

# Orme, TN

# Code of Ethics

Ordinance # 2021-1

## CODE OF ETHICS

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#### Section-by-Section Summary and

**Explanation SECTION 1.** This section provides that the code of ethics adopted by the municipal governing body applies to all full time and part-time elected and appointed officials, whether compensated or not. It also applies to members and employees of separate boards, authorities, and commissions created by the municipality except the school board, which adopts its own code. This includes planning commissions, boards of zoning appeals, beer boards, airport authorities and housing authorities, among others. These applications of the code of ethics are mandated by the Ethics Act passed by the General Assembly.

**SECTION 2.** The Ethics Act passed by the General Assembly requires that "personal interests" that affect or appear to affect the actions of municipal officials and employees must be disclosed, but the state statute does not define "personal interests." This section defines those interests. This is a broad definition and is much more encompassing than the state's conflict of interests laws. It includes ANY financial, ownership, or employment interest of an official or employee in a business or entity

the municipality does business with, regulates or supervises. It also includes these interests of the listed family members of the official or employee. It includes situations in which the official, employee or family member is negotiating employment with an affected entity. There is some overlap with indirect interests under state law, but most of the situations to which this provision in the code of ethics applies will not be covered by the conflicts of interests laws. An example would be a family member of a member of the governing body who is an employee of a business seeking to do business with the municipality. This would not be a direct or indirect conflict of interests under the state law, but it would be a personal interest that would have to be disclosed under this definition. This section provides that when there is an overlap with the conflicts of interests laws, those laws take precedence.

**SECTION 3.** This section requires an official with the responsibility to vote to disclose any of his or her personal interests that might affect his or her discretion before the

vote so that they appear in the minutes. The state statute does not require an official with a personal interest to recuse himself from voting. The implication of the statute is to the contrary and that after disclosure the official may vote. Nevertheless, this section allows, but does not require, the official to recuse himself.

**SECTION 4.** This section applies to employees and officials who must exercise discretion in matters that do not require a vote. The official or employee should, when possible, disclose the personal interest before the exercise of the discretion. Again, recusal is not required, but this section allows it when it is permitted by law, charter, ordinance or policy of the municipality.

**SECTION 5.** This section prohibits an official or employee from taking any money, gift, favor, or other gratuity from anyone other than the municipality for the performance of the official's or employee's regular duties or that gives the appearance of attempting to influence the discretion of the official or employee in carrying contract or lease determined by the governing body to be in the best interests of the municipality. This is a provision similar to ones that have been adopted by many municipalities.

**SECTION 8.** This section prohibits officials and employees from using their position to make private purchases in the name of the municipality and from using their position to gain privileges or exemptions that are not authorized by charter, general law, ordinance, or policy. These provisions are similar to provisions adopted by many municipalities.

**SECTION 9.** This section prohibits outside employment by officials or employees if the outside work interferes with municipal duties or is in conflict with any provision of the charter, any ordinance, or any policy of the municipality. Many

out municipal business. This is a somewhat modified version of a provision that most municipalities already have on the books.

An alternative to this gift prohibition that is allowed by the state ethics statute would be to allow gifts and gratuities up to a certain amount but to require reporting of those items. MTAS decided on prohibition because it is simpler to implement and because most cities already have similar provisions.

**SECTION 6.** This section prohibits officials and employees from disclosing confidential information and from disclosing any other information with the intent to result in financial gain. Again, these are common provisions in ethics ordinances that some cities have already adopted.

**SECTION 7.** This section prohibits officials and employees from using or authorizing the use of municipal time and facilities for their own financial gain. It also prohibits this for other entities or individuals unless it is authorized by municipalities have adopted similar provisions.

**SECTION 10.** This section provides methods for bringing and investigating complaints of violations of the code of ethics. The city attorney is designated as the ethics officer and may issue written opinions when requested on whether certain conduct would comply with the code of ethics and other applicable law. The city attorney is designated to receive and investigate complaints about officials and employees who are not members of the governing body. The attorney may request that the governing body designate another person or entity to act as ethics officer when he or she has a conflict of interests. The governing body must determine the merit of complaints against its members. If the governing body determines that a complaint warrants further investigation, it must authorize the investigation by the city attorney or another person or entity chosen by the governing

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.

**SECTION 11. 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 governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

X Jerry E Godsby

Commissioner: Jerry Godsby

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Commissioner: Pete Yantes

X Ann Eberle

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Approved on 2-17-21