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CODE OF ETHICS FOR THE COUNTY OF SPENCER

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Spencer County, Kentucky
Ordinance No. 16
Fiscal Year 2011 Series

WHEREAS, the Spencer 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 Spencer County, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, 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 section of the Spencer County Administrative Code to provide a method of assuring that the 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 Spencer County, Commonwealth of Kentucky, as follows:

SECTION 1: FINDINGS, DECLARATIONS

The Spencer County Fiscal Court finds and declares that:

- A. Public office and employment are a public trust;
- B. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives whether compensated or not;
- C. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled;
- D. Local government has the duty both to provide the citizens of Spencer County 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
- E. It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for local government officers and employees shall be clear, consistent, uniform in their application, and enforceable with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

SECTION 2: DEFINITIONS:

- A. **Business associate** includes the following:
1. a private employer;
 2. a general or limited partnership, or a general or limited partner within the partnership;
 3. a corporation that is family-owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
 4. a corporation, business association, or other business entity in which the county government officer or employee serves as a compensated agent or representative.
- B. **Business organization** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self employed individual, holding company, joint stock company, limited liability corporation, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;
- C. **Candidate** means an individual who seeks nomination or election to a county government office. An individual is a candidate when the individual:
1. files a notification and declaration of nomination for office with the County Clerk or Secretary of State; or
 2. is nominated for office by a political party under KRS 118.105, 118.115, 118.325, or 118.760.
- D. **County government agency** means any board, commission, authority, non-stock corporation, department, or other entity formed by the county government or combination of local governments and includes any employee thereof.
- E. **County government employee** means any person, whether compensated or not, whether full time, part time, or seasonal, employed by or serving the county government, but shall not mean any employee of the local school board or any person using jail work release or performing community service under Judicial Order.
- F. **County government officer** means any person, whether compensated or not, whether full time or part time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or non-taxing district.
- G. **Family member** means a spouse, parent, child, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- H. **Rule of necessity** means the county government, agency, or district may make or enter into a contract in which an officer, employee, family member, or a business associate has an economic interest if:

1. The nature of the transaction and the nature of the interest is publicly disclosed on record prior to the time it is engaged in, and
2. A specific finding is made by the county government, agency, or district and entered on the official record of the proceedings of the governing body that, notwithstanding the conflict, it is in the best interest of the local government because of limited supply, price, or documented emergency.

SECTION 3: STANDARDS OF CONDUCT

Spencer County officers or employees under the jurisdiction of this section shall comply with the following provision:

- A. No county government officer or employee or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in conflict with the proper discharge of his/her duties in the public interest;
- B. No county government officer or employee shall use or attempt to use his or her position to secure unwarranted privileges or advantages for himself/herself;
- C. No county government officer or employee shall act in his/her official capacity in any manner which he/she, a member or his/her family, or a business organization in which he/she has an interest, has a direct or indirect financial or personal involvement that might be expected to impair his/her objectivity or independence of judgment;
- D. No county government officer or employee shall undertake any employment or service, compensated or not, which might be expected to prejudice his/her independence of judgment in the exercise of his/her official duties;
- E. No county government officer or employee, member of his/her family, or business organization in which he/she 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/her, directly or indirectly, in the discharge of his/her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective office as governed by the Kentucky Revised Statutes;
- F. No county government officer or employee shall be prohibited from giving or receiving an award publicly presented in recognition of public service, or hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearance, ceremonies or fact finding trips related to official county government business.

- G. No duly authorized county government official shall be prohibited from accepting a gratuity for solemnizing a marriage;
- H. No county government officer or employee shall use, or allow to be used, his/her public office or employment, or any information, not generally available to the members of the public, which he/she receives or acquires in the course of and by reason of his/her office or employment, for the purpose of securing financial gain for himself/herself, any member of his/her family, or any business organization with which he/she is associated except under the "rule of necessity".
- I. No county government officer, county employee, or business organization a county government officer or employee has an interest in 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/she serves;
- J. No county government officer or employee shall be deemed in conflict with these provisions if, by reason of his/her participation in the enactment of any ordinance, resolution or other matter required to be voted upon, which falls under the "rule of necessity".
- K. No elected county government officer shall be prohibited from making an inquiry for information of providing assistance on behalf of a constituent, if no fee, reward, or other thing of value is promised to, given to, or accepted in return by the officer or a member of his/her immediate family, whether directly or indirectly;
- L. Nothing in this section shall prohibit any county government officer, county employee, or members of his/her family, from representing himself/herself or themselves in negotiations or proceedings concerning his/her or their own interests;
- M. No county government officer or employee shall use official authority, influence, or coercion toward an official or employee of county government at any time for political activity or to effect a nomination or election result;
- N. No county government officer or employee shall attempt, directly or indirectly, to coerce a person in county government to lend, pay, or contribute anything of value to a group or person for any political activity or purpose;
- O. No county government officer or employee shall use personnel, property, equipment, or resources of the county government for personal benefit, any political activity, convenience, or profit, nor for the benefit, convenience or profit for any family members, relatives, business associates or friends.
- P. No official or employee of county government shall receive any requisites of office that are not offered equally to each and every citizen, including but not limited to vehicles, neighborhood development, or other discretionary grant funds.

SECTION 4: CONFLICT OF INTEREST IN CONTRACTS

No officer, employee, board or commission member of the county or any county agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the county or county agency, except as follows:

1. The prohibition in subsection (a) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for county office, before an appointed officer was appointed to a county or county agency office, or before an employee was hired by the county or county agency. However, if any contract entered into by a county, or county agency, officer, employee, board or commission member, before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract.
2. The prohibition in subsection (a) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer, employee, board or commission member is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer, employee, board or commission member has any of the authorities set forth in the preceding sentence, then the officer, employee, board or commission member shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.
3. The prohibition in subsection (a) of this section shall not apply in any case where the following requirements are satisfied.
 - a) The specific nature of the contract transaction and the nature of the officer's employee's, board or commission member's interest in the contract are publicly disclosed at a meeting of the governing body of the county or county agency and refrain from participating in voting.
 - b) The disclosure is made a part of the official record of the governing body of the county or county agency before the contract is executed.
 - c) A finding is made by the governing body of the county or county agency that the contract with the officer, employee, board or commission member is in the best interest of the public and the county or county agency because of price, limited supply, or other specific reasons.
 - d) The finding is made a part of the official record of the governing body of the county or county agency before the contract is executed.

SECTION 5: RECEIPT OF GIFTS.

No officer, employee, board or commission member of the county or any county agency shall directly or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred dollars (\$100), whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, employee, board or commission member in the performance of his or her public duties.

Exceptions:

- a. Unsolicited gratuities, regardless of value, when such gratuities are offered to and remain the property of the County or County Agency.
- b. Admission to events to which they are invited in their official capacity as a Public Official.
- c. Campaign contributions or services in connection with their political campaign.
- d. Loans made in the ordinary course of business.
- e. Gifts received from family members
- f. An occasional non-monetary award publicly presented by a nonprofit organization for performance of public service.

SECTION 6: USE OF COUNTY PROPERTY, EQUIPMENT AND PERSONNEL.

No officer, employee, board or commission member of the county shall use or permit the use of any county time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

- a. The use is specifically authorized by a stated county policy; or
- b. The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

SECTION 7: MISUSE OF CONFIDENTIAL INFORMATION.

No officer, employee, board or commission member of the county or any county agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.

SECTION 8: HONORARIA.

- A. No officer, employee, board or commission member of the county or any county agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the

appearance, speech or article is both related to the officer's, employee's, board or commission member's activities outside of government service and is unrelated to the officer's, employee's, board or commission member's service with the county.

- B. Nothing in this section shall prohibit an officer, employee, board or commission member of the county from receiving and retaining from the county or on behalf of the county actual and reasonable out-of-pocket expenses incurred by the officer, employee, board or commission member in connection with an appearance, speech or article, provided that the officer, employee, board or commission member can show by clear and convincing evidence that the expenses were incurred or received on behalf of the county or county agency and primarily for the benefit of the county and not primarily for the benefit of the officer, employee, board or commission member or any other person.

SECTION 9: POLITICAL ACTIVITIES.

No appointment to, or employment in, any county government 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.

SECTION 10: PERFORMANCE OF OFFICIAL FUNCTIONS.

Public Officials shall:

1. Discharge public duties without favor, compensation or reward, except from the county or agency involved;
2. 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 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.

SECTION 11: FINANCIAL DISCLOSURE

- A. The following individuals shall be required, as defined in this chapter, to file a financial disclosure statement:
1. Elected officials – annually;
 2. Candidates for elected office – within 21 days of filing;
 3. Officers and other employees with procurement authority exceeding five hundred (\$500.00) per purchase – annually;
 4. Members of boards and commissions to which this chapter of the Spencer County Administrative Code applies including any employee of these boards and commissions with procurement authority exceeding five hundred dollars (\$500.00) per purchase – annually.

- B. The financial disclosure statement shall be on a form setting forth the above (copy of the form is attached to this chapter as an appendix). The financial disclosure statement shall be filed annually by those subject to the reporting provisions of this chapter no later than February 28.
- C. Candidates shall be required to file the statement no later than twenty one (21) days after the filing date or the date of their nomination by a political party.
- D. Newly-appointed officers, board and commission members, shall file the required financial disclosure form within 30 days of such appointment, and thereafter annually by February 28.
- E. The financial disclosure statement shall contain the following information:
 - 1. Name of filer.
 - 2. Current business address, business telephone number and home address of the filer;
 - 3. Title of the filer's public office or office being sought;
 - 4. Occupations of filer and spouse;
 - 5. Positions held by the filer, spouse, or minor children in any business organization or nonprofit entity from which the filer, spouse, or minor children received compensation in excess of \$10,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;
 - 6. Name, address, and telephone number of each source of income of the filer, spouse, or minor children which exceeds \$10,000 during the preceding year;
 - 7. Name, address, and telephone number of each business organization in which the filer, spouse, or minor children had an interest of \$10,000 at fair market value or five percent (5%) ownership interest or more during the preceding year;
 - 8. The location and type (commercial, residential, agricultural) of all real property, other than the filer's primary residence, in which the filer, spouse, or minor children had an interest of \$10,000 or more during the past year:
- F. Each statement shall be signed and dated by the individual filing the statement of financial interest. Signing a financial disclosure statement knowing it is false shall be a Class A misdemeanor.
- G. All financial disclosure statements shall be open records and access to them shall be governed by the Kentucky Open Records Law.
- H. Financial disclosure statements shall be filed with the County Clerk, who shall forward a copy of such documents to the Spencer County Ethics Commission within 48 hours of the filing deadline. Following review or final disposition by the Spencer County Ethics Commission, the documents shall be maintained by the Spencer County Clerk.

SECTION 12: NEPOTISM

- A. After the effective date of this administrative code of ethics, a family member as defined in Section II of this chapter on ethics of a county officer shall not be initially employed to a full time position in any governmental agency or special district in which the county officers serves. This provision is subject to appeal to the ethics commission. This provision shall not apply to a county officer's family member who, after the effective date of this administrative code of ethics, on the date of the county officer's election or appointment, has been employed for at least twelve (12) months in the same county agency in which the county officer serves. This provision shall not apply to part-time, seasonal, or emergency employees who work less than 120 days per year.

SECTION 13: SPENCER COUNTY ETHICS COMMISSION – ESTABLISHMENT

- A. There is hereby established the Spencer County Ethics Commission.
- B. The Spencer County Ethics Commission shall consist of three (3) members.
- C. The members of the Spencer County Ethics Commission shall be citizens who hold no public office or position.
- D. Members of the Spencer County Ethics Commission shall be at least 21 years of age and shall not have been convicted of a misdemeanor within the previous two (2) years, nor convicted of a felony at any time.
- E. Members of the Spencer County Ethics Commission shall be residents of Spencer County, Kentucky.
- F. Members of the Spencer County Ethics Commission shall be nominated by the Spencer County Judge/Executive and confirmed by the Fiscal Court of Spencer County. Nominees may be suggested to the County Judge/Executive by any resident of Spencer County.
- G. Those members of the Spencer County Ethics Commission serving at the time of the adoption of this administrative code of ethics shall continue to serve until the expiration of their current term of appointment.
- H. Vacancies on the Spencer County Ethics Commission shall be filled within sixty (60) days by the County Judge/Executive with the approval of the Fiscal Court. If a vacancy is not filled by the County Judge/Executive and approved by the Fiscal Court, the remaining members of the Spencer County Ethics Commission shall fill the vacancy subject to the approval of the fiscal court. All vacancies shall be filled for the remainder of the unexpired term.

- I. The terms of members of the Spencer County Ethics Commission shall be for a period of four years. A commission member may serve no more than two (2) consecutive terms.
- J. Members of the Spencer County Ethics Commission shall be compensated the same amount as other board members and shall be reimbursed by the county for necessary expenses incurred in the performance of their duties under this chapter.
- K. Members of the Spencer County Ethics Commission shall annually elect a chairperson. The election of the chairperson shall be held in February of each year and the newly elected chairperson will assume his/her duties on March 1st.
- L. The Spencer County Ethics Commission shall meet after March 1st and before March 31st of each calendar year to review financial disclosure statements that are filed by county officials and employees.
- M. The Spencer County Ethics Commission shall meet within 30 days of the final filing date for elected officials for the purpose of reviewing the required financial disclosure statements of candidates.
- N. Other meetings may be held as necessary to carry out the provisions of this chapter by the Chairperson of the Spencer County Ethics Commission. If the Chairperson is unable to call a meeting or refuses to call a meeting, the two remaining members may call a meeting by notifying the County Judge/Executive and Spencer County Fiscal Court in writing of the time and place a meeting will be held.
- O. The Spencer County Fiscal Court shall provide the Spencer County Ethics Commission with necessary facilities for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.
- P. All necessary expenses incurred by the Spencer County Ethics Commission and its members shall be paid, upon certification of the chairperson, by the Spencer county Fiscal Court within the limits of funds appropriated by the Spencer County Fiscal Court by annual or emergency appropriations for these purposes. Spencer County Fiscal Court retains the right to withhold payment for good cause shown.

SECTION 14: POWERS AND DUTIES OF THE COUNTY ETHICS COMMISSION:

The Spencer County Ethics Commission shall have the following powers and duties:

- A. To receive, hear, and review complaints and hold hearings with regard to possible violations of the county ethics provisions or financial disclosure requirements by local government officers or employees serving the county;
- B. Administer oaths, compel the attendance of witnesses and the production of papers, books, documents, and testimony; and to have the deposition of witnesses taken in the

manner prescribed by the Kentucky Rules of Civil Procedure for taking depositions in civil actions;

- C. To render advisory opinions to local government officers or employees serving the county as to whether a given set of facts and circumstances would constitute a violation of any provision set forth in this chapter on ethics and financial disclosure;
- D. To forward to the Spencer County Attorney, Attorney General of Kentucky, Commonwealth Attorney or other government bodies any information concerning violations of the county provisions of ethics and financial disclosure by local government officers or employees serving the county which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by such officials;
- E. Prescribe forms for reports, statements, notices, and other documents required by this chapter. The Fiscal Court shall pay the costs of producing the forms prescribed by the Spencer County Ethics commission. The prescribed forms shall be maintained by the Office of the County Judge/Executive and available to the public or those covered by the provisions of this chapter upon request.
- F. Determine whether the required financial disclosure statements and reports have been filed, and, if filed, whether they conform with the requirements of this chapter. The Spencer County Ethics Commission shall give notice within fifteen (15) days from the Commission's review to a filer that deficiencies in and/or corrections to a required report need to be filed with the Spencer County Ethics Commission. Such notice shall be in writing and explained to the filer in detail by the Spencer County Ethics Commission. The filer of such a report found to be deficient shall have fifteen (15) days to resubmit the required report to the Spencer County Ethics Commission.
- G. Retain private counsel with pre-approval by the fiscal court at the expense of the county.
- H. To enforce the provisions of this chapter on ethics and financial disclosure with regard to local government officers and employees serving the county and to impose penalties for the violation thereof as are authorized by this chapter.

SECTION 15: REQUEST FOR ADVISORY OPINION FROM ETHICS COMMISSION

A local government officer or employee serving the county may request and obtain from the Spencer County Ethics Board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this chapter. Advisory opinions of the Spencer County Ethics Commission shall not be made public.

SECTION 16: COMPLAINT PROCEDURE: PRELIMINARY INVESTIGATIONS

- A. Any person over the age of 18 may file a complaint alleging a violation of this chapter on ethics and financial disclosure subject to the following requirements:
 - 1. The alleged violation must have occurred, in whole or in part, within twelve (12) months preceding the filing of the complaint;
 - 2. The complaint must be on the form prescribed by the commission, or substantially conform thereto;

3. The complaint must contain the name, address, and signature of the complainant, and all other information requested on the complaint forms.
- B. The Spencer County Ethics Commission may initiate a complaint upon its own motion, based upon information reported in the media.

SECTION 17: INITIAL INQUIRY

- A. Not later than fifteen (15) days after the Spencer County Ethics Commission receives the complaint from a citizen or initiates a complaint upon its own motion, the Ethics Commission shall begin an initial inquiry into the alleged violation of the provisions of this chapter.
- B. Within thirty (30) days of commencement of the initial inquiry, the Spencer County Ethics Commission shall conclude whether or not the complaint is incomplete, outside of its jurisdiction, or frivolous. It shall reduce this conclusion, if so found, to writing and shall transmit a copy thereof, if possible, to the complainant and to the local government officer or employee against whom the complaint was filed, thereby terminating the action and dismissing the complaint.
- C. If a potential violation is found the Spencer County Ethics Commission shall notify within ten (10) days the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. Such notice shall be in writing and shall contain a copy of the original complaint.

SECTION 18: PRELIMINARY INVESTIGATION

- A. Upon a finding of potential violation after an initial inquiry, the commission shall afford any person accused of a violation an opportunity to respond in writing to the allegations in the complaint. The accused person shall be allowed thirty (30) days to prepare a written response. A fifteen (15) day extension may be offered at the discretion of the commission. A copy of the written response will be forwarded to the complainant. The accused person may request an opportunity to appear before the commission for informal oral arguments. The commission shall permit such appearance only after giving written notice to the complainant of his/her right to be present.
- B. If the Spencer County Ethics Commission determines, during or after the preliminary investigation, that the complaint does not allege facts sufficient to constitute a violation of this chapter, the Commission shall immediately terminate the inquiry and shall issue a written opinion to that fact. Copies of the opinion shall be filed with the Spencer County Clerk.
- C. If the Spencer County Ethics commission, during the course of the preliminary investigation or hearing, finds probable cause to believe that a violation of this

chapter has occurred, the commission shall notify in writing to the accused violator such findings and may, upon majority vote initiate an adjudicatory proceeding under the provisions of Section 19 of this chapter to determine whether there has been a violation of the provisions of this chapter on ethics and financial disclosure. Such an adjudicatory proceeding shall occur no less than 30 days from the issuance of written notice to the accused violator.

- D. If the Spencer County Ethics Commission finds probable cause to believe that a violation of this chapter has occurred, but fails to initiate an adjudicatory hearing, any Party to the ethics complaint may, within 30 days of the Ethics commission's ruling, request in writing, to the Ethics Commission, that an adjudicatory hearing be called. The Ethics Commission shall grant the request. Such an adjudicatory proceeding shall occur no less than 30 days from receiving the request for the hearing.

SECTION 19: ADJUDICATORY PROCEEDINGS

- A. The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all Spencer County Ethics Commission adjudicatory hearings.
- B. All testimony in a Spencer County Ethics Commission adjudicatory hearing shall be under oath and shall be recorded by a judicial court reporter.
- C. 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 legal counsel and any other due process rights, privileges, and responsibilities of a witness appearing before the courts of the Commonwealth of Kentucky.
- D. Any person whose name is mentioned during a Spencer County Ethics Commission Adjudicatory Hearing and who may be adversely affected thereby may appear personally before the Commission on the person's own behalf, with or without an attorney, to give a statement of opposition to such adverse mention or file a written statement of the opposition for incorporation into the record of the proceeding.
- E. All Spencer County Ethics Commission Adjudicatory Hearings shall be carried out pursuant to the provisions of this section and shall be open to the public unless the members vote to go into executive session in accordance with the provisions of KRS 61.810.
- F. Within five (5) days after the end of an adjudicatory proceeding held pursuant to the provisions of this section, the Spencer County Ethics Commission shall meet in executive session for the purpose of reviewing the evidence before it. Within ten (10) days after the completion of deliberations, the Spencer County Ethics commission shall publish a written report of its findings of facts and conclusions of law. This report shall be filed with the County Attorney, or Attorney General of Kentucky if filed in regard to the County Attorney.

- G. The Spencer County Ethics Commission, upon finding pursuant to an adjudicatory hearing, that there has been clear and convincing proof of a violation of this chapter of the Spencer County Administrative Code, is required to:
1. Issue an order requiring the violator to cease and desist the violation and impose one or more of the following penalties:
 - 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, the Spencer County Ethics Commission may issue a public or confidential reprimand, in writing, to the alleged violator for potential violations of the provisions of this chapter.
 - b. Issue an order requiring the violator to file any report, statement, or other information as required by this chapter on ethics and financial disclosure;
 - c. In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the County Clerk.
 - d. Issue an order requiring the violator to pay a civil penalty of not more than one thousand dollars (\$1,000.00). Such civil penalty shall be paid to the Spencer County Treasurer.
 - e. Refer the matter to the Spencer County Attorney, Commonwealth Attorney, Attorney General of Kentucky, or other investigative agencies of appropriate jurisdiction for further proceedings and possible criminal penalties.
 2. Any findings against and/or penalties imposed on an elected official must be recorded with the Spencer County Clerk's office.
- H. Findings of fact or final determination by the Spencer County Ethics Commission that a violation of this chapter of the Spencer County Administrative 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 Spencer County Ethics Commission may be used in a criminal proceeding if otherwise relevant.

SECTION 20: APPEALS

- A. Any person found by the Spencer County Ethics Commission to have committed a violation of this chapter of the Spencer County Administrative Code may appeal the action to the Spencer Circuit Court. The appeal shall be initiated within thirty (30) days after the final action of the Spencer County Ethics Commission by filing a petition with the Spencer Circuit Court against the Spencer County Ethics Commission. The Spencer County Ethics Commission shall transmit to the clerk of the Spencer Circuit Court all evidence considered by the Spencer County Ethics Commission at the public hearing. The Spencer Circuit Court shall hear the appeal upon the record as certified by the Spencer County Ethics Commission.

SECTION 21: GENERAL PROVISIONS

- A. All Spencer County Ethics proceedings and records with the exception of the adjudicatory hearing shall be confidential until a final determination is made by the Commission. Notwithstanding the foregoing, the Spencer County Ethics Commission may turn over to the Spencer County Attorney, the Commonwealth Attorney, or other appropriate investigative agency, evidence which may be used in criminal proceedings.
- B. The complaining party or alleged violator shall not publicly disclose the existence of a complaint under preliminary investigation. Violation of this subsection may result in disciplinary action up to and including suspension without pay, a fine, or both. This action would not preclude either party from obtaining counsel.
- C. The Spencer County Ethics Commission members shall not publicly disclose the existence of a complaint or a preliminary investigation nor make public any documents which were issued to any party in an action until a final determination is made.
- D. Any person who knowingly files with the Spencer County Ethics Commission a false complaint of misconduct on the part of any county officer or employee shall be charged with a Class A misdemeanor.
- E. An accused person shall have the right to be represented by an attorney at every stage beyond initial inquiry.

SECTION 22: SEVERABILITY SECTION

The provisions of each section of this Ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person, license, class or group, be held unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this Ordinance, it being the legislative intent of the Fiscal Court to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of every other.

SECTION 23: EFFECTIVE

This ordinance shall become effective on _____, 2011, after its passage and publication as required by law. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

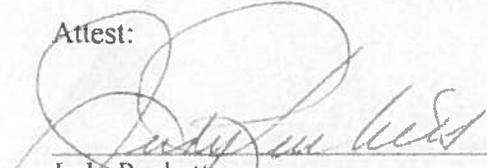
Given first reading and approval on March 21st, 2011.

Given second reading and adoption on April 4th, 2011.



Bill Karrer
Spencer County Judge Executive

Attest:



Judy Puckett
Spencer County Fiscal Court Clerk