

ORDINANCE 24-O-25 amending the Murfreesboro City Code, Chapter 2, Administration, Article XV, adopting an ethics code for City officials and employees.

WHEREAS, honesty, integrity, impartiality, and ethical conduct on the part of government officials and employees are essential to effective government and to maintaining the public's trust and confidence in government; and

WHEREAS, it is, therefore, the responsibility of all City officials and employees to perform their jobs in a manner that fosters this public trust by providing quality service, avoiding conflicts of interest or use of their position for personal gain, or by remaining accountable to the City's residents; and

WHEREAS, it is the will of City Council to establish an ethics code establishing ethical standards for City officials and employees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Chapter 2, Administration, Article XV of the Murfreesboro City Code is hereby amended by changing the title of Article XV from "Reserved" to "Ethics Code" and replacing the current reserved sections as follows:

Section 2-315 Declaration of Policy.

Honesty, integrity, impartiality, and ethical conduct on the part of government officials and employees are essential to effective government and to maintaining the public's trust and confidence in government. It is, therefore, the responsibility of all City officials and employees to perform their jobs in a manner that fosters this public trust by providing quality service, by avoiding conflicts of interest or use of their position for personal gain, or by remaining accountable to the City's residents.

Section 2-316 Applicability and interpretation.

(A) The article sets forth the ethics code for the City of Murfreesboro ("Ethics Code"). Except as otherwise provided in this article, the Ethics Code applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including to officials serving on or employed by any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City.

(B) Acts or omissions proscribed by the Ethics Code may also violate state or federal law. This chapter is not intended to supersede any such law. In any situation in which an act or omission constitutes a conflict of interest under either the Ethics Code or state law or under both the Ethics Code and state law, the more restrictive provision shall apply.

(C) The interpretations of the Tennessee Ethics Commission shall serve as guidance in interpreting this chapter. In the absence of applicable guidance, the Ethics Code shall be interpreted and enforced from the standpoint of a reasonable person evaluating all the relevant facts and circumstances.

Section 2-317 Definitions.

For purposes of this article, the following terms shall have the meanings ascribed to them in this section:

Censure means an expression of severe criticism or reproach.

City means the City of Murfreesboro, Tennessee, and includes, without limitation, the City Council and any board, commission, committee, authority, corporation, department, or other instrumentality appointed or created by the City Council.

Conflict of interest means a direct or indirect interest, financial or otherwise, that conflicts, or appears to conflict, with an official's or employee's governmental duties or responsibilities.

Decision means a decision, approval, disapproval, recommendation, investigation, or rendering of advice by or on behalf of the City or any of its boards, commissions, committees, or departments.

De minimis value means a fair market value of less than one hundred dollars (\$100);

Direct interest and *directly interested* shall have the same meanings as such terms are defined in T.C.A. § 6-54-107 and § 12-4-101, respectively.

Employment interest means a situation in which an official or employee or an immediate family member is employed by or is negotiating possible employment with a person or entity.

Financial interest means ownership or equity interest, beneficial interest, stake, lending of credit, employment, or any other endeavor that yields or is reasonably expected to yield or produce some monetary gain or other material thing of value for a person.

Gift means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. A gift includes a subscription, membership, loan, forgiveness of debt, advance or deposit of money, or anything of value conveyed or transferred. It does not include the solicitation, making, or acceptance of 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 also 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 anything 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.

Immediate family includes an official's or employee's spouse, parents, parents-in-law, stepparents, grandparents, siblings, children, stepchildren, grandchildren, and the spouses thereof.

Indirect interest and *indirectly interested* shall have the same meanings as such terms are defined in T.C.A. § 6-54-107 and § 12-4-101, respectively.

Material or *materially* means something that a reasonable person would consider important in assessing or determining how to act in a matter.

Material financial interest means (1) remuneration from employment or for services as an independent contractor in excess of \$1,000 per year; (2) ownership of a

non-managerial equity interest in excess of \$5,000 in any privately held entity or of one percent or greater of any publicly traded company; (3) a managerial interest in an entity, whether compensated or not; (4) an interest as a trustee, director, or officer in an entity; (5) status as a creditor of a person or entity where the face of the debt is \$5,000 or more; or (6) any other financial or beneficial interest, which in view of the circumstances, is substantial enough that it would, or could reasonably, affect or influence a person's decision on a matter

Matter includes, but is not limited to, a legislative, judicial, quasi-judicial, or administrative matter, proposal, proceeding, application, request for ruling or determination, contract or claim involving the City.

Official means the Mayor, members of the City Council, and any individual appointed by the City Council to City boards, commissions, committees, authorities, or instrumentalities established by law or this article.

Personal interest means:

- (a) Any ownership, employment, or financial interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any ownership, employment, or financial interest in a matter to be regulated or supervised; or
- (c) Any ownership, employment, or financial interest of the official's or employee's immediate family.

Reasonable or *reasonably* when used in relation to conduct by an official or employee denotes the conduct of a reasonably prudent and competent public servant.

Section 2-318 Standards of conduct.

(A) *General Standards.* City officials and employees shall not:

- (1) Accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the course of discharging their official duties whether in the form of a vote or other action;
- (2) Accept or solicit bribery;
- (3) Accept or solicit money or anything of value, other than in compliance with election campaign laws and fully reported pursuant to the same, irrespective of the payor's intent, if such payment or solicitation is in any way directly or indirectly related to their official duties or position;
- (4) Accept or solicit any promise of any benefit, direct or indirect, to themselves, immediate family members, or their employer (if the employer is other than the City) that the official or employee believes or should reasonably believe was intended to influence action taken in their official capacity;
- (5) Receive or use any City property, service, or funds for their personal gain or advantage or that of any immediate family member, except as permitted by law, where the use of City property or service is made available to such officials and employees on the same terms as the general public, or where use of such property or service is made available to such officials and employees as a benefit of employment;
- (6) Use for personal gain or advantage, or that of an immediate family member or employer, information pertaining to the City government that is not a matter of common public knowledge, or use their position to secure information about any person or entity for any purpose other than the performance of their official duties;
- (7) Use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions;

(8) Use their position with the City to obtain personal financial gain or otherwise to secure unwarranted privileges or exemptions for themselves, immediate family members, or others that is not authorized by the charter, general law, or ordinance or policy of the City, provided, however, that this provision does not preclude City officials and employees from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

(9) Make or attempt to make private purchases, for cash or otherwise, in the name of the municipality;

(10) Participate in making or influencing any decision or action on behalf of the City in which they know that they have a material financial interest distinguishable from that of the public generally or from that of other City officials or employees generally;

(11) Conduct themselves in such a way as to create a reasonable impression that a person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position, or influence of any person;

(12) Solicit, approve by vote or otherwise, oversee, or supervise in any manner or any contract in which the official or employee has a direct interest;

(13) Solicit, approve by vote or otherwise, oversee, or supervise in any manner any work or any contract in which the official or employee has an indirect interest without disclosing such interest as required by state law and the Ethics Code;

(14) Violate the requirements established by state law regulating the conduct of municipal officials and employees, including, without limitation, statutes and rules related to direct or indirect conflicts of interest, consulting, and lobbying;

(16) Fail or refuse to file in a timely manner any disclosure statement required by the Ethics Code or any other law or ordinance; and

(17) Act in violation of any other provision of the Ethics Code.

(B) *Obligation to avoid appearance of impropriety.* All officials and employees shall avoid any action, whether or not such actions are specifically prohibited by statute, regulation, or the Ethics Code, that might result in or create the appearance of using their position with the City for private gain, giving preferential treatment to any person or organization that is not permitted by law, acting without independence or impartiality, making government decisions outside the process required by law, or adversely affecting the confidence of the public in the integrity of the City's government.

Section 2-319 Conflicts of interests in voting matters.

(A) No official or employee may participate, directly or indirectly, in any decision, approval, disapproval, recommendation or in any other manner, upon the following, each of which is deemed to be a conflict of interest:

(1) Any proceeding, application, vote, request for ruling, claim, controversy, contract, or any other matter involving an immediate family member; or

(2) Any matter in which the official or employee or a member of their immediate family has a financial interest, a fiduciary interest, a corporate interest, or an employment interest.

(B) Except as otherwise provided by law, no official or employee shall, in such capacity, participate in the discussion, debate, or vote, or otherwise take part in the decision-making process on any item in which the officer or employee has a conflict of interest as defined in subsection (A).

(C) Where an official's personal interest in a matter is not a direct interest under applicable state law, does not constitute a conflict of interest as defined in subsection (A), and voting on or participating in the deliberation of such matter would not otherwise violate the Ethics Code but where the personal interest may nevertheless lead a reasonable person to belief that such interest might affect the official's vote on the matter, the official may vote on and participate in the discussion and debate of such matter if and only if the official first discloses the nature of the official's personal interest during the meeting at which the vote takes place, before such vote is taken, and so it appears in the minutes of the meeting. In the alternative, an official may recuse themselves from voting on the matter with or without disclosing any such personal interest.

(D) Nothing in this section is intended to preclude the City from conducting business with an entity which employs an immediate family member of an official or employee, provided:

(1) The official or employee plays no role in the proceedings that led to the business relationship or in overseeing that relationship;

(2) Such business relationship does not violate the Ethics Code or applicable state law;

(3) Such business relationship is fully disclosed in writing; and

(4) Where applicable, the affected business entity shall be required to fulfill all public bidding requirements when conducting business with the City.

(E) This section shall not preclude participants in the City's Pension Plan who serve on the City's Pension Board from voting on any matters related to benefits the participant might be eligible for under the City's Pension Plan.

Section 2-320 Conflicts of interest in nonvoting matters.

(A) No City official or employee may play any role in soliciting, approving, overseeing, or in any manner supervising work under any contract in which the City has an interest if the official or employee has a direct interest or material financial interest in such work or contract.

(B) No City official or employee may play any role in soliciting, approving, overseeing, or in any manner supervising work under any contract in which the City has an interest if the official or employee has an indirect interest in such work or contract unless the official or employee first, before taking any action with respect to the work or contract, publicly acknowledges their interest in the work or contract. Such disclosure shall be made on a form provided by and filed with the City Recorder.

(C) In addition to the prohibitions set forth in subsections (A) and (B), an official or employee whose official duties require them to exercise discretion on a matter, in a manner other than by 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 discretion shall disclose the interest on a form provided by and filed with the City Recorder. Whenever feasible such disclosure shall be made before the officer or employee exercises their discretion in the matter. Where disclosure is not possible before exercising such discretion, the official or employee shall disclose the interest on the same form and file with the City Recorder as soon as reasonably possible after the exercise of discretion. In the alternative, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse themselves from the exercise of discretion in the matter. It is the intent of City Council that the disclosure requirement set forth in this subsection (C) apply to any matter and, thus, apply more

broadly than the requirements set forth in subsection (A) and (B) and in T.C.A. § 6-54-107 and § 12-4-101 with respect to contractual matters.

Section 2-321 Acceptance of gifts, gratuities, honoraria; etc.; exceptions.

(A) Except as provided in this section, no official or employee shall solicit or accept, directly or indirectly, on behalf of themselves or an immediate family member, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan guarantee or any other item of monetary value, from any person or entity that:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the City;

(2) Conducts business, operations, or other activities with the City; or

(3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

(B) Except as provided as provided in this section, no official or employee shall accept, direct or indirectly, on behalf of themselves or an immediate family member any gift that might reasonably be interpreted as an attempt to influence the officer's or employee's discretion in performing their official duties or to reward the officer or employee for their past exercise of discretion in performing their official duties.

(C) The following are not subject to the prohibitions in subsections (A) and (B):

(1) Gifts, gratuities, honoraria, and other things listed in the Tennessee Ethics Commission Act (specifically but not exclusively T.C.A. § 3-6-305(b));

(2) Gifts of de minimis value that are shared equally by members of an office or department; and

(3) Gifts that are solely decorative reflect an action or project that benefits the community; and

(4) Gifts from the City itself.

(D) This section does not prohibit an official or campaign from soliciting or accepting political campaign donations made in compliance with election campaign laws and fully reported pursuant to such laws.

Section 2-322 Non-City work and employment.

(A) *Officials.*

(1) An official, during the time for which such person is elected or appointed, may not:

(a) Accept or continue any employment by a person or entity other than the City or provide goods or services to a private interest for financial gain if such employment or action unreasonably inhibits the performance of any affirmative duty of the official's position or conflicts with any provision of the Charter or any City ordinance or policy;

(b) Provide goods or services for compensation to a person or entity that is requesting approval, action, or a determination by the City;

(c) Accept or continue employment or engage in outside activities that might impair their independent judgment in the performance of their public duty; or

(d) Participate personally in the deliberation and decision of an official matter if the official is negotiating or has an arrangement concerning prospective employment with a person or organization that has a material financial interest in a matter under consideration by or within the City's jurisdiction; or

(e) Contract with the City to provide goods or services that is to be paid for out of the City's treasury or have any direct interest in any such contract.

(2) In addition to the foregoing, neither the Mayor nor any member of City Council may receive financial compensation, whether as a contractor or subcontractor, through a commission, financial incentive, ownership interest, or profit-sharing arrangement, or in any other form, for goods or services provided to a person or entity in connection with a contract, development, project, or other matter that received approval from the City Council for a period of two years from such approval if the official voted on the approval of that contract, development, project, or matter or otherwise participated in deliberations related to that contract, development, project, or other matter.

(3) The prohibitions in subsections (A)(1) and (A)(2) do not apply to an official:

(a) who is appointed to a regulatory or licensing board pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;

(b) whose government duties are ministerial, if the private employment or material financial interest does not create a conflict of interest; or

(c) who abstains from voting on a matter to avoid the conflict of interest.

(B) *Employees*

(1) City employees may have outside employment, provided such employment does not interfere with their employment by the City and is approved in writing by the employee's department director.

(2) City employees shall not engage in private employment or render service for private interest when such employment or service is incompatible with the proper discharge of the employee's official duties, would tend to impair the employee's independent judgment or action in the performance of those official duties, or would prevent the employee from being available for required overtime work.

(3) An employee may not participate personally in the deliberation and decision of an official matter if the employee is negotiating or has an arrangement concerning prospective employment with a person or organization that has a material financial interest in a matter under consideration by or within the City's jurisdiction

Section 2-323 Representing private interests before City agencies.

(A) No officer or employee shall personally represent or appear on behalf of a private interest of another person before the City Council or any City board, commission, committee, department, or authority.

(B) No officer or employee shall personally represent or appear on behalf of a person, whose interests are adverse to those of the City, in any quasi-judicial proceeding involving the City or in any judicial proceeding to which the City is a party.

(C) Nothing in subsection (A) and (B), however, shall preclude:

(1) An officer or employee from speaking or appearing on their own behalf before the City Council or any City board, commission, committee, department, or authority;

(2) An officer or employee from representing a personal interest consistent with state law and the Ethics Code;

(3) An officer or employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding;

(4) An employee who is a registered lobbyist from representing or appearing before City Council or any board, commission, committee, department, or authority on behalf of the interests of the person(s) or organizations(s) for which the employee is lobbying;

(5) A member of City Council or any other board, commission, or committee who is licensed attorney from representing or appearing on behalf of a private interest of another, provided the client's interests are neither adverse to the City nor pertain to any matter before or that may come before the official body on which the attorney serves; or

(6) Members of City Council from appearing before City Council or any other board, commission, committee, department, or authority to express the opinions and/or wishes of their constituents, provided the member of council is not acting in a representative capacity and does not receive anything of value in exchange for such appearance.

Section 2-324 Annual Disclosures

(A) The disclosure requirements contained in this section shall apply to the following officials and employees: (1) the Mayor; (2) all members of City Council; (3) all members of the Planning Commission; and (4) the City Manager, the City Recorder, the City Treasurer, the City Attorney, and the City Judge.

(B) On or before February 15th of each year, each official and employee included in subsection (a) of this section shall file with the City Recorder an annual disclosure statement setting forth the information requested therein as of and for the year ended December 31st of the preceding year.

(C) Officials and employees shall amend their current disclosure statement within thirty days of the occurrence of any material change to the disclosures.

(D) All disclosure statements filed pursuant to this section, and amendments thereto, shall be maintained by the City Recorder and be readily available for inspection by the public.

(E) The annual disclosure statement shall require disclosure of the following information:

- (1) All of the official's or employee's sources of income for the preceding calendar year (excluding gifts from immediate family members);
- (2) To the best the official's or employee's knowledge, all sources of income for the official's or employee's spouse for the preceding year (excluding gifts from immediate family members);
- (3) Financial interests of the official/employee or the official's/employee's spouse of at least 5% of any business with operations, offices, or interests in Rutherford County;

- (4) Direct or indirect financial interests of the official/employee or the official's/employee's spouse in real property (other than primary residence) located in City;
- (5) Paid or unpaid positions held by the official or employee with any for-profit entity, non-profit entity, or educational or other institution that has not otherwise been disclosed;
- (6) Debts, guarantees, or endorsements of debts (excluding liabilities owed to an immediate family member, and excluding loans from established financial institutions made in the ordinary course of business on usual and customary terms) aggregating over \$5,000 owed by official/employee or official's/employee's spouse to any one creditor;
- (7) Debts owed by the official/employee or the official's/employee's spouse in excess of \$5,000 that are secured by a guarantee or collateral of any individual other than an immediate family member; and
- (8) Anything of value received in the preceding calendar year by the official or employee that is in any way, directly or indirectly, related to the person's service as a City official or employee

Section 2-325 Advisory ethics opinions; City Attorney.

- (A) The City Attorney is designated as the City's ethics officer and coordinator.
- (B) 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 on the Ethics Code and other applicable law.
- (C) If, in the City Attorney's sole discretion, the City Attorney determines that a conflict of interest or other circumstance might reasonably impair the City Attorney's ability to render an objective opinion, the City Attorney may engage outside legal counsel to prepare and render such an opinion. The City Attorney shall advise the City council of the engagement of outside legal counsel and may approve any payments to such legal counsel up to the amount authorized under the City's procurement code and policies without seeking additional authorization from the City Manager or City Council.

Section 2-326 Duty to report potential ethics violations.

A City official or employee who has knowledge of a possible violation of any of the provisions of the Ethics Code shall report this violation by filing a complaint as provided in this article within a reasonable time after the person has knowledge of a violation. City officials and employees shall not delegate to, or rely on, another person to make the report.

Section 2-327 Procedures for filing and evaluating ethics complaints.

- (A) Any natural person may submit an ethics complaint alleging that a City official or employee has violated the Ethics Code.
- (B) All ethics complaints shall be filed with the City Recorder; provided, however, in the event the complaint concerns the City Recorder, a copy of the complaint shall be simultaneously sent to the Mayor and City Attorney.

(C) All ethics complaints must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:

- (1) The complainant's legal name, current mailing address, phone number, and email address, if any;
- (2) The name of the person or persons alleged to have committed a ethics violation;
- (3) A summary of the facts giving rise to the alleged ethics complaint; and
- (4) An explanation of why the alleged facts constitutes a violation of the Ethics Code.

(D) Unless a complaint complies with the requirements of this article, the complaint is not valid for consideration, and no action may be taken to investigate or determine the disposition of the complaint. In addition, any person who files a false complaint may be subject to the penalties of perjury, in accordance with T.C.A. § 39-16-702 et seq.

(E) Upon receiving a complaint, the City Recorder shall annotate the date and time of receipt on the ethics complaint and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints. The City Recorder will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made and to the City Attorney. In the event the complaint alleges a violation by the City Attorney, the City Recorder, in lieu of sending the complaint to the City Attorney, shall send the complaint to City Council, and City Council shall engage outside legal counsel to perform all of the duties and functions assigned to the City Attorney in this article.

(F) If at any point following the filing of an ethics complaint, the City Attorney determines that a conflict of interest or other circumstance might reasonably impair the City Attorney's ability to conduct an objective investigation, the City Attorney shall engage outside legal counsel to prepare and render such an opinion. The City Attorney shall advise the City Manager and City Council of the engagement of outside legal counsel and may approve any payments to such legal counsel up to the amount authorized under the City's procurement code and policies without seeking additional authorization from the City Manager or City Council.

(G) Upon receiving a copy of the complaint, the City Attorney shall first determine whether the complaint complies with requirements of this article. In the event the City Attorney determines that a complaint is technically deficient or incomplete, the City Attorney shall send a copy of the Ethics Code to the complainant and offer the complainant the opportunity to correct the deficiencies and refile the complaint within seven days of the City Attorney's communication. If the complainant fails to refile the complaint within seven days or refiles the complaint without correcting the technical deficiencies, the City Attorney shall send a letter to the complainant informing the complainant that the complaint has been administratively dismissed due to its failure to comply with the requirements of this article. A copy of such letter shall be sent to each member of City Council and to the City Recorder. The administrative dismissal of a complaint shall not preclude the complainant or any other person from filing a subsequent complaint alleging the same or similar violations against the same official or employee.

(H) *Jurisdiction for evaluating hearing complaints.*

(1) *Complaints against City officials and City employees appointed by City Council.* The City Council shall have jurisdiction with respect to any complaint complying with the requirements of this article that alleges a violation of the Ethics

Code by the Mayor and other members of City Council, the City Manager, the City Judge, the City Attorney, the City Recorder, and the City Treasurer, and all members of any City board, commission, committee, authority, or other like body established by the City, including entities having a separate corporate or other legal existence other than those that have their own ethics policy. Upon determining that a complaint against any of the individuals identified in this subsection complies with the requirements of this article, the City Attorney shall forward the complaint to the City Council to act upon the complaint as further provided in Section 2-328.

(2) *Complaints against City employees other than those employees appointed by City Council.* Upon determining a complaint against a City employee other than those identified in subsection (G)(1) complies with the requirements of this article, the City Attorney shall forward a copy of the complaint to the City Manager as soon as practicable. In addition, the City Attorney shall investigate the complaint and provide the City Manager with a written advisory opinion as to whether any violation of the Ethics Code or any other applicable law have occurred. The City Manager shall have the discretion to take appropriate disciplinary and/or other remedial action to address any violation identified by the City Attorney. Any disciplinary action taken against an employee subject to this subsection (G)(2) found to have violated this article shall be made in accordance with the City charter and the City's disciplinary policies.

Section 2-328 Procedures for evaluating ethics complaints against City officials and City employees appointed by City Council.

(A) For purposes of this section, the term "City Official or Officer" includes the Mayor and other members of City Council, the City Manager, the City Judge, the City Attorney, the City Recorder, and the City Treasurer, and all members of any City board, commission, committee, authority, or other like body established by the City, including entities having a separate corporate or other legal existence other than those that have their own ethics policy.

(B) All complaints against a City Official or Officer meeting the requirements of this article shall be investigated by an independent ethics investigator. City Council shall select the ethics investigator from one of three attorneys approved annually by resolution at the first City Council meeting of October and with whom the City has entered into an agreement for compensation to act in such capacity. Such ethics investigators shall be licensed to practice law in Tennessee and shall neither reside nor have their principal legal office in Rutherford County.

(C) No member of City Council shall participate in any deliberation or vote on any ethics complaint filed against them or if their participation in any such deliberation or vote would violate this article. In addition, once the City Council has received an ethics complaint, and until a final determination of the complaint has been made, no member of City Council shall participate in any communication regarding the allegations or merits of the complaint except with legal counsel or during a public meeting.

(C) Within ten days of receiving a complaint against a City Official or Officer, the City Attorney shall ensure that a copy of the complaint is sent to all members of City Council and the City Manager. In addition, the City Attorney shall ensure that a copy of the complaint is served as soon as practicable by registered mail or hand delivery to the City Official or Officer against whom the complaint was filed. In the event the complaint is filed against the City Attorney, the Mayor shall perform the functions of the City Attorney set forth in this subsection (C).

(D) The City Official or Officer against whom the complaint is filed may answer the complaint in writing. Such answer shall be delivered to the City Attorney within

thirty days of having been served with the complaint unless such time for filing such answer is extended by the City Council for good cause.

(E) Within fifteen days of receiving a complaint, City Council shall vote at a public meeting to select one of the three designated ethics investigators to investigate the complaint. The ethics investigator shall review the complaint, the answer, and any other relevant information and shall render a written advisory ethics opinion to City Council as to whether any violation of the Ethics Code or other applicable law have occurred. The City Attorney shall function as the City's liaison to the ethics investigator during the investigation, except in the event of recusal by the City Attorney or where the complaint alleges violations of the Ethics Code by the City Attorney, in which case City Council shall designate a Deputy City Attorney or Assistant City Attorney to function as the City's liaison and provide such reasonable assistance as requested by the ethics investigator. Upon written request of the ethics investigator, the City Council shall use its subpoena power to obtain any additional information requested by the ethics investigator, unless the majority of the disinterested members of City Council determines that the request has no legitimate connection to the investigation. The ethics investigator shall submit the investigator's advisory opinion within sixty days of being appointed as ethics investigator unless additional time is required and approved by City Council. A copy of the opinion shall also be sent to the person who filed the complaint and to the person against whom the complaint was filed.

(F) Within thirty days of receiving the ethics investigator's advisory opinion, City Council shall meet, upon proper public notice of such meeting, to consider the advisory opinion and determine, by majority vote of the disinterested members of City Council, whether a violation of the Ethics Code has occurred. Prior to any vote being taken on the complaint, the ethics investigator shall present the investigator's findings and advisory opinion, and both the complainant and the City Official or Officer against whom the complaint was filed shall be afforded the opportunity to offer testimony under oath. The City Official or Officer against whom the complaint was filed shall also have the right to be represented by legal counsel and to have such legal counsel make a statement and offer evidence on behalf of the City Official or Officer. In addition, City Council shall have the discretion to allow any other person to offer testimony under oath. City council may ask questions of any person presenting evidence or testimony at such meeting.

(G) A City Official or Officer found by City Council to have violated the Ethics Code is subject to punishment as provided for under the City's charter and/or other applicable law, including censure by City Council or removal from office in such manner as may be permitted by law. In addition, City Council may vote to refer the matter to the district attorney general or other state or federal law enforcement authority to pursue appropriate action under state or federal criminal statutes.

(H) Any City Official or Officer against whom a decision of the City Council is rendered may obtain judicial review of the decision by writ of certiorari. The application for the writ must be filed within 30 days of the issuance of the City Council's decision. Judicial review shall be based upon the record before the City Council. No party shall be entitled to a de novo appeal.

Section 2-329 Effect of criminal charges against subject of an ethics complaint.

If at any time during the pendency of an ethics investigation, the subject of an ethics complaint is arrested or charged with any criminal offense arising from the same set of material facts as those giving rise to the ethics complaint, such ethics investigation shall be temporarily suspend pending final adjudication of any such criminal charges through a direct appeal, whereupon, should the subject be convicted, the ethics investigation may resume the ethics investigation or hearing to conclusion.

Section 2-330 Reporting; whistleblower protection; abuse of process

(A) It is the intent of this article to encourage employees and officials to report suspected ethical violations.

(B) No officer or employee 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 information relating to an ethics violation of investigation.

(C) No official or employee shall file an ethics complaint against another official or employee absent a good faith basis for their allegations based on first-hand knowledge.

(D) No official or employee shall falsely accuse another official or employee of failing to comply with this article.

Sections 2-331 – 2-359 Reserved.

SECTION 2. In the event of any conflict between this ordinance or any part hereof, and the whole or part of the City charter or any existing City ordinance, the provision that establishes the higher standard shall prevail.

SECTION 3. If any section, subsection, clause, provision, or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision, or portion of this ordinance.

SECTION 4. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading August 22, 2024

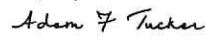
2nd reading September 5, 2024


Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:


Erin Tucker
City Recorder

Signed by:

Adam F. Tucker
City Attorney

