

CITY OF SMITHS GROVE

ORDINANCE NO 94-1 210.1

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 the 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 local government ethics law;

NOW, THEREFORE, BE it ordained by the legislative body of the city of Smiths Grove, Kentucky:

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

SECTION 2. Findings. The legislative body of the city of Smiths Grove 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 receives a conflict between the private interests and the 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 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 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.

"EQUAL OPPORTUNITY EMPLOYER"

- (B) It is further the purpose of this ordinance to meet the requirements of KRS 65. _____, 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.

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 city of 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) "City" refers to the city of Smiths Grove, Kentucky.
- (D) "City Agency" means any board, commission, authority non-stock corporation, or other entity created, either individually or jointly, by this city.
- (E) "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.
- (F) "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.
- (G) "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 who has been appointed to the governing body of the agency by the city.

STANDARD 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 interest in a business or engage in a 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) An immediate family member.
 - (3) An outside employer.
 - (4) Any business in which the officer or employee, or any immediate family member has a financial interest.
 - (5) Any business with which the officer or employee or any immediate 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, an immediate family member, an outside employer, or a business as defined by 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 expect 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 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 disclosure.

SECTION 6. Conflicts of Interest in Contracts

- (A) No officer or employee of the city or any 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 the elected official filed as a candidate for a city office, before an appointed officer as appointed to a city agency office, or before an appointment officer as appointed to a city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by the city, 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 of 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 agency because of price, limited supply, or other specific reasons.
 - (d) A 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 as 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 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 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 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 interest.
- (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 of 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. Who must File. The following classes of officers of the city and city agencies shall file an annual statement of financial interests with the BARREN RIVER REGIONAL BOARD OF ETHICS:

- (A) Elected city officials.

SECTION 13. When to File Statements, Amended Statements.

- (A) Pursuant to the Memorandum of Agreement between the city and the BARREN RIVER AREA DEVELOPMENT, the initial statements of financial interests required by this section shall be filed with the BARREN RIVER 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 required to fill an office or position with the city or 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.
- (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 amended statement with the Board.

SECTION 14. Form of Statement of Financial Interests.

The statement of financial interests shall be filed on a form prescribed by the BARREN RIVER 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 15. Control and Maintenance of the Statement

- (A) The BARREN RIVER REGIONAL BOARD OF ETHICS shall be the "official custodian" of the financial statements. The statements of financial interest shall be maintained by the Board, or the Records Administrator designed by the Board as "custodian" of 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 city agency, the Board shall cause to be destroyed any statement 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 16. Contents of the Financial Interests Statement.

- (A) The statement of financial interests shall include the following information of 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.
- (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 17. Noncompliance With Filing Requirements

- (A) The BARREN RIVER BOARD OF ETHICS, or the Records Administrator, Shall notify by certified mail each person required to file a statement of financial interests who 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 civil fine imposed by the Board in the 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 perscribed 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.

NEPOTISM

SECTION 18. Nepotism Prohibited

- (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) advancement of a immediate family member to an office or position of employment with the city or a city agency.
- (B) No office or employee of the city or a city agency shall supervise or manage the work of an immediate family member.

- (C) No officer or employee shall participate in any action relating to the employment or discipline of an immediate 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 that the immediate family member is included only as a member of a class of persons or a group, and the immediate 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 January 1, 1995.

ENFORCEMENT

SECTION 19. 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 BOARD OF ETHICS 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 of governing 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.
 - (5) That no member of the REGIONAL BOARD OF ETHICS shall hold a position in any local government or be subject to the terms of this ordinance.

SECTION 20. Reprisals Against Persons Disclosing Violations Prohibited.

(A) No officer or employee of the city or any city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, 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 BARREN RIVER REGIONAL 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 21. 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 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 (\$1000) which may be recovered by the city in a civil action if 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 the 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 determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city on 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 dufficient 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 laws of the Commonwealth.

SECTION 22. 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 23. Conflicting Ordinances Repealed.

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

SECTION 24. Effective Date.

This ordinance shall take full force and effect immediately on publication as required by KRS 83A.060.

Given first reading on the 28th day of November, 1994.

Given second reading and duly enacted by the legislative body of the city of Smiths Grove, Kentucky, on the 29th day of November, 1994.

ATTEST: Dorothy J. Neal
Dorothy J. Neal, City Clerk

APPROVE: James R. Gilley
James. R. Gilley, Mayor

