

COMMONWEALTH OF KENTUCKY
COUNTY OF TRIMBLE
ORDINANCE NO. 230.10
AN ORDINANCE RELATING TO
CODE OF ETHICS

AN ORDINANCE RELATING TO THE AMENDMENT OF A CODE OF ETHICS
FOR ELECTED AND APPOINTED COUNTY OFFICIALS AND EMPLOYEES OR
CANDIDATES FOR PUBLIC OFFICE IN TRIMBLE COUNTY, KENTUCKY

WHEREAS, the Trimble County Fiscal Court has the authority pursuant to KRS Chapter 65, to enact an ordinance establishing a code of ethics to guide the conduct of elected and appointed officers and employees of Trimble County, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, Surveyor and Constables; and

WHEREAS, public office and employment are a public trust and government has a duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties; and

WHEREAS, it is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct for local government officers and employees shall be clear, consistent, and uniform in their application, and to provide local officers and employees with advise and information concerning possible conflicts of interest which might arise in the conduct of their public duties; and

WHEREAS, the Trimble County Fiscal Court adopted an ordinance establishing a code of ethics for the purposes set out above and it is necessary to amend that said ordinance,

NOW THEREFORE BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF TRIMBLE, COMMONWEALTH OF KENTUCKY AS FOLLOWS:

AUTHORIZATION AND POWER:

This ordinance is passed pursuant to the terms of KRS 67.076 (4) giving the Fiscal Court the power and authority to enact an ethics code ordinance for Trimble County.

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 are closely-held, and the shareholders, owners, and officers of such a corporation;

- 4.) a corporation business association or other business in which the county government officer or employee serves as a compensated agent or representative.
- B.) "Business organization" means any corporation, partnership, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.
- C.) "Candidate" means an individual who seeks nomination or election to a county government office. An individual is a candidate when an individual:
- 1.) files a notification and declaration 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 person, whether compensated or not, whether full-time or part-time, employed by or serving the county government who is not a county government officer, but shall not mean any employee of a school district or school board.
- E.) "County government officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office.
- F.) "Member of immediate family" means a spouse, child or step-child, brother, brother-in-law, sister, sister-in-law, father, father-in-law, mother, mother-in-law and the spouses of any of those persons.

II. STANDARDS OF CONDUCT

- A.) No county government officer or employee or member of his 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 duties in the public interest;
- B.) No county government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantage to himself;
- C.) No county government officer shall act in his official capacity in any matter where he, a member of his immediate family, or business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

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- D.) No county government officer or employee shall undertake any employment of service, compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his 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, appearance, ceremonies, or fact finding trips relating 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, or any information not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his family, or any business organization with which he is associated;
 - H.) No county government officer or employee or business organization in which he has 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 serves;
 - I.) No county government officer shall be deemed in conflict with these provisions if, by reason of his 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, no material or monetary gain accrues to him 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 immediate family, whether directly or indirectly in return therefore; and
 - K.) Nothing shall prohibit any county government officer or employee, or members of his immediate family from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.

III. NEPOTISM

- A.) No county government officer or county government employee shall act in his/her official capacity to hire or cause to be hired any member of his/her immediate family at an hourly pay rate or with benefits in excess of any other employee with similar job duties, responsibilities and qualification requirements.
- B.) No immediate family member shall be compensated more than others in like job positions and all immediate family members must meet job qualifications.

IV. FINANCIAL DISCLOSURE

- A.) The following individuals shall be required to file a financial disclosure statement:
 - 1.) Elected officers;
 - 2.) Candidates for elected office;
- 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 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 immediate family in any business organization or nonprofit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$10,000.00 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 of the filer and spouse from within the Commonwealth of Kentucky which exceeds \$10,000.00 during the preceding calendar year;
 - 7.) Name and address of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of \$10,000.00 at the fair market value;
 - 8.) The location of all commercial property within the county, in which the filer or any member of the filer's immediate family had an interest of ten thousand dollars (\$10,000.00) or more during the past year;
 - 9.) Any officer or employee, or any member of his immediate family, of the county government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government shall disclose such private interest to the fiscal court;

10.) Any county judge/executive, magistrate or commissioner, county attorney, sheriff, jailer, coroner, constable, surveyor, county clerk or member of his immediate family who has a private interest in any matter pending before the court shall disclose such private interest on the records of the court and shall disqualify himself from participating in any decision or vote relating thereto.

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

D.) Non-complying officers, employees, candidates and nominees shall be fined \$50.00 for each day they are in non-compliance.

E.) The financial disclosure statements shall be filed with the Ethics Commission as follows:

- (1.) All elected officers and candidates for election in the May primary shall file their financial disclosure statements no later than February 15th of each year.
- (2.) Independent candidates and write-in candidates shall file a financial disclosure statement within thirty (30) days of filing their nomination papers but not fewer than ten (10) days prior to the date of election.
- (3.) A candidate who is nominated by party procedures to fill a position on the ballot due to a vacancy or the removal of the name of an otherwise qualified candidate, shall file a financial disclosure statement within thirty (30) days of filing their nomination papers but not fewer than ten (10) days prior to the date of election.
- (4.) Any person appointed to fill an un-expired term for a county office shall file a financial disclosure form within 30 days after the date of his appointment.

V. COUNTY ETHICS COMMISSION

A.) Composition of the County Ethics Commission:

The county ethics commission shall consist of three (3) members. The members shall be appointed by the county judge/executive with the approval of the fiscal court. One member shall be selected as the chairman for the commission. Members shall receive no compensation but may be reimbursed for all necessary expenses. The terms of members shall initially be set to allow staggered terms and shall not be longer than four years.

- (1.) All appointments shall be made no later than sixty (60) days after adoption of this ordinance.
- (2.) Vacancies on the County Ethics Commission shall be filled within sixty (60) 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) 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.

- (3.) Any member of the County Ethics Commission who fails to attend two meetings within any calendar year, without just cause as determined by the Ethics Commission, shall be considered to have resigned his/her position and a vacancy shall be declared for that position to be filled as set out above.

B.) Powers and Duties:

- 1.) The Commission shall have jurisdiction over the administration of this Code.
- 2.) The Commission may receive and initiate complaints; initiate investigations on its own motion; and conduct investigations, inquiries, and hearings concerning any matter covered by this code.
- 3.) The Commission may administer oaths, 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 the Kentucky Rules of Civil Procedure for taking depositions in civil actions.
- 4.) The Commission may render advisory opinions whether or not given a set of facts and circumstances which constitute a violation of any provision of this Code.
- 5.) The Commission shall prescribe and provide forms for reports, statements, notices, and other documents required by this Code.
- 6.) 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.
- 7.) The Commission may, with Fiscal Court approval, retain private counsel, at the expense of the county if the county attorney has an actual or potential conflict.

C. Complaint Procedure

- 1.) (a.) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall investigate any alleged violation of this Code.

(b.) Not later than fifteen (15) days after the date of the next meeting of the Commission after receipt of a complaint, the Commission shall initiate a preliminary inquiry into any alleged violation of this Code. At the time the preliminary inquiry is initiated, the Commission shall mail a copy of the Complaint, by certified mail, to the person alleged to have violated the Code. With the copy of the complaint the Commission shall also notify the person alleged to have violated the Code of the time and place of the Executive Session of the Commission at which time the Complaint will be considered. The person alleged to have violated the Code shall have the right to

attend that Executive Session, to be represented by Counsel, to confront and cross examine witnesses that may be presented against him/her and to present witnesses on his/her own behalf. The preliminary inquiry shall be conducted in Executive Session of the Commission and only those persons deemed necessary to a complete investigation shall be permitted to address the Commission during this preliminary inquiry, save and except that the person alleged to have violated the Code and his/her Counsel may not be excluded from the Executive Session.

- c.) Within thirty (30) days of the commencement of the inquiry, the Commission shall make a determination with regard to whether there is probable cause to believe that a violation of the Code has been committed. If it is determined upon preliminary inquiry that no violation has occurred, the Commission shall terminate the inquiry and notice shall be given to the person who was alleged to have committed the violation and to the complainant that no further action will be taken. If the Commission finds that there is probable cause to believe that there has been a violation of the Code, the Commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation and to the complainant.
- 2.) The Commission may turn over to the Commonwealth's Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings.
- 3.) The Commission may inform the alleged violator of potential violations and provide information to insure future compliance with the law.
- 4.) If the Commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this Code occurred, the Commission shall notify the alleged violator of the finding, and the Commission, upon majority vote:
 - (a.) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the county, or lack of significant impact on public confidence in government, reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the county judge/executive.
 - (b.) Initiate an adjudicatory proceeding to determine whether there has been a violation.
- 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 person

shall be guilty of a Class A Misdemeanor. The Commission shall investigate and determine whether a false complaint was intentionally filed and if it is determined that a false complaint was intentionally filed, the Chairman of the Commission shall file a criminal complaint through the County Attorney's office.

D.) Adjudicatory Proceedings:

- 1.) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all Commission adjudicatory hearings. All testimony in a Commission adjudicatory proceeding 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 and any other 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.
- 2.) 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 the person's own behalf, with or without attorney, to give a statement in opposition to such adverse mention or file a written statement of that opposition for incorporation into the record of proceeding.
- 3.) 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 61.180.
- 4.) Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the provisions of this section, the Commission shall meet in executive session for the purpose of reviewing the evidence before it. Within thirty (30) days after completion of deliberations, the Commission shall publish a written report of its findings and conclusions.
- 5.) The Commission upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of a violation of this Code, may:
 - (a.) Issue an order requiring a violator to cease and desist the violation;
 - (b.) Issue an order requiring the violator to file any report, statement, or other information as required by this Code;
 - (c.) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the County Judge/Executive and to the violator.
 - (d.) Issue an order requiring the violator to pay a civil penalty of not more than five hundred dollars (\$500.00). This section shall not affect the penalties for non-compliance with the requirement to file financial disclosure statements and the fine for such non-compliance will remain \$50.00 per day.

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- 6.) The commission may refer to the County Attorney, or Commonwealth's Attorney for prosecution, evidence of criminal violations of this code.
 - 7.) Findings of fact or final determination by the Commission that a violation of this code has been committed, or any testimony related to the Commission's findings of fact or final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky. Evidence collected by the commission may be used in a criminal proceeding if otherwise relevant.
 - 8.) Any person found by the Commission to have committed a violation of this Code may appeal to the Trimble Circuit Court. The appeal shall be initiated 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 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.

VI. RETENTION OF RECORDS

The Commission shall retain a file in safe keeping, a copy of all records, in accordance with the requirements set forth by the Archives and Records Commission.

VII. SEVERABILITY

If any section, sub-section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

VIII. EFFECTIVE DATE: This Ordinance shall become effective immediately upon the passage by motion and second after two readings at meetings of the Trimble Fiscal Court and publication as required by the Kentucky Revised Statutes.

IX. OFFICIAL FINANCIAL DISCLOSURE STATEMENT FORM:

Attached to this Ordinance and made a part hereof, is the official form on which each officer and candidate for office shall annually file their financial disclosure information required by Section IV of this Code.

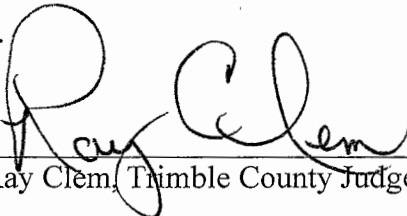
The first reading of this Ordinance was made at the special meeting of the Trimble County Fiscal Court on October 4, 2002.

The second reading of this Ordinance was made at the regular meeting of the Trimble County Fiscal Court on October 21, 2002 and upon motion by Magistrate Michael Dunaway and second by Judge Executive Ray Clem, the same was called for a vote and the following members of Fiscal Court voted in favor: Norvel Barnes, Michael Dunaway, Richard Webster, Stephen Stark, Ray Clem.

Approved as to form and content by Trimble County Attorney:


Perry R. Arnold, Trimble County Attorney

After second reading on October 21, 2002 the foregoing Ordinance was approved to be published and on the same occasion was signed in open Court by the County Judge/Executive, Honorable Ray Clem as evidence of his approval, attested under the seal of the Trimble County Fiscal Court Clerk.


Ray Clem, Trimble County Judge/Executive

Attest: 
Trimble County Fiscal Court Clerk

Published: _____

TRIMBLE COUNTY
ETHICS COMMISSION
FINANCIAL DISCLOSURE FORM

The following information shall be provided on an annual basis by all elected officials and candidates and party nominees for office and shall be provided no later than February 15 of each year. This form must be dated and signed in order to comply with the Code of Ethics.

Name: _____

Current Business Address and Business Phone Number: _____

Home Address of Filer: _____

Title of Filer's Public Office or Office Sought: _____

Occupation of Filer: _____

Occupation of Filer's Spouse: _____

List the positions held by the Filer, Filer's Spouse or any member of the Filer's immediate family in any business organization or nonprofit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$10,000.00 in the preceding calendar year and the name, address and telephone number of the business organization or non-profit entity from which the compensation was received: _____

List the name and address of each source of income of the filer and the filer's spouse from within the Commonwealth of Kentucky which exceed \$10,000.00 during the preceding calendar year: _____

List the name and address of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of \$10,000.00 or more at the fair market value:

List the location of all commercial property within Trimble County in which the filer or any member of the filer's immediate family had an interest of \$10,000.00 or more during the past year: _____

List any private financial interest which the filer or any member of the filer's immediate family has in any contract or matter pending before or within any department or agency of the county government: _____

Dated: _____

Signed by officer or candidate or nominee