

**Cumberland Valley
Area Development District**



MEMORANDUM OF AGREEMENT

The Cumberland Valley Area Development District and the County and City Governments participating as Members do hereby enter into this Memorandum of Agreement to provide public records and enforcement systems for the implementation of an Ethics Code. Members shall mean the chief executive mayor or county judge/executive representing those officials identified in Section 1 (1) of HB 238 and in ordinances adopted in compliance thereof.

I. PURPOSE

The purpose of this agreement is to help Members meet terms of HB 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, automatically renewing annually for 12 months. 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 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 Cumberland Valley Regional Board of Ethics 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 arising in 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).



- E. To ensure the functions and responsibilities of this Board are properly accomplished, the members of this agreement expressly authorize the Cumberland Valley Regional Ethics Board to enter into a contract with the CVADD for provision of administrative support services.

IV. FUNDING

The Cumberland Valley 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

A. Filing, Amending, and Maintaining Statements

- a) Pursuant to this Agreement between the Member and the Cumberland Valley Area Development District, the initial statement of financial interests required by this section shall be filed with the Cumberland Valley Regional Board of Ethics, c/o Cumberland Valley 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 3:00 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 any Member shall file his or her initial statement no later than thirty (30) days after the date of appointment.
 - (2) If required by Member ordinance, 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.
- b) The Cumberland Valley Regional Board of Ethics may grant a reasonable extension of time for filing a statement of financial interest 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.

B. Form of the Statement of Financial Interests

- a) The statement of financial interests shall be filed on a form prescribed by the Cumberland Valley 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.

C. Control and Maintenance of the Statements

- a) The Cumberland Valley 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 KRS 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:

- (1) 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.
- (2) 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.

VI. NONCOMPLIANCE WITH FILING REQUIREMENT

- A. The Cumberland Valley 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, 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.

VII. BOARD OF ETHICS

- A. Pursuant to this Memorandum of Agreement, the members shall create a Cumberland Valley Regional Board of Ethics providing equal representation, which shall have all authority granted under HB 238, under the ordinances of the Members, and all Power and duties appropriate thereto. The Cumberland Valley 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.
 - e) 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 Cumberland Valley 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 making 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 Cumberland Valley 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 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 to 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 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.

VIII. EFFECTIVE DATE

A. Upon Ordinance _____ relating to this MOA having been duly adopted with it's second reading having been held on ____ / ____ / ____

B. IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year above written.

_____ County/*City*

Judge / Executive / *Mayor*

Witness

Cumberland Valley Area Development District

Executive Director

Witness