

OFFICE OF THE COUNTY LAW DIRECTOR  
ANDERSON COUNTY, TENNESSEE

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June 18, 2007

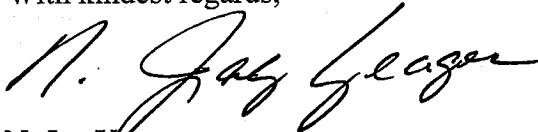
Tennessee Ethics Commission  
Suntrust Bank Building  
201 4<sup>th</sup> Avenue North, 18<sup>th</sup> Floor  
Nashville, Tennessee 37219

RE: *Anderson County Code of Ethics*

Pursuant to the mandates embodied in the Comprehensive Governmental Ethics Reform Act of 2006, codified at T.C.A 8-17-101 *et. seq.*, Anderson County submits it's approved Code of Ethics to the Tennessee Ethics Commission. The Anderson County Code of Ethics has been adopted by the Anderson County Legislative Body at the May 21, 2007 meeting.

If you have additional questions or concerns regarding this Code of Ethics, please feel free to contact me at your earliest convenience.

With kindest regards,



N. Jay Yeager

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TENNESSEE  
ETHICS COMMISSION

**Anderson County, Tennessee**  
**Board of Commissioners**

RESOLUTION NO. 05-07 282

**A RESOLUTION TO ADOPT A CODE OF ETHICS FOR OFFICIALS  
AND EMPLOYEES OF ANDERSON COUNTY GOVERNMENT**

WHEREAS, Section 49 of the *Comprehensive Governmental Ethics Reform Act of 2006*, Public Chapter 1 (hereinafter the "Ethics Reform Act") requires county legislative bodies to adopt certain ethical standards by resolution on or before June 30, 2007; and

WHEREAS, Anderson County desires to adopt a Code of Ethics for Anderson County and its Officials and Employees as required by Tennessee law.

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee, on this 16<sup>th</sup> day of April, 2007, that pursuant to the mandates contained in the Tennessee Ethics Reform Act of 2006, the following is hereby duly adopted and approved:

**SECTION 1.** The attached Code of Ethics is hereby adopted as the Official Code of Ethics for Anderson County, Tennessee.

**SECTION 2.** Upon approval of this resolution, the County Clerk is directed to:

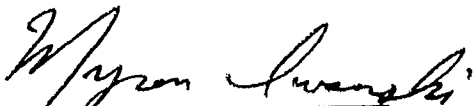
(a) Mail a copy of this resolution to the State Ethics Commission; and

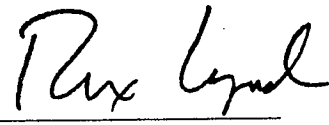
(b) Mail a copy of this resolution and the attached Code of Ethics to each county office governed thereby, including all boards, committees, commissions, authorities, utilities, departments, subsidiaries, corporations or other instrumentalities appointed or created by the county or an official of the county, and including the county school board, the county election commission, the county health department and utility districts in the county; and

(c) Post notice of the reporting procedures for the Code of Ethics on each public bulletin board in the Anderson County courthouse.

**SECTION 3.** This resolution shall take effect upon its passage and approval, the public welfare requiring it.

RESOLVED, this 16th day of April, 2007.

  
Myron Kwanski, Chair, County Commission

  
Rex Lynch, County Mayor



ATTEST:

  
Jeff Cole, County Clerk

# Code of Ethics

## Anderson County, Tennessee

### Section 1. Definitions.

(1) "County" means Anderson County Tennessee, which shall include all boards, committees, commissions, authorities, corporations, or any other instrumentalities of Anderson County Government appointed or created by the County, or an official of the County, and including the County School Board, the County Election Commission, the County Health Department, and Utility Districts of the County.

(2) "Official and employee" means and includes any Anderson County official, singular or plural, whether elected or appointed, officer, employee, or any member of any board, agency, commission, authority or corporation (whether compensated or not) or any person employed or appointed by Anderson County.

(3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official's or employee's spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, decided or otherwise acted upon in an official capacity.

### Section 2. Disclosure of Personal Interest in Voting Matters.

An official or employee with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes of the meeting, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure. In addition, the official or employee may, to the extent allowed by law, abstain from voting on the measure.

### Section 3. Disclosure of Personal Interest in Non-Voting Matters.

An official or employee who must exercise discretion relative to any matter other than casting a vote; including but not limited to, managing, supervising, or awarding any contract, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose, before the exercise of discretion when possible, the personal interest on the authorized Disclosure Form and file that form with the County Clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from the exercise of discretion in the matter.

### Section 4. Acceptance of Gifts and Other Things of Value.

An official or employee, or an official's or employee's spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the County:

(1) For the performance of an act, or refraining from performance from an act, that he or she would be expected to perform or refrain from performing in the regular course of his or her County duties; or

(2) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the official or employee in executing County business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screens, immunizations, vaccines, amenities, or items necessary to the performance of the official or employees' duties that are provided by the County, or in connection with a conference, meeting, or employee fair sponsored by the County, other governmental entity, or an established and recognized state-wide association of county government officials or by an umbrella or affiliate organization of such state-wide association of county government officials, or professional organization, association or licensing board.

### **Section 5. County Ethics Commission.**

A County Ethics Commission (hereinafter "Commission") consisting of sixteen (16) voting members shall be appointed to serve two (2) year terms, subject to the initial term provision recited below, with no term limits, and shall consist of the following membership:

- A) County Mayor, or designee;
- B) Chairman of the County Legislative Body, or designee;
- C) County Clerk, or designee;
- D) Circuit Court Clerk, or designee;
- E) Clerk and Master, or designee;
- F) Director of Schools, or designee
- G) Highway Superintendent, or designee;
- H) Member of the Judiciary – as selected by the Honorable Judges of the County and Seventh (7<sup>th</sup>) Judicial District, or designee;
- I) Assessor of Property, or designee;
- J) Register of Deeds, or designee;
- K) Sheriff, or designee;
- L) Trustee, or designee;
- M) Member of the County Legislative Body as selected by their membership, or designee;
- N) Member of the County School Board as selected by their membership, or designee;
- O) County Mayor Appointment;
- P) County Legislative Body Appointment; and
- Q) Ombudsman/Law Director, ex officio.

Designees and appointees can be selected from other County Officials, employees or citizens.

Initial Terms shall run from July 1, 2007 until September 30, 2010. Subsequent two (2) year membership terms shall begin on October 1, 2010.

The Commission shall convene as soon as practical after their appointment and elect a Chair and Secretary. All meetings, with the exception of executive sessions, shall be open to the public and

publicly noticed in a newspaper of general circulation in the County for at least one time no less than five (5) days prior to the meeting.

A majority of Commission members present shall constitute a quorum. The Commission shall act officially by majority vote of the entire membership. Death of a member and abstentions for stated cause shall reduce the needed majority vote accordingly.

The Commission shall have original jurisdiction to hear and decide all violations of this Code.

Unless specifically governed herein, or by state law, the Commission shall conduct all meetings in accordance with Robert's Rules of Order, most recent edition.

The official records, minutes and closed investigations of the Commission shall be maintained by the Secretary and filed in the Office of the Anderson County Clerk, where they shall be open for public inspection during reasonable business hours.

### **Section 6. Complaints.**

Questions and complaints regarding violations of this Code of Ethics or any violation of state law governing ethical conduct should be directed to the Ombudsman for the Commission. Complaints shall be in writing and signed by the person making the complaint. At least one witness shall sign the complaint attesting to the authenticity of the signature only. All complaints shall be as specific as possible and shall set forth in reasonable detail the facts upon which the complaint is based. Complaints will be received by U.S. Mail only addressed to the following:

Anderson County Ethics Commission  
101 South Main Street, Suite 310  
Clinton, TN 37716

The Commission or Ombudsman shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for such action to end or seek retribution and/or restitution for any activity that, in the Commission's judgment constitutes a violation of this Code of Ethics. If a member of the Commission or the Ombudsman is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint. If the Ombudsman is the subject of the complaint, the Chair of the Ethics Commission shall receive and investigate the complaint and otherwise serve and act in the role of Ombudsman.

### **Section 7. Ombudsman.**

The County Law Director shall serve in the position of Ombudsman and shall receive and investigate all complaints regarding violations of this Code of Ethics. The Ombudsman shall make an initial inquiry to determine if the act complained of lies within the original jurisdiction of this Code and Commission, as defined herein. If the Ombudsman determines that jurisdiction is vested with the Commission then the alleged violation will be investigated and referred to the Commission for further action. The Ombudsman shall cause reasonable notice to be given to the affected official or supervising department head when an ethics complaint is received. All ethical violations defined herein will be referred the Commission.

After the investigation is complete, or within ninety (90) days of the postmark on the complaint, whichever comes first, the Ombudsman shall report the matter to:

- 1) The Commission, if the act complained of falls within the original jurisdiction of the Commission; and/or
- 2) The Department Head or Elected Official, Board, or Commission supervising the official or employee for additional action; and/or
- 3) Local law enforcement agency or the District Attorney General if criminal activity is suspected; and/or
- 4) State Ethics Commission or the State Election Commission if the act complained of falls within the appropriate jurisdiction; and/or
- 5) The District Attorney General or Law Director for ouster investigation and appropriate action; or
- 6) The Ombudsman shall dismiss the complaint for lack of reasonable supporting and corroborating evidence, lack of jurisdiction, lack of merit, lack of cooperation from the complainant, or complainant's unwillingness to testify before the Commission or Court of law, or withdrawal of the complaint by the complainant.

#### **Section 8. Enforcement Options.**

The Commission may, upon majority vote:

- 1) Refer the matter to the Law Director for a legal opinion and/or recommendation for action; or
- 2) In the case of an official, refer the matter to the County Legislative Body for possible public censure by resolution of the County Legislative Body if such body finds such action warranted;
- 3) In the case of an employee, refer the matter to the official or department head responsible for supervision and control of that employee for possible disciplinary action if the official or department head finds such discipline warranted;
- 4) In a case involving possible violations of state statute, refer the matter to the District Attorney General for possible ouster or criminal prosecution.

When interpreting and enforcing the provisions of this Code the Commission and/or Ombudsman shall use the standard of what an objective reasonable person would have done, or would have perceived was done, under the facts and circumstances given. When a violation of this policy also constitutes a violation of a personnel policy or civil service policy, the violation shall be dealt with as a violation of the personnel or civil service policy provisions rather than a violation of this policy.

#### **Section 9. Applicable State Laws.**

In addition to the ethical principles set out in this Code, state law also provides a framework for the ethical behavior of County officials and employees in the performance of their duties. Officials and employees should familiarize themselves with state laws applicable to their office, position and the performance of their duties. To the extent that an issue is addressed by state law, (law of general application, public law of local application, local option law, or private

act), the provisions of state law, to the extent they are more restrictive, shall control. The following is a brief nonexclusive survey of selected state laws concerning ethics in County government. For the full text of these statutes see the identified Tennessee Code Annotated (T.C.A.) sections.

**Campaign Finance – T.C.A. Title 2, Chapter 10. Part 1** (Campaign Financial Disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. **Part 3** (Campaign Contribution Limits) limits the total amount of campaign contributions a candidate may receive from an individual and sets limits on the amount a candidate may receive in cash.

**Conflict of Interest – T.C.A. §12-4-101** is the general conflict of interest statute that applies in all counties. It prohibits anyone who votes for, lets out, or in any manner supervises any work or contract from having a direct financial interest in that contract, purchase, or work, and it requires disclosure of indirect financial interests by public acknowledgment.

**Conflict of Interest – T.C.A. §49-6-203** applies to the Department of Education or School Board in all counties and prohibits the direct and indirect conflict of interest in the sale of supplies for use in public schools.

**Conflict of Interest – T.C.A. §5-1-125** applies in all counties and prohibits county officials and employees from purchasing surplus county property except where it is sold by public bid.

**Conflict of Interest – T.C.A. §54-7-203** applies in all counties that are governed by the County Uniform Highway Law. It prohibits officials and employees in the Highway Department and members of the County Legislative Body from having any personal interest in purchases of supplies, materials, machinery, and equipment for the Highway Department.

**Conflict of Interest – T.C.A. §5-14-114** is part of the **Purchasing Law of 1957**, lawfully adopted and in effect in Anderson County. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from having any financial or personal beneficial interest in any contract or purchase of goods or services for any department or agency of the County.

**Conflict of Interest – T.C.A. §§5-5-102 and 12-4-101** govern disclosures and abstentions from voting due to conflicts of interest related to members of the County Legislative Body.

**Conflict of Interest Disclosure Statements – T.C.A. §§8-50-501 et seq.** requires candidates and appointees to local public offices to file a disclosure statement with the State Ethics Commission listing major sources of income, investments, lobbying activities, professional services provided, bankruptcies, certain loans, and other information, and to keep these statements up to date.

**Gifts – T.C.A. § 5-14-114** is part of the **Purchasing Law of 1957**, lawfully adopted and in effect in Anderson County. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from receiving anything of value, directly or indirectly, from anyone who may have or could obtain a contract or purchase order with the County.

**Honorarium** – T.C.A. §2-10-116 prohibits elected officials from accepting an honorarium, (including money or anything of value, but not including reimbursement for actual expenses) for an appearance, speech, or written article in their official capacity.

**Private Use of Public Property** – T.C.A. §54-7-202 applies to the Anderson County Highway Department. It prohibits the private use of equipment, rock, and other highway materials.

**Court Sales** – T.C.A. §39-16-405 prohibits judges, clerks of the court, court officers, and employees of court from bidding on or purchasing any property sold through the court for which such person discharges official duties.

**Rules of the Supreme Court – Rule 10, Cannon 5**, (Code of Judicial Conduct), establishes ethical rules for Judges and other court personnel when exercising judicial functions.

**Rules of the Supreme Court – Tennessee Rules of Professional Conduct**, establishes ethical rules for Tennessee attorneys.

**Fee Statutes** – T.C.A. §§8-21-101, 8-21-102, and 8-21-103 set out circumstances where fees are authorized, prohibit officials from requiring payment of fees in advance of performance of services except where specifically authorized and set penalties for charging excessive or unauthorized fees.

**Consulting Fee Prohibition for Elected County Officials** – T.C.A. §§2-10-122 and 2-10-124 prohibit officials from receiving compensation for advising or assisting a person or entity in influencing County legislative or administrative action.

**Crimes Involving Public Officials** – T.C.A. §§39-16-101 et seq. and the following sections prohibit bribery, soliciting unlawful compensation, and buying and selling in regard to offices.

**Official Misconduct** – T.C.A. §39-16-402 applies to public servants and candidates for office and prohibits the unauthorized exercise of official power acting in an official capacity exceeding the servant's power, refusal to perform a duty imposed by law, violating a law relating to the servant's office or employment, and receiving a benefit not provided by law.

**Official Oppression** – T.C.A. §39-16-403 prohibits abuse of power by a public servant.

**Bribery for Votes** – T.C.A. §§2-19-121, 2-19-126, and 2-19-127 prohibit bribery of voters in an election.

**Misuse of Official Information** – T.C.A. §39-16-404 prohibits a public servant from obtaining a benefit or aiding another person in obtaining a benefit from information which was obtained in his/her official capacity and is not available to the public.

**Public Official Ouster Law** – T.C.A. §8-47-101 sets out conduct that is punishable by ouster from office, including misconduct in office and neglect of duties. Ouster cases may be filed by either the Law Director or District Attorney General.