

INTRODUCED AND PUBLICLY READ ON FIRST READING, by the City of Owensboro, on this the 21st day of June, 2016.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the 19th day of July, 2016.

Ron Payne, Mayor

ATTEST:

Beth Cecil, City Clerk