SHELBY COUNTY CODE OF ORDINANCES
Chapter 18 ETHICS
Article II. CODE OF ETHICS

Sec. 18-51. Definitions.

For purposes of this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *County* means Shelby County, 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 election commission.

(b) *De minimis* means lacking significance or importance; so minor as to merit disregard.

(c) *Official, employee*, and *appointee* means and includes any official, whether an elected or appointed officer or employee of the county, and any member of a county board, commission, agency, or authority appointed by the county mayor and/or county commission, and the county employees of said boards, commissions, agencies, and authorities. This definition includes an official, employee, or appointee, whether compensated or not, and/or whether full-time or part-time.

(d) *Personal interest* means, for the purpose of disclosure of personal interests in accordance with this code of ethics, any non-de minimis direct financial interest of the official, employee, or appointee, or of the official's, employee's, or appointee's spouse or child living in the same household, or such persons in negotiations with a prohibited source, in the matter to be voted upon, regulated, supervised, or otherwise acted upon in an official capacity.

(e) *Prohibited source* means any person, business, entity or other organization that is seeking official action, decisions or performance or nonperformance of an official, employee, or appointee of the county. Nothing in this code of ethics prohibits an official, employee, or appointee from conducting such county business with, or voting or approving a matter involving, a lending institution whose lending activity is regulated by the state or federal government, solely because that official, employee, or appointee conducts private business with the institution upon the same terms as those granted to the public generally and not otherwise in violation of this article.
(Code 1992, § 12.5-51; Ord. No. 330, Att. § 1, 6-25-07; Ord. No. 371, 5-11-09; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-52. Disclosure of personal interest in voting matters.

Any official, employee, or appointee with the responsibility to vote or advise on any matter shall disclose during the meeting at which a vote on the matter takes place, before the vote and to be included in the minutes, any personal interest of the official, employee or appointee in the matter to be voted upon. In addition, the official, employee or appointee may recuse himself from discussion or voting on the matter. (Code 1992, § 12.5-52; Ord. No. 330, Att. § 2, 6-25-07; Ord. No. 371, 5-11-09; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-53. Disclosure of personal interest in nonvoting matters.

An official, employee, or appointee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the measure shall disclose the interest before the exercise of the discretion when possible and file the conflict of interest disclosure statement with the ethics officer. In addition, the official, employee or appointee may recuse himself from the discussion or exercise of discretion in the measure. (Code 1992, § 12.5-53; Ord. No. 330, Att. § 3, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-54. Disclosure of personal interests – contracts and inspections; statement of disclosure of interests; campaign financial disclosure statements.

(a) This section shall apply to any official, employee, or appointee of the county who:

(1) Approves requests for proposals or bid solicitations, or selects, evaluates, or recommends for award or rejection any bid or request for proposal response, for the purchase of personal property, goods, or services, including construction contracts; or

(2) Inspects off-site locations for any zoning, environmental, public health-related, or construction codes (building, existing building, mechanical, fuel, gas, or plumbing); school, road, or other facility construction; or compliance mandated by state law, contract agreement, or local ordinance.

(b) (1) Every official, employee and appointee subject to subsection (a) shall submit to the ethics officer the statement of disclosure of interests on or before February 15 annually. The statement of disclosure of interests shall include the information for the spouse of the official, employee or appointee. The statement may be updated by an official, employee or appointee at any time.

(2) Any county appointee who is a voluntary board member of a not-for-profit corporation shall submit to the ethics officer a statement of disclosure of interests designated for voluntary board members of not-for-profit corporations on or before February 15 annually in accordance with subsection (b)(1) of this section.

(3) Elected officials under the jurisdiction of this code of ethics may submit a copy of the statement of disclosure of interests filed with the Tennessee Ethics Commission to the ethics officer to satisfy this requirement.

(c) The form of the statement of disclosure of interests shall be the same as the statement of disclosure of interests that candidates and elected officials must file with the Tennessee Ethics Commission, unless amended by resolution of the board of county commissioners.

(d) In addition to such statements of disclosure of interests, elected officials shall submit copies of their campaign financial disclosure statements when they are required to be filed with the

county election commission. (Code 1992, § 12.5-54; Ord. No. 330, Att. § 4, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-55. General standards of conduct for officials, employees, appointees.

Officials, employees, appointees, their spouses, and children living in their household:

(a) Shall not receive or use for personal purposes any property, services or funds of county government unless authorized by law or county policy. Excepted is the de minimis use of county property;

(b) Shall not:

(1) Lend money to, or borrow money from, an official, employee, appointee, or prohibited source;

(2) Accept any surety, guaranty, or endorsement of any obligation for his self from another official, employee, appointee, or prohibited source; or

(3) Give any surety, guaranty, or endorsement of any obligation for another official, employee, appointee, or prohibited source.

Excepted are loans made between employees for $2,000.00 or less per calendar year and loans between family members for any amount, provided that neither such loan may be made to, or received from, a prohibited source.

(c) Shall not, for a period of one year after separation from service or employment receive compensation for any services rendered on behalf of any person, business or association in relation to any case, proceeding, or application, with respect to which such former official, employee, or appointee was directly concerned or in which such official, employee, or appointee personally participated during the period of his service or employment or which was under his active consideration or with respect to which knowledge of information was made available to him during the period of his employment. Nothing in this section precludes a former official, employee, or appointee from being engaged directly by the county to provide services to or on behalf of the county during this one-year period.

(d) Notwithstanding any provision in this code of ethics to the contrary, a member of the board of county commissioners may hold full-time employment in a position which may have incidental or occasional contact with the county, if such employment is his primary source of income, and if he discloses his interest and otherwise complies with this code of ethics, the county Charter and state law regarding conflicts of interest. (Code 1992, § 12.5-55; Ord. No. 330, Att. § 5, 6-25-07; Ord. No. 371, 5-11-09; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-56. Acceptance of gifts and other things of value.

(a) An official, employee, appointee, or his spouse or child living in the same household, shall not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county 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 county duties.

(b) An elected official shall not accept any entertainment, food, refreshments, meals, beverages, health screenings, amenities, or other items with a value in excess of $200.00 in a calendar year from any one prohibited source. Excepted are meals and entertainment offered as part of events sponsored by public or quasi-public entities, community organizations, or nonprofit charitable or educational organizations.

(c) Notwithstanding any provision in this Code to the contrary, any official, employee or appointee may accept any offer of items described in the previous two paragraphs regardless of value, provided that the same items are offered at the same time to the public generally or to all the board of county commissioners and/or all officials, employees, or appointees in the same class.

(d) Notwithstanding any provision in this Code to the contrary, this code of ethics shall not prohibit gifts to or between officials, employees, and appointees on any occasion on which gifts are traditionally given, exchanged or donated, if such gift is appropriate to the occasion and does not have a market value in excess of $50.00; or gifts of any value between family members at any time.

(e) Each prohibited source shall disclose, on a quarterly calendar basis in writing to the ethics officer, all gratuities that it has given to officials, employees, and appointees, or their spouse or child living in the same household during the preceding quarter by filing the prohibited source gift disclosure form. (Code 1992, § 12.5-56; Ord. No. 330, Att. § 6, 6-25-07; Ord. No. 348, 10-22-07; Ord. No. 371, 5-11-09; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-57. Ethics complaints.

(a) *Ethics commission.* A county ethics commission consisting of 12 members and a chairman shall be appointed to two-year terms by the county mayor with confirmation by the board of county commissioners. The membership of the ethics commission shall consist of not less than five licensed attorneys of which three shall be former judges of a court of record or general sessions court, in addition to eight members from the broader community. The county mayor shall insure that the diversity of the community is reflected in the membership of the ethics commission.

(1) The ethics commission shall have jurisdiction of all ethics complaints lodged against elected officials; appointees to boards, commissions, and authorities; chief administrative officers and assistant chief administrative officers; division directors, deputy directors, chief administrators, administrators, and deputy administrators; and chief deputies and assistant chief deputy sheriffs.

(2) The records of the ethics commission shall be maintained at the direction of the chair and filed with the ethics officer, where they shall be open to the public.

(b) *Ethics officer.* The county attorney shall designate one attorney from his staff to serve as ethics officer to the ethics commission. This ethics officer shall provide legal advice and direction to the commission, and shall review all ethics complaints prior to those complaints being heard by the commission. Upon reviewing a complaint, the ethics officer may take no action, refer the matter to an appropriate officer or entity, or refer it to the ethics commission. The ethics officer shall also issue ethics opinions, verbally or in writing, at the request of any county elected official or department head.

(c) *Ethics training required.* Every official, employee, and appointee under the jurisdiction of the ethics commission shall undergo ethics training once per calendar year. It shall be the responsibility of the ethics officer to identify a reputable source for ethics training and make that training available locally on a quarterly basis. The ethics officer shall file the certificate of annual training form with the ethics commission no later than December 31 of each year certifying that ethics training has been completed by the individuals under its jurisdiction.

(d) *Duties of ethics commission.* The ethics commission shall investigate any credible complaint referred by the ethics officer charging a violation under this code of ethics by an official, employee, or appointee in its jurisdiction. The ethics commission shall also hold public meetings on an on-going basis to educate the public about ethical behavior and practices by government officials; inform the public of the appropriate process for filing complaints; make recommendations regarding possible rule or ordinance provisions relating to ethics; and maintain an on-going community discussion about ethical practices. The ethics commission is authorized to establish rules and regulations for the conduct of its activities.

(e) *Filing complaints and hearing procedures.* Questions and complaints regarding violations of this code of ethics or of any violation of state law governing ethical conduct should be directed to the ethics officer. Complaints against individuals shall be in writing and signed under oath by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based or by completion of the sworn complaint form.

(1) If the ethics officer refers a complaint to the ethics commission, he or she shall provide comments to the ethics commission as to its validity. Upon receiving a complaint, the ethics commission chair shall select a panel of three members of the ethics commission to review the complaint. Such panel shall be selected on a rotating basis. Two of the three members of the panel, including the panel chair, shall be licensed attorneys.

(2) Within ten (10) business days of selection, the panel shall vote either to dismiss the complaint or to hold a hearing.

a. If the panel votes to dismiss the complaint, the panel's decision shall be based upon one of the following:

i. other remedies are being pursued in a more appropriate forum;

ii. the allegations, even if true, would not constitute a violation of this code of ethics;

iii. there is insufficient credible evidence supporting the allegations to warrant a hearing; or

iv. dismissal without a hearing is otherwise appropriate.

b. If the panel votes to hold a hearing, the panel shall set a hearing date within 30 calendar days of the date the complaint is received by the panel. The date may be continued for good cause shown by any party.

(3) After a hearing at which all parties may be represented by counsel and put on witnesses and evidence, the panel shall determine if a violation of the code of ethics has occurred. If the panel finds that no violation has occurred, then the panel shall dismiss the complaint. If the panel finds that a violation has occurred, then the panel shall submit its findings and recommendations no later than 5 business days from the date of the hearing to the chairman of the ethics commissions and in accordance with the following:

a. In the case of an ethics violation that resulted from a good faith mistake, issue a warning;

b. In the case of an employee, recommend that the employee's supervisor take disciplinary action in accordance with county policy;

c. In the case of an elected official, recommend that the board of county commissioners publicly censure that official;

d. In the case of an elected official, recommend that an ouster suit be brought by the appropriate governmental official; or

e. In the case of a possible criminal violation, refer the matter to the appropriate law enforcement official.

(4) Upon receipt of the panel's findings and recommendations, the chairman shall call a special meeting not less than 48 hours nor more than 5 business days to review and take into consideration the adoption of same.

(f) *Penalties for frivolous complaints.* It shall be a violation of this section to submit a complaint to the ethics commission that has no genuine basis in fact. Any person, firm, or corporation in violation of this subsection shall be fined not more than $50.00. The ethics commission may instruct the ethics officer to seek civil penalties to recoup the costs of hearing a frivolous complaint. (Code 1992, § 12.5-57; Ord. No. 330, Att. § 7, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-58. Whistleblower protection; abuse of process; complicity.

(a) Officials, employees and appointees are encouraged to report suspected ethical violations to the ethics officer.

(b) No official, employee or appointee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the ethics officer information relating to an ethics violation or an investigation by the ethics commission.

(c) No official, employee or appointee shall use or threaten to use any official authority or influence to effect any action to retaliate against an official, employee or appointee who reports, initiates a complaint, or otherwise brings to the attention of the ethics officer information relating to an ethics violation or an investigation by the ethics commission. (Code 1992, § 12.5-58; Ord. No. 330, Att. § 8, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-59. County contracts and approvals.

All persons receiving any county contract, subcontract, land use approval or financial grant of money shall execute the gratuity disclosure form under oath and file same with the ethics officer, prior to award of same by the board of county commissioners, or by any board, commission, agency, authority, official, employee, or appointee in which such persons shall:

(1) Disclose any gratuity that they have given, directly or indirectly, to any official, employee or appointee, including their spouses and children living in the household, who is involved in the decision regarding the contract, land use approval, or financial grant of money;

(2) Affirm that they have not given, directly or indirectly, any gratuity to any official, employee or appointee, including their spouses and children living in the household, that has not been disclosed; and

(3) Affirm that they have not violated the provisions of this code of ethics.
(Code 1992, § 12.5-59; Ord. No. 330, Att. § 9, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-60. Lobbyists.

(a) For the purposes of this section, a lobbyist is anyone who receives a salary, commission, or fee from any entity for the purpose of influencing the decision, for or against, of any decision-maker within the county. "Lobbyist" does not include anyone conducting such activity who receives only reimbursement at value for meals and/or travel.

(b) A lobbyist shall register with the ethics officer within five business days of becoming a lobbyist by filing the lobbyist registration form. The lobbyist shall include in the registration the

names of all clients for whom he or she is lobbying the county and the specific issues about which he or she is lobbying.

(c) The lobbyist shall report annually to the ethics officer any campaign contributions in excess of $100 that he or she has made to any elected official in county government, and all gifts to officials, employees, and appointees who exercise discretion in a matter that is the subject of the lobbying by filing the annual lobbying expenditure report for lobbyists. (Code 1992, § 12.5-60; Ord. No. 330, Att. § 10, 6-25-07; Ord. No. 371, 5-11-09)

Sec. 18-61. Additional standards for board of county commissioners.

If a member of the board of county commissioners holds a chairmanship, whether of a committee or of the whole commission, and has been criminally charged or indicted with one or more of the following state or federal offenses:

(1) Actual or attempted extortion of money or property, real or personal, under color of official right;

(2) Taking of state or federal program funds or property, real or personal, acquired with state or federal funds; or

(3) Embezzlement, stealing or obtaining by fraud or otherwise unauthorized conversion of any property to the use of any person other than the rightful owner or the intentional misapplication of any property;

then the board of county commissioners shall vote within 45 calendar days of the charge or indictment whether such member shall retain such chairmanship. The charged or indicted member who is the subject of the vote shall not vote in that decision. (Code 1992, § 12.5-61; Ord. No. 330, Att. § 11, 6-25-07; Ord. No. 371, 5-11-09; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-62. Forms to be placed on Internet.

The ethics officer shall place all forms filed in accordance with this code of ethics on the county Internet website [www.shelbycountytn.gov]. All original forms shall remain in the custody of the ethics officer. The signatures of all county officials, employees and appointees shall be redacted, unless redaction would prevent identification of person filing form, prior to posting on the county Internet website. (Code 1992, § 12.5-62; Ord. No. 330, Att. § 12, 6-25-07; Ord. No. 390, Ex. A, 3-29-10)

Sec. 18-63. Applicable state laws.

In addition to the ethical principles set out in this code of ethics, state laws also provide a framework for the ethical behavior of officials, employees, and appointees in the performance of their duties. Officials, employees, and appointees 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 provisions of that state law, to the extent they are more restrictive, shall control. (Code 1992, § 12.5-63; Ord. No. 330, Att. § 13, 6-25-07; Ord. No. 371, 5-11-09)

State law references – T.C.A. Title 2, Chapter 10, Parts One and Three; §§ 2-10-116, 2-10-122, 2-10-124, 2-19-121, 2-19-126 to 127, 5-1-125, 5-5-102, 8-21-101 to 103, 8-47-101, 8-50-501, 12-4-101, 39-16-101, 39-16-402 to 404, 39-16-405, 49-6-2003.

NOTES:

1. Ethical rules for judges and other court personnel are promulgated by the Tennessee Supreme Court; see Rule 10, Cannon 5 (Code of Judicial Conduct).

2. Ethical standards for county school boards are promulgated by county boards of education; Tenn. Code Ann. § 8-17-102(d).

Sec. 18-64. Forms.

All forms required to be filed in accordance with this chapter shall be approved by resolution of the board of county commissioners. (Code 1992, § 12.5-64; Res. No. 35A, 08-27-07; Res. No. 17, 02-09-09; Ord. No. 371, 5-11-09)

Sec. 18-65. Joint City-County Boards, Commission, Agencies and Authorities.

The agreement creating all joint city-county boards, commissions, agencies and authorities shall be amended for the purpose of designating the ethical standards that shall govern all aforementioned jointly created instrumentalities. (Code 1992, § 12.5-65; Ord. No. 371, 5-11-09)

State law reference: T.C.A. 8-17-102.

Sec. 18-66. Appeal.

Any official, employee or appointee found to be in violation of the provisions of this chapter shall be entitled to all available remedies as provided by law. (Code 1992, § 12.5-66; Ord. No. 371, 5-11-09)

Sec. 18-67 – 18-100. Reserved.

Article III. ANTINEPOTISM

Sec. 18-101. Employment of relatives regulated.

It shall be unlawful for any public officer to employ as deputies or subordinates more than one relative, connected by affinity or consanguinity within the third degree, computed according to the civil law. (Code 1992, § 24-1; Priv. Acts 1931, ch. 561, § 1)