

CHAPTER 8. ETHICS

Sec. 1-801. Applicability and interpretation.

- (1) This chapter is the Code of Ethics for the City of Franklin and 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 municipality. The words "municipal" and "municipality" include these separate entities. 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 except as may be required by law. In any situation in which a personal interest is also a conflict of interest under state law, the more restrictive regulation shall apply. Any action or inaction governed by this chapter may also constitute state and federal crimes. This chapter is not intended to supersede state or federal law.
- (2) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics. The interpretations of the Tennessee Ethics Commission shall serve as guidance in interpreting this chapter.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-802. Definitions and interpretation.

Censure means an expression of severe criticism or reproach.

Employment interest includes 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.

Ethics commission refers to the City of Franklin's Ethics Commission.

Gift means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. Such term does not include the solicitation, acceptance, receipt or regulation of political campaign contributions. A gift shall be further defined in this chapter and includes a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. It does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. It does not include the waiver of a registration fee for a conference or educational seminar.

Giver means that person, firm, entity or institution that gives for the purpose of lobbying a gift, honorarium or other thing of value that meets the definition of lobbyist, as these terms are found in T.C.A. § 3-6-301.

Honorarium means payment of money or any thing of value for an appearance, speech or article, but does not include actual and necessary travel expenses, meals and lodging associated with such appearance, speech or article.

Officer or official means the members of the board of mayor and aldermen, as well as members appointed thereby to city boards, commissions, etc. Unless otherwise stated, it does not include city employees.

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
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse or immediate family. For the purposes of this chapter, "immediate family" includes parent(s), stepparent(s), grandparent(s), siblings(s), child(ren), or stepchild(ren) or the spouses thereof.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-803. 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 himself or herself from voting on the measure.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-804. Disclosure of personal interest in nonvoting 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 or herself from the exercise of discretion in the matter.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-805. Acceptance of gifts, gratuities, honoraria, etc.; exceptions; reporting.

- (1) Except as provided in this section, no officials or employees, either for themselves or for their immediate family, or for any other person, may knowingly solicit, receive benefit from, accept or agree to accept any gratuity, gift, honoraria, loan, favor, promise or any thing of value for themselves, any other person or any member of the immediate family of such official. In addition, it shall also be a violation of this ethics code for any gift as defined in this chapter to be received by any such person as specified in this section if:
 - (a) It tends to influence the official or employee in the discharge of official duties or gives a reasonable basis for the impression of improper influence over the discharge of official duties; or
 - (b) The official or employee has financial interest which may be substantially and materially affected, by performance or nonperformance of official duties.
- (2) The gifts, gratuities, honoraria and other things listed in the Tennessee Ethics Commission Act (specifically but not exclusively T.C.A. § 3-6-305(b)) shall not be prohibited.
- (3) If an official attends an event and accepts a prohibited gift or honorarium, then the giver who knows or has reason to know that the it has been provided in violation of this chapter, then, within seven days following the event, the giver shall electronically report the following information to the ethics commission:
 - (a) Name of the official or family member;

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- (b) Nature and purpose of the event;
 - (c) Name, address and business of the person or entity that provided the gift;
 - (d) Description of the gift; and
 - (e) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the giver, then the giver shall report a good faith estimate of the cost of the gift.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-806. Use of information.

- (1) Officials or employees may not disclose any information obtained in their official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) Officials or employees may not use or disclose information obtained in their official capacity or position of employment with the intent to result in financial gain for themselves or any other person or entity.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-807. Use of municipal time, facilities, etc.

- (1) Officials or employees may not use or authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to themselves.
- (2) Officials or employees 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 governing body to be in the best interests of the municipality.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-808. Use of position or authority.

- (1) Officials or employees may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) Officials or employees may not use or attempt to use their position to secure any privilege or exemption for themselves or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. No officer shall intimidate, threaten, coerce, discriminate against, or give the appearance of or attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice in the regular discharge of official duties.
- (3) No official or employee shall endorse, in such a manner as to convey the city's approval of, any private for-profit enterprise without the approval of the board of mayor and aldermen.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-809. Outside employment.

An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. The prohibition of this section shall not apply to:

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- (1) An officer or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it; or
 - (2) An officer or employee whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest.
 - (3) An officer who abstains to avoid the conflict of interest as provided in this chapter.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-810. Abstention to avoid conflicts of interest.

- (1) It shall be a violation of this chapter for any city official to participate, directly or indirectly, through decision, approval, disapproval, recommendation or in any other manner, upon the following, each of which is deemed to be a conflict of interest:
 - (a) Any proceeding, application, vote, request for ruling, claim, controversy, contract or any other matter involving an immediate family member.
 - (b) Any matter in which the officer has a financial interest, a fiduciary interest, a corporate interest, or an employment interest.
- (2) Except as otherwise provided by law, no officer shall, in such capacity, participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any item in which the officer has a conflict of interest.
- (3) It is hereby declared that it is not the intent of this ethics code to prohibit an immediate family member of an officer from being engaged in gainful employment in this city. The city shall not be prohibited from doing business with an entity which employs an immediate relative of an officer, provided that:
 - (a) Such business relationship does not violate this chapter;
 - (b) Such business relationship is fully disclosed in writing; and
 - (c) Where applicable, the affected business entity shall be required to fulfill all public bidding requirements when conducting business with the city.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-811. Ethics complaints.

- (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
- (2) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an employee charging any violation of this chapter, or may undertake an investigation to acquire information indicating a possible violation and make recommendations for action to end or seek remedies for any activity that, in the attorney's judgment, constitutes a violation of this Code of Ethics.
- (3) The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer or to provide general counsel to the ethics commission.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-812. Ethics commission.

An ethics commission, properly constituted, shall convene to determine all ethics complaints against the board of mayor and aldermen as provided in Chapter 3 of Title 2 of the Franklin Municipal Code.

(Ord. No. 2007-69, 5-8-2007)

Sec. 1-813. Violations.

- (1) 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 and/or other applicable law and in addition is subject to censure by the governing body. In addition to any other remedy provided by law, an appointed official or an employee who violates any provision of this chapter is subject to disciplinary action including but not limited to termination in the case of an employee.
- (2) A gift made contrary to this chapter, shall not be a violation if the official, employee or immediate family member does not use the gift and returns it to the donor within the latter of ten days of receipt or ten days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten days of receipt or ten days of having knowledge that the gift was a violation.

(Ord. No. 2007-69, 5-8-2007)