

CITY OF RUSSELLVILLE

Ordinance No. 94- 12

An ordinance establishing a code of ethical conduct applicable to the officers and employees of the city and city agencies.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted legislation requiring this city to enact and enforce a code of ethics governing the conduct of city officers and employees beginning no later than January 1, 1995; and

WHEREAS, the officials of this city are committed to the operation of a city government that manifests the highest moral and ethical standards among its officers and employees and desire to comply with all requirements of the Commonwealth's local government ethics law.

NOW, THEREFORE, Be it ordained by the legislative body of the city of Russellville, Kentucky

SECTION 1. Title. This ordinance shall be known and may be cited as the "City of Russellville Code of Ethics."

SECTION 2. Findings. The legislative body of the city of Russellville finds and declares that:

(A) Public office and employment with the city are public trusts.

(B) The vitality and stability of the government of this city depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer or employee, that confidence is imperiled.

(C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

SECTION 3. Purpose and Authority.

(A) It is the purpose of this ordinance to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

(B) It is the further purpose of this ordinance to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

SECTION 4. Definitions. As used in this ordinance, unless the context clearly requires a different meaning:

(A) "Business" means any corporation, partnership, sole proprietorship, 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.

(B) "Board of Ethics" means the Barren River Regional Board of Ethics which is vested by this ordinance with the responsibility of enforcing the requirements of the city's code of ethics.

(C) "Candidate" means any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

(D) "City" refers to the city of Russellville, Kentucky.

(E) "City agency" means any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

(F) "Employee" means any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the city. The term "employee" shall not include any contractor or subcontractor or any of their employees.

(G) "Family member" means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(H) "Immediate family member" means a spouse, an unemancipated child residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

(I) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The mayor.
- (2) A legislative body member.
- (3) The City Clerk.
- (4) Any person who occupies a nonelected office created under KRS 83A.080.
- (5) A member of the governing body of any city agency or any joint governmental agency who has been appointed to the governing body of the agency of the city.

STANDARDS OF CONDUCT

SECTION 5. Conflicts of Interest in General: Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

(A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a financial benefit for any of the following:

- (1) The officer or employee.
- (2) A family member.
- (3) An outside employer.
- (4) Any business in which the officer or employee, or any family member has a financial interest.
- (5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C)(4) and (C)(5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

(E) Every officer or employee who has a prohibited financial interest which the officer or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

SECTION 6. Conflicts of Interest in Contracts.

(A) No officer or employee of the city or any city 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 city or a city 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 city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee 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 or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee 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 or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.

(b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interests of the public and the city or city 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 city or city agency before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

SECTION 7. Receipt of Gifts. No officer or employee of the city or any city 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 or employee in the performance of his or her public duties.

SECTION 8. Use of City Property, Equipment, and Personnel.

(A) No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(1) The use is specifically authorized by a stated city policy.

(2) 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 9. Representation of Interests Before City Government.

(A) No officer or employee of the city or any city agency shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

(C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interests.

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

SECTION 10. Misuse of Confidential Information. No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course or his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal 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 11. Post-Employment Restriction. No officer or employee of the city or any city agency shall appear or practice before the city or any city agency with respect to any matter on which the officer or employee personally worked while in the service of the city or

city agency for a period of one (1) year after the termination of the officer's or employee's service with the city or city agency.

SECTION 12. Honoraria.

(A) No officer or employee of the city or a city 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 or employee's activities outside of municipal service and is unrelated to the officer's or employee's service with the city.

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

FINANCIAL DISCLOSURE

SECTION 13. Who Must File. The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

(A) Elected city officials.

(B) Candidates for elected city office.

(C) Nonelected officers and employees of the city who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than five hundred dollars (\$500.00).

SECTION 14. When to File Statements.

(A) Pursuant to the Memorandum of Agreement between the city and the Barren River Area Development District, the initial statement of financial interests required by this section shall be filed with the Barren River Regional Board of Ethics, c/o Barren River Area Development District Records Administrator, no later than 3:00 p.m., March 1, 1995. All subsequent statements of financial interest shall be filed no later than 3 p.m. on March 1 each year, provided that:

(1) An officer or employee newly appointed to fill an office or position with the city or a city agency shall file his or her initial statement no later than thirty (30) days after the date of appointment.

(2) A candidate for city office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected city office.

(B) The Barren River Regional Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

SECTION 15. Form of the Statement of Financial Interests.

The statement of financial interests shall be filed on a form prescribed by the Barren River Regional Board of Ethics. The Board shall deliver to the city a copy of the form for each officer and employee required to file the statement, no later than February 15 of each year. The failure to deliver the form shall not relieve the officer or employee of the obligation to file the statement.

SECTION 16. Control and Maintenance of the Statements.

(A) The Barren River Regional Board of Ethics shall be the "official custodian" of the statements of financial interests. The statements of financial interest shall be maintained by the Board, or the Records Administrator designated by the Board as "custodian", as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board, or the "custodian" for a period of five (5) years after filing, provided that:

(1) Upon the expiration of three (3) years after a person ceases to be an officer or employee of the city or a city agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of three (3) years after any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

SECTION 17. Contents of the Financial Interests Statement.

(A) The statement of financial interests 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 the filer's spouse.
 - (4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5,000) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.).
 - (5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.
 - (6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.
 - (7) A designation as commercial, residential, or rural, and the location of all real property within the city, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of ten thousand dollars (\$10,000) or more.
 - (8) The name and address of any creditor owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for person, family or household purposes.
- (B) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

SECTION 18. Noncompliance with Filing Requirement.

(A) The Barren River Regional Board of Ethics, or the Records Administrator, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25.00) per day, up to a maximum total civil fine of five hundred dollars (\$500.00). Any civil fine imposed by the Board under this section may be recovered by the Board in a civil action in the nature of a debt if the offender fails or refuses to pay the penalty within a prescribed time.

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

SECTION 19. Nepotism.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) employment;
- (2) appointment;
- (3) promotion;
- (4) transfer; or
- (5) advancement

of a family member to an office or position of employment with the city or a city agency.

(B) No officer or employee of the city or city agency shall supervise or manage the work of a family member.

(C) No officer or employee shall participate in any action to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(D) The prohibition in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to the effective date of this ordinance.

SECTION 20. Board of Ethics.

(A) Pursuant to the Memorandum of Agreement setting forth the Barren River Regional Board of Ethics, all authority for the establishment of procedures for formation and maintenance of the Barren River Regional Board of Ethics and all power and Duties appropriate thereto are hereby delegated provided:

(1) that the Board shall comply with all terms and conditions as set forth in the Act establishing a code of ethics for cities,

(2) that any hearings or related procedures shall comply with the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence,

(3) that any regulations adopted by the Board to govern its procedures shall be consistent with the Kentucky Open Records Law, and

(4) that the city shall bear its proportionate share of any costs for investigations, hearings, preparation of findings, and the issuance of any advisory opinions by the Board.

SECTION 21. Reprisals Against Persons Disclosing Violations Prohibited.

(A) No officer or employee of the city or any city agency shall subject reprisal, or directly or indirectly use, or threaten to sue, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(a) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.

(c) Is confidential under any other provision of law.

SECTION 22. Penalties.

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand dollars (\$1,000), which may be recovered by the city 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 ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee 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 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 all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

SECTION 23. Severability. If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

SECTION 24. Conflicting Ordinances Repealed. All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 25. Effective Date. This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

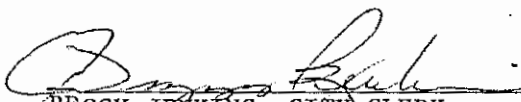
Given first reading on the 8th day of November, 1994.

Given second reading and duly enacted by the legislative body of the city of Russellville on the 22nd day of November, 1994.

AYES:	NAYES:	ABSTAINING:	ABSENT:
<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Patricia Basham</u>	<u></u>	<u></u>	<u></u>
<u>Howard Wren</u>	<u></u>	<u></u>	<u></u>
<u>Russell Jones</u>	<u></u>	<u></u>	<u></u>
<u>Jean Hankins</u>	<u></u>	<u></u>	<u></u>
<u>Michael Baugh</u>	<u></u>	<u></u>	<u></u>


KEN SMITH, MAYOR

ATTEST:


PEGGY JENKINS, CITY CLERK

CITY OF RUSSELLVILLE

ORDINANCE NO. 94-12

An ordinance establishing a code of ethical conduct applicable to the officers and employees of the city and city agencies.

SECTIONS 1-4.

Set forth the title of the ordinance; the findings of the legislative body declaring the merits of the code of ethics; the purpose and authority; and definitions of words and phrases as used in the code of ethics.

STANDARDS OF CONDUCT

SECTIONS 5.

Sets forth standards of conduct related to conflicts of interest in general.

SECTION 6.

Subsection (A). Sets forth standard of conduct related to conflicts of interest in contracts between officers and employees of the city and the city itself.

Section (B). Establishes a penalty and reads in full as follows:

Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city accordance with any applicable provision of state law and ordinances, rules or regulations of the city.

SECTIONS 7-11.

Set forth standards of conduct of officers and employees related to receipt of gifts; the use of city property, equipment and personnel; the representation of interests before city government; the misuse of confidential information; and post-employment restrictions.

FINANCIAL DISCLOSURE

SECTIONS 12-17

Set forth who must file a financial interest statement; when it must be filed; the form of the financial interests statement; the official custodian of the statements; the contents of the statement; and the procedure for notifying those who fail to file the statement.

SECTIONS 17(B) establishes a penalty and reads in full as follows:

Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

SECTION 17(C) establishes a penalty and reads in full as follows:

Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

NEPOTISM

SECTION 18.

Set forth guidelines concerning the employment of family members of officers and employees of the city.

SECTIONS 19-20

Pursuant to the Memorandum of Agreement setting forth the **Barren River Regional Board of Ethics**, all authority of the establishment of procedures for formation and maintenance of the **Barren River Board of Ethics** appropriate thereto are hereby delegated provided; the filing and investigation of complaints; the notice of hearings; the hearing procedure; the appeals process; the time frame in which a violation may be prosecuted; the rendering of advisory opinions and the prohibitions against reprisals directed towards anyone disclosing a potential violation of the code.

SECTION 21

Establishes penalties and reads in full as follows:

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Barren River Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand dollars (\$1,000), which may be recovered by the city in a civil action in the nature of the a 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 ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or city agency an amount equal to the economic benefit or gain which the officer or employee 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 in a civil action in the nature of a debt, if the offender fails to pay the amount of forfeiture within a proscribed period of time.

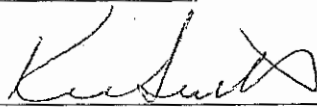
(C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause of removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

SECTIONS 32-34.

Set forth a severability clause; provides for the repeal of conflicting ordinances; and establish an effective date of the ordinance.

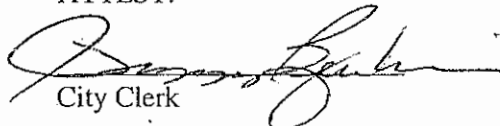
Given first reading on the 8 day of November, 1994.

Given second reading and duly enacted by the legislative body of the city of Russellville on the 12 day of November, 1994.



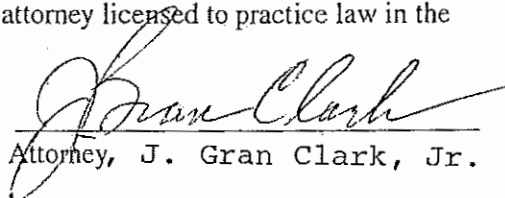
Mayor

ATTEST:



City Clerk

IT IS HEREBY CERTIFIED that the above summary of Ordinance No. 94-12 of the City of Russellville, Kentucky, has been prepared in accordance with the requirements of KRS 83A.060(9) by the undersigned, who is an attorney licensed to practice law in the Commonwealth of Kentucky.



Attorney, J. Gran Clark, Jr.

MEMORANDUM OF AGREEMENT

The Barren River Area Development District and the County and City Governments participating as Members, pursuant to the authority provided in K. R. S. 147A.021, do hereby enter into this Memorandum of Agreement to provide public records and enforcement systems for the implementation of ethics codes. Members shall mean the chief executive -mayor or county judge/ executive- representing those officials identified in Section 1 (1) of K. R. S. 65.003 and in ordinances adopted in compliance thereof.

I. PURPOSE

The purpose of this agreement is to help Members meet terms of House Bill 238, an Act relating to Codes of Ethics in cities or counties, in the most cost-effective way. This Agreement shall not supplant any requirement of a Code of Ethics or any ordinance adopted for a Member. This Agreement shall apply to Section 3 (b) and (d) of the Act.

II. DURATION OF AGREEMENT

The initial term of this agreement shall commence December 15, 1994, and shall run to December 14, 1995, and shall be automatically renewing annually for 12 months unless terminated by Barren River Area Development District or any Member(s). Any Member shall have the right to terminate this agreement at any time during the term or a renewal thereof by giving notice in writing to the other Members and Barren River Area Development District within 30 days of the close of the initial term or any subsequent term. The termination by any Member shall not affect continuation of the agreement with any and all other Members. For new Members entering after December 15, 1994, the Agreement shall conclude on December 14, 1995, but shall be renewable for 12 months unless terminated as provided above.

III. ADMINISTRATIVE FUNCTIONS

A. The Barren River Area Development District shall maintain a system for receiving, cataloguing, and filing: the Code of Ethics and any official additions, changes, or additions, of each Member; the records of any complaints filed, proceedings, hearings held, opinions issued, or dispositions made; and the records of penalties, fines, or costs assessed, and the disposition of any fines collected, all of which shall be available for public inspection.

B. The participating Members of this Agreement shall establish a Regional Ethics Board for the purpose of reviewing complaints, making investigations, taking evidence, compiling records, issuing opinions, and affixing allowable penalties when appropriate.

C. The Board shall be composed of sufficient members so that no fewer than three shall review and act on any complaint and so that no member of the Board shall participate in a review of a complaint from the county of their residence.

D. The Board shall affix allowable penalties when appropriate, provided that the collection and retention of fines shall be the duty of the Member(s).

IV. FUNDING

The Barren River Area Development District and the Members agree that costs of the services and the financial records shall be reviewed in September of each year, beginning in 1995, and an equitable means for repaying costs established.

V. PROVISIONS FOR FILING

1. Filing, Amending, and Maintaining Statements

Pursuant to this Agreement between the Member and the Barren River Area Development District, the initial statement of financial interests required by this section shall be filed with the Barren River Regional Board of Ethics, c/o Barren River Area Development District Records Administrator, no later than 3:00 p.m. March 1, 1995. All subsequent statements of financial interest shall be filed no later than 3 p.m. on March 1 each year, provided that:

- (1) An officer or employee newly appointed to fill an office or position covered by the ordinance of the any Member shall file his or her initial statement no later than thirty (30) days after the date of appointment.
 - (2) A candidate for covered office shall file his or her initial statement no later than thirty (30) days after the date on which the person becomes a candidate for elected office, if required by Member's ordinance.
- (B) The Barren River Regional Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
- (C) In the event there is a material change, as defined in the ordinance, in any information in a financial statement that has been filed with the Board, the officer or employee shall, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

2. Form of the Statement of Financial Interests

- (A) The statement of financial interests shall be filed on a form prescribed by the Barren River Regional Board of Ethics. The Board shall deliver to the Member a copy of the form for each officer and employee required to file the statement, no later than February 15 of each year. The failure to deliver the form shall not relieve the officer or employee of the obligation to file the statement.

3. Control and Maintenance of the Statements

- (A) The Barren River Regional Board of Ethics shall be the "official custodian" of the statements of financial interests. The statements of financial interest shall be maintained by the Board, or the Records Administrator designated by the Board as "custodian," as public documents, available for public inspection immediately upon filing as provided in K. R. S. 61.870-61.884.
- (B) A statement of financial interests shall be retained by the Board, or Records Administrator, for a period of five (5) years after filing, provided that:

- (a) Upon the expiration of three (3) years after a person ceases to be an officer or employee of the Member government, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

- (b) Upon the expiration of three (3) years after any election at which a candidate for elected covered office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

4. Noncompliance With Filing Requirement

- (A) The Barren River Regional Board of Ethics, or the Records Administrator, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

- (B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the Board in a civil action in the nature of a debt if the offender fails or refuses to pay the penalty within a prescribed time.
- (C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

VI. BOARD OF ETHICS

- (A) Pursuant to this Memorandum of Agreement, the signers shall create a Barren River Regional Board of Ethics, which shall have all authority granted under the K. R. S. Ch. 65.003, under the ordinances of the Members, and all Power and Duties appropriate thereto. The Barren River Regional Board of Ethics shall have enough members to provide for not less than three members, who are non-residents of the Member's jurisdiction, to conduct any investigation, hold any hearings, and prepare opinions or findings, provided;
- (a) that the Board shall comply with all terms and conditions as set forth in the Act establishing a code of ethics for cities or counties,
- (b) that any hearings or related procedures shall comply with the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence,
- (c) that any regulations adopted by the Board to govern its procedures shall be consistent with the Kentucky Open Records Law, and
- (d) that the Member shall bear its proportionate share of any costs for investigations, hearings, preparation of findings, and the issuance of any advisory opinions by the Board as provided in IV. above.
- (f) that no member of the Regional Board of Ethics shall hold a position in any local government or be subject to the terms of any Member ordinance.

(B) The Barren River Regional Board of Ethics shall have the power and the duty to organize itself and adopt rules of procedure as are deemed necessary to receive complaints, to initiate investigations, to hold hearings, to make findings of fact and determinations within the terms set for in the Member ordinances, to issue orders in connection with investigations or hearings, to order testimony by deposition under oath, to refer any matter to the Member governing body, to issue advisory opinions, to refer matters to the Commonwealth's Attorney or other appropriate prosecutorial office, and to prevent any reprisal against any person filing a complaint.

(C) All complaints shall be submitted in writing, signed by the complainant, to the Barren River Regional Ethics Board. The Board shall acknowledge receipt of the complaint within ten (10) working days and shall forward a copy of the complaint to any affected officer or employee of the Member government. The Board shall conduct a preliminary hearing within thirty (30) days. The person against whom the complaint is made shall have an opportunity to be represented by counsel and to respond under oath. Proceedings for preliminary inquiry shall be kept confidential until a final determination is made by the Board provided;

(a) the Board may turn materials and evidence over to a prosecutorial office, or

(b) the Board may open proceedings to the public and release documents if the complainant or the alleged violator discloses the existence of the inquiry.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is appropriate.

(E) If the Board of Ethics concludes the complaint is appropriate for review the Board may notify the subject and may initiate a hearing or may determine there are mitigating circumstances and issue a reprimand.

(F) Any person who knowingly files with the Board a false complaint shall be guilty of a Class A misdemeanor.

(G) If the Board determines a hearing is necessary, an order will be issued setting a date within thirty (30) days and a notice will be issued to the alleged violator within twenty-four (24) hours of the time the order is issued.

(H) Prior to the hearing, the alleged violator shall have a reasonable opportunity to examine all materials. The Board shall inform the alleged violator of any exculpatory evidence.

(I) All testimony in a Board hearing shall be taken under oath. All parties shall have the right to call and examine witnesses, introduce exhibits, cross examine witnesses, submit evidence and be represented by counsel.

(J) All hearings shall be public, unless the members go into executive session in accordance with KRS 61.810.

(K) Within thirty (30) days of the completion of the hearing, the Board shall issue a written report. If the Board concludes no violation has occurred written notice shall be given all parties. If the Board concludes there is clear and convincing proof of a violation of the ordinance, the Board may:

(a) Issue a cease and desist order.

(b) In writing, publicly reprimand the violator.

(c) In writing, recommend sanctions to the Member authority, which may include removal from office.

(d) Issue an order requiring a civil penalty of not more than \$1,000.

(e) Refer evidence of criminal violations for prosecution.

(L) Any person who is found guilty of a violation of any provision of this ordinance may appeal the Board's finding to the circuit court of the county within thirty (30) days after final action of the Board by filing a petition. The Board shall transmit all records to the clerk of the court. Except when the period of limitation is established by state law, an action for violation of this ordinance must be brought within one year of discovery.

(M) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction. The Board may adopt regulations, consistent with Kentucky Open Records Law, under which it may issue confidential advisory opinions.

(N) The Board of Ethics may apply penalties in the amount set forth in the ordinance of the Member under which proceedings are made.

Upon the approval indicated herein, this Agreement shall be circulated for signing by the appropriate officers of the Barren River Area Development District and the Member Cities and Counties.

Chairman, Barren River Area Developemnt District

Date

Date

CITY OF RUSSELLVILLE

ORDINANCE NO. 94-12

An ordinance establishing a code of ethical conduct applicable to the officers and employees of the city and city agencies.

SECTIONS 1-4.

Set forth the title of the ordinance; the findings of the legislative body declaring the merits of the code of ethics; the purpose and authority; and definitions of words and phrases as used in the code of ethics.

STANDARDS OF CONDUCT

SECTIONS 5.

Sets forth standards of conduct related to conflicts of interest in general.

SECTION 6.

Subsection (A). Sets forth standard of conduct related to conflicts of interest in contracts between officers and employees of the city and the city itself.

Section (B). Establishes a penalty and reads in full as follows:

Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city accordance with any applicable provision of state law and ordinances, rules or regulations of the city.

SECTIONS 7-11.

Set forth standards of conduct of officers and employees related to receipt of gifts; the use of city property, equipment and personnel; the representation of interests before city government; the misuse of confidential information; and post-employment restrictions.

FINANCIAL DISCLOSURE

SECTIONS 12-17

Set forth who must file a financial interest statement; when it must be filed; the form of the financial interests statement; the official custodian of the statements; the contents of the statement; and the procedure for notifying those who fail to file the statement.

SECTIONS 17(B) establishes a penalty and reads in full as follows:

Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$500). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt in the offender fails or refuses to pay the penalty within a prescribed period of time.

SECTION 17(C) establishes a penalty and reads in full as follows:

Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

NEPOTISM

SECTION 18.

Set forth guidelines concerning the employment of family members of officers and employees of the city.

SECTIONS 19-20

Pursuant to the Memorandum of Agreement setting forth the **Barren River Regional Board of Ethics**, all authority of the establishment of procedures for formation and maintenance of the **Barren River Board of Ethics** appropriate thereto are hereby delegated provided; the filing and investigation of complaints; the notice of hearings; the hearing procedure; the appeals process; the time frame in which a violation may be prosecuted; the rendering of advisory opinions and the prohibitions against reprisals directed towards anyone disclosing a potential violation of the code.

SECTION 21

Establishes penalties and reads in full as follows:

(A) Except when another penalty is specifically set forth in this ordinance, any officer or employee of the city or any city agency who is found by the Barren River Board of Ethics to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed one thousand dollars (\$1,000), which may be recovered by the city in a civil action in the nature of the a debt if the offender fails to pay the penalty within a prescribed period of time.

SECTION 23. Severability. If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

SECTION 24. Conflicting Ordinances Repealed. All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 25. Effective Date. This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

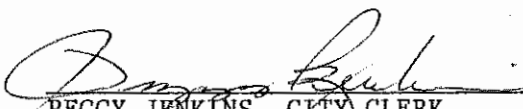
Given first reading on the 8th day of November, 1994.

Given second reading and duly enacted by the legislative body of the city of Russellville on the 22nd day of November, 1994.

AYES:	NAYES:	ABSTAINING:	ABSENT:
<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Patricia Basham</u>			
<u>Howard Wren</u>			
<u>Russell Jones</u>			
<u>Jean Hankins</u>			
<u>Michael Baugh</u>			


KEN SMITH, MAYOR

ATTEST:


PEGGY JENKINS, CITY CLERK

(B) In addition to all other penalties which may be imposed under this ordinance, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this ordinance shall forfeit to the city or city agency an amount equal to the economic benefit or gain which the officer or employee 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 in a civil action in the nature of a debt, if the offender fails to pay the amount of forfeiture within a proscribed period of time.

(C) In addition to all other penalties which may be imposed under this ordinance, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this ordinance shall be sufficient cause of removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

SECTIONS 32-34.

Set forth a severability clause; provides for the repeal of conflicting ordinances; and establish an effective date of the ordinance.

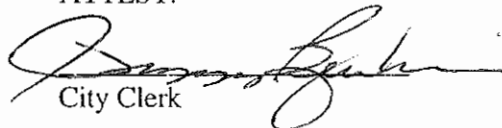
Given first reading on the 8 day of November, 1994.

Given second reading and duly enacted by the legislative body of the city of Russellville on the 12 day of November, 1994.



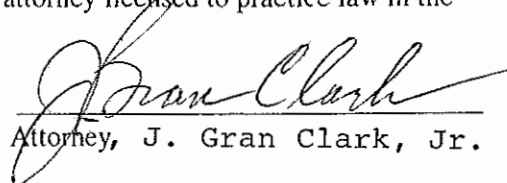
Mayor

ATTEST:



City Clerk

IT IS HEREBY CERTIFIED that the above summary of Ordinance No. 94-12 of the City of Russellville, Kentucky, has been prepared in accordance with the requirements of KRS 83A.060(9) by the undersigned, who is an attorney licensed to practice law in the Commonwealth of Kentucky.



Attorney, J. Gran Clark, Jr.

MEMORANDUM OF AGREEMENT

The Barren River Area Development District and the County and City Governments participating as Members, pursuant to the authority provided in K. R. S. 147A.021, do hereby enter into this Memorandum of Agreement to provide public records and enforcement systems for the implementation of ethics codes. Members shall mean the chief executive -mayor or county judge/ executive- representing those officials identified in Section 1 (1) of K. R. S. 65.003 and in ordinances adopted in compliance thereof.

I. PURPOSE

The purpose of this agreement is to help Members meet terms of House Bill 238, an Act relating to Codes of Ethics in cities or counties, in the most cost-effective way. This Agreement shall not supplant any requirement of a Code of Ethics or any ordinance adopted for a Member. This Agreement shall apply to Section 3 (b) and (d) of the Act.

II. DURATION OF AGREEMENT

The initial term of this agreement shall commence December 15, 1994, and shall run to December 14, 1995, and shall be automatically renewing annually for 12 months unless terminated by Barren River Area Development District or any Member(s). Any Member shall have the right to terminate this agreement at any time during the term or a renewal thereof by giving notice in writing to the other Members and Barren River Area Development District within 30 days of the close of the initial term or any subsequent term. The termination by any Member shall not affect continuation of the agreement with any and all other Members. For new Members entering after December 15, 1994, the Agreement shall conclude on December 14, 1995, but shall be renewable for 12 months unless terminated as provided above.

III. ADMINISTRATIVE FUNCTIONS

A. The Barren River Area Development District shall maintain a system for receiving, cataloguing, and filing: the Code of Ethics and any official additions, changes, or additions, of each Member; the records of any complaints filed, proceedings, hearings held, opinions issued, or dispositions made; and the records of penalties, fines, or costs assessed, and the disposition of any fines collected, all of which shall be available for public inspection.

B. The participating Members of this Agreement shall establish a Regional Ethics Board for the purpose of reviewing complaints, making investigations, taking evidence, compiling records, issuing opinions, and affixing allowable penalties when appropriate.

C. The Board shall be composed of sufficient members so that no fewer than three shall review and act on any complaint and so that no member of the Board shall participate in a review of a complaint from the county of their residence.

D. The Board shall affix allowable penalties when appropriate, provided that the collection and retention of fines shall be the duty of the Member(s).

IV. FUNDING

The Barren River Area Development District and the Members agree that costs of the services and the financial records shall be reviewed in September of each year, beginning in 1995, and an equitable means for repaying costs established.

V. PROVISIONS FOR FILING

1. Filing, Amending, and Maintaining Statements

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4. Noncompliance With Filing Requirement

- (A) The Barren River Regional Board of Ethics, or the Records Administrator, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

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- (a) that the Board shall comply with all terms and conditions as set forth in the Act establishing a code of ethics for cities or counties,
- (b) that any hearings or related procedures shall comply with the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence,
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- (d) that the Member shall bear its proportionate share of any costs for investigations, hearings, preparation of findings, and the issuance of any advisory opinions by the Board as provided in IV. above.
- (f) that no member of the Regional Board of Ethics shall hold a position in any local government or be subject to the terms of any Member ordinance.

(B) The Barren River Regional Board of Ethics shall have the power and the duty to organize itself and adopt rules of procedure as are deemed necessary to receive complaints, to initiate investigations, to hold hearings, to make findings of fact and determinations within the terms set for in the Member ordinances, to issue orders in connection with investigations or hearings, to order testimony by deposition under oath, to refer any matter to the Member governing body, to issue advisory opinions, to refer matters to the Commonwealth's Attorney or other appropriate prosecutorial office, and to prevent any reprisal against any person filing a complaint.

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Chairman, Barren River Area Developemnt District

Date

Date