

**SCOTT FISCAL COURT
ORDINANCE NO. 17-03**

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

WHEREAS, the Scott 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 Scott County; 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 advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

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

I

DEFINITIONS

A. "Business associate" includes the following:

1. a private employer;
2. general or limited partnership, or a general or limited partner within the partnership;
3. A limited liability company, member or manager/member within the limited liability company.
4. a corporation that is family-owned or in which all shares of stock are closely-held, and the shareholders, owners, and officers of such a corporation;
5. a corporation, business association, or other business entity in which the county government officer or employee serves as a compensated agent or representative.
- 6.

B. "Business organization" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint

stock company, receivership, trust, professional service corporation, limited liability company, or any legal entity through which business is conducted for profit;

C. "Candidate" means an individual who seeks nomination or election to a county government office. An individual is a candidate when the individual:

1. files a notification and declaration for nomination for office with a county clerk or the Secretary of State; or
2. is nominated for office by a political party under KRS 118.105, 118.115, 118.325, or 118.760.

D. "County government agency" means any board, commission, authority, nonstock corporation, or other entity formed by the county government or a combination of local governments.

E. "County government employee" means any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government or county government agency who is not a county government officer, but shall not mean any employee of a school district or school board, nor shall it mean any volunteer who is not serving on a county board or agency.

F. "County government officer" means any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or nontaxing district.

G. "Family member" means a spouse, domestic partner, parent, child, brother, sister, grandparent, grandchild, father-in-law, mother-in-law; brother-in-law, sister-in-law, daughter-in-law, son-in-law, half-brother, half-sister or step-parent.

H. "Immediate family" means spouse, domestic partner, parents or step-parents, and/or any dependents as claimed on the preceding years' income tax return.

I. "Non Publicly Traded Securities" shall include shares or interests in corporations, partnerships and limited liability companies.

J. The terms "he", "his" and "him" as used in this Ordinance shall be construed to encompass and include both genders.

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 act in his official capacity in any matter where he, a member of his immediate family, or a 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;

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

D. No county government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, political contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by the Kentucky Revised Statutes.

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 business, public relations, site evaluations or economic development trips related to his county government duties.

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, 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 immediate family, or any business organization with which he is associated or anyone else.

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

After the effective date of this ordinance, a family member of a county officer shall not be employed or appointed to a position in a county governmental agency in the same agency in which the officer serves. This provision shall not apply to a public officer's family members who, on the date of the officer's election or appointment, have been employed for at least six months in the same county in which the officer serves.

IV

FINANCIAL DISCLOSURE

A. The following individuals shall be required to file a Statement of Financial Disclosure:

1. The Scott County Judge Executive, Scott County Fiscal Court members, Scott County Attorney, Scott County Clerk, Scott County Constables, Scott County Coroner, Scott County Sheriff, Jailer and County Surveyor.
2. Candidates who have filed for the offices enumerated in subsection (1) above, in this section.
3. All county and jointly appointed members of the Georgetown-Scott County Joint Planning and Zoning Board and the Scott County Board of Adjustments;
4. Scott County Treasurer
5. Department Heads

B. The Statement of Financial Disclosure should include the following information:

1. Name, address, telephone number of filer, title of filers public office or office sought, and occupation of filer and spouse.
2. Creditors names and addresses (not including family members) to whom the officer, candidate, or member of his immediate family, separately or together, owe \$20,000.00 or more during the preceding calendar year, excluding, however, debt from a commercially regulated financial institution or entity;
3. Offices or Directorships held by the officer, candidate, or members of his immediate family during the preceding calendar year;
4. Non Publicly Traded Securities valued at \$5,000.00 or more owned by the officer, candidate or member of his immediate family, during the preceding calendar year.
5. Source of Income of officer, candidate and spouse listing name and address of each source, during the preceding calendar year.
6. Real Estate, location and type (commercial, residential, agricultural) excluding the primary residence, which an officer, candidate or member of his immediate family had an interest of Five Thousand \$5,000.00) or more during the preceding calendar year.
7. Gifts and or Honoraria, listing the name and address source, having an aggregate fair market value of \$200.00 or more, from any single source received by an officer, candidate or members of his immediate family during the preceding calendar year, excluding gifts from or between family members;
8. Disclosure, as set out hereinabove, is not to be construed as to require any officer, candidate or members of their immediate families to disclose any specific dollar amount nor the names of individual clients or customers of businesses listed as sources of income.

C. The Statement of Financial Disclosure shall encompass the requirements outlined in Section IV A & B. The Statement of Financial Disclosure shall be provided to the persons required to file the disclosure as follows:

(1) The Scott County Clerk's Office shall supply the Statement of Financial Disclosure to all candidates for office at the time the individual files to run for an elected office. All candidates shall file a Statement of Financial Disclosure with the Ethics Commission on or before March 1st of the year in which they are a candidate for office. "Filing" of the Statement of Financial Disclosure shall be considered complete as of the date of the postmark on the envelope, if the form is mailed, or if emailed, the date the email is received. The Ethics Commission shall inform the County Attorney's Office of those

candidates who have not returned the fully completed Statement of Financial Disclosure form by March 1st. The County Attorney's Office will send a Letter of Non-Compliance to those persons.

(2) It shall be the duty of the office of the Judge Executive to send out to all persons required to file a Statement of Financial Disclosure Form, other than those persons who are required to file solely by reason of their candidacy for office, by May 15 of each year. The Statement of Financial Disclosure Form shall be returned to the Ethics Commission by July 1st of each year. The Ethics Commission shall inform the Judge Executive's Office of those persons who have not returned the fully completed Statement of Financial Disclosure Form by the deadline. The Ethics Commission shall make this notification to the Judge Executive's Office within thirty (30) days after the deadline has passed.

D. The Statement of Financial Disclosure shall be signed, dated and verified by the individual required in Section A above. Signing a fraudulent Statement of Financial Disclosures shall be a Class A misdemeanor.

E. All pay and benefits may be withheld until a non-complying individual is in compliance with the filing requirements. Candidates or members of immediate families of any person required to disclose in Section A above, who fail to comply with these filing requirements may be fined \$25.00 for each day they are in non-compliance, up to a maximum total civil fine of \$500.00.

F. A Statement of Financial Disclosure shall be subject to the law pertaining to open records. Those individuals who have timely filed his/her Statement of Financial Disclosure may be identified on the County's website.

G. The Statement of Financial Disclosure shall be submitted to the County Ethics Commission. Any person who fails or refuses to submit shall be guilty of a civil offense and may be subject to a civil fine to be imposed by the Ethics Commission in an amount not to exceed \$25.00 per day, up to a maximum total civil fine of \$500.00.

H. After review and acceptance by the Scott County Ethics Commission all Statements of Financial Disclosure will be filed annually with the Scott County Clerk's Office. This shall be done no later than December 31 of each year. The Scott County Clerk shall retain the forms for a minimum of four (4) years.

V

COUNTY ETHICS COMMISSION

A. The county ethics commission shall consist of five (5) members. The commission member selected as chairperson shall be a citizen member. The members shall be appointed by the county judge executive with the approval of the fiscal court. Members shall receive no

compensation but may be reimbursed all necessary expenses. The terms of members shall be staggered and no longer than four (4) years.

B. Power and Duties.

1. The commission shall have jurisdiction over the administration of this code and enforcement of the civil penalties prescribed by this code including the maintenance of the Statement of Financial Disclosure until the time the forms are annually filed with the office of the Scott County Clerk. The Statement of Financial Disclosure shall be available for public inspection, whether the forms are in the possession of the Ethics Commission or the Scott County Clerk's Office once the forms are completed and accepted by the commission.
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 and issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Commission.
4. The commission may render advisory opinions whether or not a given set of facts and circumstances constitute a violation of any provision of this code.
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 retain private counsel at the expense of the county if the county attorney has an actual or potential conflict.

C. Complaint procedure; preliminary investigations.

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 ten (10) days after the commission received the complaint, the commission shall initiate a preliminary inquiry into any alleged violation of this code.

(c) Within thirty (30) days of the commencement of the inquiry, 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.

2. All commission proceedings and records relating to a preliminary investigation shall be confidential except where in conflict with the Kentucky Open Records Act and the Open Meeting Act.

The commission may turn over to the Commonwealth's attorney or county attorney of the jurisdiction in which the offense allegedly occurred evidence which may be used in criminal proceedings.

3. The commission shall afford a person who is the subject of a preliminary investigation 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 in the complaint.
4. If the commission determines in the preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of this code, the commission shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation.
5. If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this code has occurred, the commission shall notify the alleged violator of the finding, and the commission may, 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.

6. 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.

D. Adjudicatory proceedings; action by commission; appeal.

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 61.810.
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 the 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.
 - (d) Issue an order requiring the violator to pay a civil penalty of not more than five hundred dollars (\$500).
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 determinations 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 the action to the Scott 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

SEVERABILITY

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

VII

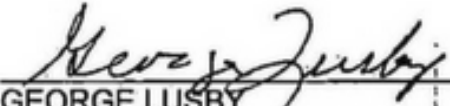
CONFLICTING ORDINANCES REPEALED

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

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Scott County, Kentucky, held on the 13 day of NOV., 2017.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Scott County, Kentucky held on the 28 day of Dec., 2017.

THIS ORDINANCE NO. 17-03 shall become effective upon passage and Publication.



GEORGE LUSBY
SCOTT COUNTY JUDGE/EXECUTIVE



STACY HAMILTON
FISCAL COURT CLERK

I, Rand Marshall, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 198 East Washington Street, Georgetown,

Kentucky 40324. I further certify the foregoing Summary of Ordinance 2017-03 of the Scott Fiscal Court, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.



RAND MARSHALL

sfc.summary.code.of.ethics.amendment.17-03