

**Ethics Counsel - ethics ordinance**

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**From:** "City of Clarksburg" <cityclar@aeneas.net>  
**To:** <ethics.counsel@state.tn.us>  
**Date:** 6/25/2007 1:26 PM  
**Subject:** ethics ordinance

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The City of Clarksburg passed the ethics ordinance: 1st reading on May 7, 2007 and the second reading on June 4, 2007. We mailed a copy of the ordinance t you today. Thanks.

From,

Ms. Terry McCoy  
City Recorder/Court Clerk  
P. O. Box 117  
Clarksburg, TN 38324  
731-986-5547  
fax 731-986-5575  
[cityclar@aeneas.net](mailto:cityclar@aeneas.net)

✓

**City of Clarksburg  
P. O. Box 117  
Clarksburg, TN 38324  
731-986-5547 fax 731-986-5575**

June 25, 2007

Tennessee Ethics Commission  
8<sup>th</sup> Floor, Snodgrass Tower  
312 8<sup>th</sup> Avenue, North  
Nashville, TN 37243

To Whom It May Concern:

Enclosed is a copy of Ordinance No. 05-07-07 "Ordinance Enacting An Ethics Policy For The Officers, Employees, And Advisory Board Members Of The City Of Clarksburg, Tennessee". The first reading was May 7, 2007 and the second reading was June 4, 2007. The city already had an ordinance to this effect but repassed it in order to be in compliance with the Tennessee Ethics Commission.

Thanks and please call if you have any questions.

Sincerely,



Ms. Terry McCoy  
City Recorder/Court Clerk

cc: Mayor Reed  
Alderman Woods  
Alderman McDaniel  
City Attorney Michael King

RECEIVED  
JUN 27 AM 9:21  
TENNESSEE ETHICS COMMISSION

ORDINANCE NO. 05-07-07

**CITY OF CLARKSBURG, TENNESSEE**  
**ORDINANCE ENACTING AN ETHICS POLICY FOR THE OFFICERS, EMPLOYEES,**  
**AND ADVISORY BOARD MEMBERS OF THE CITY OF CLARKSBURG, TENNESSEE**

WHEREAS, Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly requires municipalities to adopt a code of ethics; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF CLARKSBURG, TENNESSEE, that the Clarksburg Municipal Code be amended by the addition of the following:

**CODE OF ETHICS**

**Section 1. Definitions.**

- (1) "City" means City of Clarksburg, which includes all boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the City or an official of the City.
- (2) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the City.
- (3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with the 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, 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, 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, rescue himself or herself 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 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 the discretion shall disclose, before the exercise of the discretion when possible, their interest on the attached disclosure form and file the disclosure form with the

county clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself 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 City:

- (1) For the performance of any act, or refraining from performance of any act, that he would be expected to perform, or refrain from performing, in the regular course of his 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 City business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference sponsored by an established or recognized statewide association of City government officials or by an umbrella or affiliate organization of such statewide association of City government officials.

**Section 5. Ethics Complaints.** A City Ethics Committee (the "Ethics Committee") consisting of five members shall be appointed to one-year terms by the Mayor with confirmation by the City legislative body, to be appointed each year at the same time as internal committees of the City. At least two members shall be City aldermen; one member shall be the Mayor, and the remaining members may be either a member of a board, committee, commission, authority, corporation, or other instrumentality governed by this policy, or an additional member of the City legislative body. The Ethics Committee shall convene as soon as practicable after their appointment and elect a chair and a secretary. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the City clerk, where they shall be open to public inspection.

Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct shall be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based.

The City Ethics Committee 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 action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of this Code of Ethics. If a member of the Committee is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint.

The Committee may:

(1) refer the matter to the City Attorney for a legal opinion and/or recommendations for action;

(2) in the case of an official, refer the matter to the City legislative body for possible public censure if the City legislative body finds such action warranted;

(3) in the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;

(4) in a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics. When a violation of this Code of Ethics also constitutes a violation of a personnel policy or a civil service policy, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

**Section 6. Gift exceptions.** Section 3 of this Ordinance is not applicable to the following:

- (a) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (b) Anything for which the covered officer or employee, or a member of his or her immediate family, pays the fair market value.
- (c) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fund-raising event in support of a political organization or candidate.
- (d) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.
- (e) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé.
- (f) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining

whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

- (1) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and
  - (2) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
  - (3) whether to the actual knowledge of the recipient the individual who gave the gift was also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- (g) Food or refreshments not exceeding fifty dollars (\$50.00) per person in value on a single calendar day; provided that the food or refreshments are:
- (1) consumed on the premises from which they were purchased or prepared; or
  - (2) catered.
- For the purpose of this Ordinance, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- (h) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- (i) Intra-governmental and intergovernmental gifts. For the purpose of this Ordinance, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- (j) Bequests, inheritances, and other transfers at death.
- (k) Ceremonial gifts or awards which have insignificant monetary value.
- (l) Unsolicited gifts of nominal value or trivial items of informational value.

**Section 7. Disposition of Gifts.** An officer or employee, his or her spouse or an immediate family member, does not violate this Ordinance if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

**Section 8. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this Ordinance is subject to punishment as provided by the City charter or other applicable law and, in addition, is subject to censure by the city council. An appointed official or employee who violates any provision of this Ordinance is subject to disciplinary action up to, and including, termination of employment.

**Section 9. Repealer clause.** All other ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 10. City Recorder to file copy of Ordinance with Tennessee Ethics Commission.** Upon adoption by the Board of Mayor and Aldermen, the City Recorder is hereby directed to file a duly signed and attested copy of this Ordinance with the Tennessee Ethics Commission, in compliance with Section 49 of Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly.

**Section 11. Applicable State Laws.** In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of City officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or 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 that state law, to the extent they are more restrictive, shall control.

Following is a brief summary of selected state laws concerning ethics in government. For the full text of these statutes, see the Tennessee Code Annotated (T.C.A.) sections indicated.

Campaign finance – T.C.A. Title 2, Chapter 10. Part One (campaign financial disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. Part Three (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 Cities. 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 acknowledgement.

Conflict of interest – T.C.A. §49-6-2003 applies to the department of education in all Cities and prohibits direct or and indirect conflicts of interest in the sale of supplies for use in public schools.

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

Conflict of interest – T.C.A. §54-7-203 prohibits officials and employees in the highway department and members of the City 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. §5-21-121 prohibits City officials and employees from having any financial or other personal beneficial interest in the purchase of any supplies, materials or equipment for 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 of members of county legislative bodies.

Conflict of interest disclosure statements – T.C.A. §8-50-501 and the following sections require 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 prohibits the purchasing agent, members of the purchasing commission, and all City officials from receiving anything of value, directly or indirectly, from anyone who may have or obtain a contract or purchase order with the City.

Gifts – T.C.A. §5-2-121 prohibits the finance director, purchasing agent, and employees in those departments from accepting anything of value, directly or indirectly, from anyone who furnishes supplies, materials or equipment to the City.

Honoraria – 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 article in their official capacity.

Private use of public property – T.C.A. §54-7-202 prohibits the private use of equipment, rock, and other highway materials.

Court sales – T.C.A. §39-16-405 prohibits judges, clerks of 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.

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 City legislative or administration action.

Crimes involving public officials – T.C.A. §39-16-101 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 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 elections.

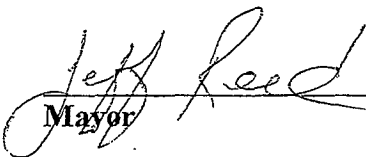
Misuse of official information – T.C.A. §39-16-404 prohibits a public servant from attaining a benefit or aiding another person in attaining a benefit from information which was obtained in an official capacity and is not available to the public.

Ouster law – T.C.A. §8-47-101 sets out conduct which is punishable by ouster from office, including misconduct in office and neglect of duty.

**Section 12. Effective date.** This Ordinance shall become effective from and after its date of adoption, the public welfare requiring it.

Passed first reading this 07 day of May, 2007.

Passed second reading this 04 day of June, 2007.

  
\_\_\_\_\_  
Mayor

ATTEST:   
\_\_\_\_\_  
CITY RECORDER

**CITY OF CLARKSBURG**

**CONFLICT OF INTEREST DISCLOSURE STATEMENT**

**Instructions:** This form is for reporting personal interests required to be disclosed under Section 3 of the Code of Ethics of this City. Officials and employees are required to disclose personal interests in matters that affect or would lead a reasonable person to infer that it would affect the exercise of discretion of an official or employee.

1. Date of disclosure: \_\_\_\_\_
2. Name of official or employee: \_\_\_\_\_
3. Office and position: \_\_\_\_\_
4. Description of personal interest (describe below in detail):

\_\_\_\_\_  
Signature of official or employee

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed name of witness