

RESOLUTION

RECEIVED

to adopt a code of ethics for officials and employees of
Madison County Government

2007 MAY 30 AM 9:31

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

WHEREAS, the Madison County Ethics Review Committee was directed to prepare a draft of ethical standards for review by the Legislative Resolutions Committee which may be adopted by the County Legislative Body of Madison County in compliance with the Ethics Reform Act; and

WHEREAS, Madison County desires to adopt the ethical standards recommended by the Legislative Resolutions Committee as the Code of Ethics for Madison County.

NOW, THEREFORE, BE IT RESOLVED by the Madison County legislative body meeting in regular session at Jackson, Tennessee, on this 21st day of May, 2007, that:

SECTION 1. The ethical standards attached to this resolution are hereby adopted as the Code of Ethics for Madison County.

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

(a) Mail a copy of this resolution and the Madison County Code of Ethics 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, corporations or other instrumentalities appointed or created by the county or an official of the county, and specifically including the county school board, the county election commission and the county health department in the county; and

(c) Post a copy of the Code of Ethics on each public bulletin board in the county courthouse.

SECTION 3. This resolution shall take effect upon its passage and approval by the State Ethics Commission, the public welfare requiring it, not later than June 30, 2007.

ADOPTED this 21st day of May, 2007.

APPROVED:

ATTEST:



County Mayor



County Clerk

**CODE OF ETHICS
MADISON COUNTY, TENNESSEE**

Section I. Preamble

The ability of government to function depends upon the continuing consent of the governed, which in turn depends upon the trust the electorate holds for its government. The County Commission of Madison County, Tennessee, elected county officials and the various employees of the county recognize this need to maintain the public trust and confidence in the workings of county government, and thus adopt this Code of Ethics.

A Code of Ethics, alone, does not instill public trust, nor can it bring ethical behavior by our public servants. These goals are attained only through visible evidence of the manner in which the County's officials and employees apply the principles herein to the actual execution of the County's business. Public servants are stewards of public resources and, as such, are held to a higher standard than that of private citizens. The adherence to the ethical code of conduct of those members of government satisfies the written law. However, it is the hope that public servants, in conducting business, rise to levels that fulfill the higher law of treating others as we would want to be treated. All Madison County public servants are encouraged to continuously conduct themselves in a manner that takes them beyond all reproach.

Section II. Definitions

- (A) "County" includes all boards, committees, commissions, departments, and other instrumentalities created by the county, specifically including those listed in Attachment A.
- (B) "Officials and employees" is to be interpreted in the broadest sense. This term includes elected and appointed county officials, county employees, committee members, and members and employees of county boards, agencies, commissions, authorities, and corporations regardless of whether they are paid or not that are listed in Attachment B.
- (C) "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, or otherwise acted upon in an official capacity.
- (D) Political activity means: (1) Soliciting support or funds for the re-election of a person occupying an elective office or a candidate for an elective office or for a political party or political group; and (2) advocating passage or defeat of any matter or issue on an election ballot.

Section III. 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, recuse himself or herself from voting on the measure.

Section IV. Disclosure of Personal Interest in Non-voting Matters

An official or employee who must exercise discretion relative to any matter other than causing 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 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 or herself from the exercise of discretion in the matter.

Section V. 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 of an act, that the would be expected to perform, or refrain from performing, in the regular course of his duties;
- (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 elected official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with an event sponsored by an established or recognized statewide association of county governments officials or by an umbrella or affiliate organization of county government officials. An exception to this policy: County employees, appointed and elected officials may reasonably accept "deminimis" items when they are offered and accepted in the spirit intended (i.e.: working luncheon to conduct business or recognition of a holiday season, etc.). The dollar value of these items should not reasonably exceed a value of \$25.00.

Section VI. Conducting Political Activity on County Time

A non-elected county official or county employee shall not conduct political activity while on shift, working for, or during time that is to be devoted to county business.

An elected official also serving in a paid, non-elected position may not conduct political activity during time compensated for the non-elected position. However, an elected official also serving in a paid, non-elected position may conduct political activity during a normal business hours if that person takes vacation days or reimburses the County for such compensated time.

No elected official, non-elected official or county employee may use county resources for political activities.

Section VII. Coercion of Employees

No Madison County official, department head, or employee shall, directly or indirectly, use or threaten to use, any official authority or any influence in any manner whatsoever which tends:

- (1) to coerce any person to participate in political activities, an election campaign, or fundraising effort; or
- (2) to discourage, restrain, deter, prevent, interfere with, or discriminate against any person who chooses to participate in political activities, an election campaign, or fundraising effort.

Section VIII. Ethics Complaints

A County Ethics Committee (the "Ethics Committee") consisting of 7 members shall be appointed to one year terms. 4 members will be appointed by the County Legislative Body. The County Mayor will appoint 3 members with confirmation by the county legislative body. These appointments may be made each July to coincide with the establishment of the Madison County Code of Ethics on June 30, 2007. Each member shall: have been a legal resident of Madison County for one year immediately preceding selection, be a registered voter, have an interest in promoting ethics in government, will have not been convicted of a felony; and not an elected official, county employee, or member of any referenced body in Attachment "A" or "B". The Ethics Committee may convene as soon as practical after their election and elect a chairperson, a vice chairperson and a secretary. A 2/3 majority is required for any actions of the Ethics Committee. A quorum to conduct any committee business will be 5 members present. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the County Clerk, where they shall be open to public inspection.

Question and complaints regarding violations of the Code of Ethics or of any violation of state law governing ethical conduct should 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 County 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 County Attorney for a legal opinion and/or recommendations for action;
- (2) in the case of an official, refer the matter to the county legislative body for possible public censure if the county 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 circumstance 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 IX. Applicable State Law

In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of county 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 provision 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 county 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 counties. It prohibits anyone who votes for, lets out, or in any manner

supervises any work or contract from having 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---2003 applies to the department of education in all counties and prohibits direct 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 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 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from having any financial or other 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. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits all county officials and employees from having any financial or other personal beneficial interest in the purchases 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 applies in counties that have adopted the County Purchasing Law of 1957. 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 obtain a contract or purchase order with the county.

Gifts – T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It 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 county.

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 applies in counties that are governed by the County Uniform Highway Law. It 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 county legislative or administrative 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.

Purchasing – Financial Management Act of 1981: T.C.A. § 5-21-105 provides County purchasing oversight.

ATTACHMENT "A"

ORGANIZATIONS:

Archives
Assessor of Property
Building Department
Chancery Court
Circuit Court
Circuit Court Judges
Community Corrections
County Attorney
County Clerk
County Commission
County Mayor
E911
Election Commission
Emergency Management
Finance Department
Fire Department
General Sessions Court Clerk
General Session Judges
Health Department
Highway Department
Jackson/Madison County Schools
Juvenile Court Clerks
Juvenile Court Services
Personnel Department
Recreation Department
Register of Deeds
Sheriff's Department
Trustee

ATTACHMENT "B"

COMMITTEES/BOARDS

Adult-Oriented Establishment Board
Agricultural Extension Committee
Beer Commission
Budget Committee
Cable and Communications Committee
Capital Committee
Civil Service Board
Committee on Committees
Community Corrections Board
Court Security Committee
E911 Board
Economic Development Commission
Education Committee
Environmental/Appeals Board
Excess & Resale Property Committee
Financial Management Committee
Highway Committee
Industrial Parks Committee
Legislative/Resolution Committee
Insurance Committee
Madison County Board of Health
Madison County Board of Zoning Appeals
Madison County Equalization Board
Madison County Recreation Board
Madison County Regional Planning Committee
Municipal Solid Waste Planning Region Board
Personnel Committee
Property Committee
Public Records Commission
Solid Waste Committee
Jackson-Madison County Library Board