

ORDINANCE:	07-01
PREPARED BY:	Hale
REQUESTED BY:	
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AN ORDINANCE TO AMEND TITLE 1 OF THE FARRAGUT MUNICIPAL CODE AND TO ADOPT A CODE OF ETHICS ESTABLISHING ETHICAL STANDARDS FOR THE TOWN'S OFFICERS AND EMPLOYEES, AS REQUIRED UNDER SECTION 8-17-103 OF THE TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Municipal Code is hereby amended as follows:

SECTION 1.

Title 1 of the Farragut Municipal Code is amended by adding the following as Chapter 5:

Chapter 5

CODE OF ETHICS¹

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. 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 municipality. The words "municipal" and "municipality" include these separate entities.

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 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.

1-502. Definition of “personal interest.” (1) For purposes of Sections 503 and 504, “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, 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.

1-503. 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 from voting on the measure.

1-504. 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.

1-505. Acceptance of gratuities, etc. (1) 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 municipality:

(a) 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

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

(2) It shall not be a violation of this section for officials or employees to accept gifts given as an expression of general thanks for the work of public service performed by the official or employee, which are reported to the Town Administrator in writing and which have a value, the amount of which would not reasonably influence the official or employee to act favorably toward the donor on official matters within the responsibility of the official or employee. For purposes of this section the "value" of Thirty-Five Dollars (\$35.00) at the time of enactment of this section, or as increased by 3% for each year thereafter, shall be defined as the amount which would not reasonably influence an official or employee.

(3) It shall not be a violation of this section for officials or employees to accept invitations to openings of new businesses or facilities, open-houses or similar events at which refreshments or meals are served to which many members of the local community are also invited, or complimentary passes to events hosted by not-for-profit organizations.

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

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

1-507. 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.

(3) For purposes of this ordinance "private gain or advantage" shall not include

(a) a benefit to a private person or entity that is authorized in writing by the Town Administrator or in official action by the Farragut Board of Mayor and Alderman, or

(b) a mere incidental benefit to a private person or entity that flows secondarily to said person or entity as the indirect result of any action by any official or employee taken primarily and in the course of the performance of his or her authorized duties and responsibilities, and for the benefit of the municipality and the community at large.

1-508. 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 municipality.

(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 municipality.

1-509. Ethics complaints. (1) The Town 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 Town 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 Town 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 Town attorney may request the governing body 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 municipality's governing body, the governing body 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 governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the Town attorney or another individual or entity chosen by the governing body.

(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.

1-510. 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. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

W. Edward Ford, III
W. Edward Ford, III, Mayor

Allison Myers
Allison Myers, Town Recorder