

Fairview

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TENNESSEE
ETHICS COMMISSION

April 16, 2007

Tennessee Ethics Commission
Sun Trust Building
201 4th Avenue North, Suite 1820
Nashville, TN 37219

IN RE: City of Fairview, Tennessee Code of Ethics Ordinance
City of Fairview, Tennessee, Ordinance 663
Certified Mail Receipt No. 7006 - 2760 - 0003 - 3169 - 8749

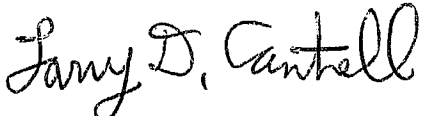
Gentlemen:

Attached to this letter you will find a Certified Copy of the City of Fairview, Tennessee, Ordinance 663. Said Ordinance is the City's Code of Ethics Ordinance which was passed and is hereby submitted to the Ethics Commission in accordance with **Tennessee Code Annotated, §8 - 17 - 103.**

The subject Ordinance passed final ready and became effective March 1, 2007.

If you have any questions or need additional information, please advise me at your earliest convenience.

Sincerely yours,



Larry D. Cantrell
City Attorney
Fairview, Tennessee
Attachment: City of Fairview Ordinance 663

STATE OF TENNESSEE
COUNTY OF WILLIAMSON

AFFIDAVIT

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TENNESSEE
ETHICS COMMISSION

I, **Kathleen Daugherty**, recorder for the city of Fairview, Tennessee, certify that the attached copy of Ordinance Number **663**, is a true and exact copy of the Ethics Ordinance enacted by the Board of Commissioners of the City of Fairview, Tennessee, on the 1st day of March, 2007.

FURTHER THIS AFFIANT SAYETH NOT.

Kathleen Daugherty
KATHLEEN DAUGHERTY, CITY RECORDER

Sworn to and subscribed before me this 5th day of April, 2007.

Shirley A. Forehand
NOTARY PUBLIC

MY COMMISSION EXPIRES: 03/06/10



AN ORDINANCE TO AMEND TITLE 1 OF THE FAIRVIEW MUNICIPAL CODE AND TO ADOPT A CODE OF ETHICS FOR THE CITY OF FAIRVIEW'S OFFICERS AND EMPLOYEES.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF FAIRVIEW, TENNESSEE AS FOLLOWS:

SECTION 1. Title 1 of the Fairview Municipal Code is amended by adding the following as Chapter 4:

CHAPTER 4

CODE OF ETHICS¹

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Fairview. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of Fairview. The words "municipal" and "Town" or "City of Fairview" include these separate entities.

1-402. Definition of "personal interest." (1) For purposes of Sections 1-403 and 404, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

¹ State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance – T.C.A. Title 2, Chapter 10.

Conflict of interests – T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements – T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials – T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) – T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information – T.C.A. § 39-16-401 and the following sections.

Ouster law – T.C.A. § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself² from voting on the measure.

1-404. 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, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the City of Fairview:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity of the City of Fairview or position of employment that is made confidential under state or federal law except as authorized by law.

² Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

(2) An official or employee may not use or disclose information obtained in his official capacity of the City of Fairview or position of employment with the intent to result in financial gain for himself or any other person or entity.

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the Board of Commissioners to be in the best interests of the City of Fairview.

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the City of Fairview.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the City of Fairview.

1-409. Outside employment. A full-time employee of the City of Fairview may not accept any outside employment without written authorization from the department head.

1-410. Ethics complaints. (1) The City of Fairview attorney is designated as the ethics officer for the City of Fairview, Tennessee. Upon the written request of an official or employee potentially affected by a provision of this chapter, the City of Fairview attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2)(a) Except as otherwise provided in this subsection, the City of Fairview attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The City of Fairview attorney may request the Mayor and Board of Commissioners to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the City of Fairview's Mayor and or Board of Commissioners, the Board and Board of Commissioners shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the Board determines that a complaint warrants further investigation, it shall authorize an investigation by the City of Fairview attorney or another individual or entity chosen by the Mayor and Board of Commissioners.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, 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.

1-411. 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 chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the Mayor and Board of Commissioners. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action as outlined herein.

SECTION 2. This ordinance takes effect from and after its final passage, the public welfare requiring it.

Ken Brisson

MAYOR

Kathleen Oughen

CITY RECORDER

APPROVED AS TO FORM:

Larry D. Cantrell

LARRY D. CANTRELL, CITY ATTORNEY

Passed First Reading February 15, 2007.

Passed Second Reading March 1, 2007.

Disclosure Form Attached

City of Fairview, Tennessee

Disclosure of Personal Interest

This form should be filled out and filed with the recorder or clerk by any municipal employee or official, except those who serve on boards or other bodies, who must exercise discretion relative to any matter and who has a personal interest in the matter. A personal interest is any financial, ownership, or financial interest in a matter to be regulated or supervised by the employee or official that could affect the employee's or official's discretion. This includes any financial, ownership, or employment interest of the employee's or official's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren). "Employment interest" includes any situation in which the employee or official or one or more of his or her family members designated above is negotiating possible employment with a person or organization that is to be regulated or supervised by the employee or official in carrying out municipal business. Use item 1 of this form to report individual occurrences and item 2 to make a yearly report of situations that will occur more than once during a calendar year.

NAME OF EMPLOYEE OR OFFICIAL: _____

1. Individual occurrence

BRIEFLY DESCRIBE THE SITUATION IN WHICH YOU MUST EXERCISE DISCRETION AND IN WHICH YOU HAVE A PERSONAL INTEREST THAT COULD AFFECT THAT DISCRETION:

2. Continual occurrences

FOR INDIVIDUALS, BUSINESSES, OR ENTITIES THE MUNICIPALITY WILL ENTER INTO TRANSACTIONS WITH MORE THAN ONCE EACH CALENDAR YEAR AND IN WHICH YOU HAVE A PERSONAL INTEREST, YOU MAY MAKE ONE (1) DISCLOSURE FOR THE CALENDAR YEAR BY REPORTING HERE:

Name of Individual, Business, or Entity: _____

Briefly describe the transactions that will take place between the municipality and the named entity during the calendar year in which you will exercise discretion and in which you have a personal interest that could affect that discretion:

Date: _____

Employee's or Official's Signature