

# Bellar & Winkler

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July 2, 2007

Tennessee Ethics Commission  
312 8<sup>th</sup> Avenue, North  
8<sup>th</sup> Floor  
Nashville, Tennessee 37243

**Re: Town of Gordonsville**

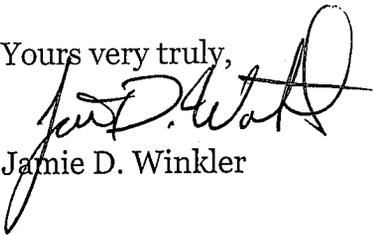
To Whom It May Concern:

Please find enclosed a copy of the Code of Ethics Ordinance passed by the Mayor and Board of Aldermen of the Town of Gordonsville on October 9, 2006.

If you should have any questions or require any further information, please feel free to contact me.

I remain,

Yours very truly,



Jamie D. Winkler

JDW:lb  
Enclosure

RECEIVED  
2007 JUL -5 AM 8:45  
Tennessee  
ETHICS COMMISSION

**CODES OF ETHICS ORDINANCE No. 06-07-26**  
**Town of Gordonsville**

**WHEREAS**, *Public Chapter No. 1 of the Extra-ordinary Session of the 2006 General Assembly* requires municipalities to adopt a code of ethics by ordinance; and

**WHEREAS**, the Tennessee Ethics Commission must receive a written copy of the adopted Municipal Ethics Ordinance; and

**WHEREAS**, all Interlocal Cooperation Act Agreements (*T.C.A. 12-9-101*) must be amended to include the Codes of Ethics Ordinance as required by the Tennessee Ethics Commission; and

**WHEREAS**, the governing board of the Town of Gordonsville proposes to include all ethical restrictions and disclosure requirements of personal interests as mandated by the State of Tennessee;

**NOW, THEREFORE**, be it **ENACTED** by the **MAYOR and BOARD OF ALDERMEN** of the **TOWN OF GORDONSVILLE** that the **GORDONSVILLE MUNICIPAL CODES OF ETHICS** shall be as follows:

SECTION 1:	APPLICABILITY
SECTION 2:	DEFINITIONS
SECTION 3:	DISCLOSURE
SECTION 4:	PERSONAL INTERESTS
SECTION 5:	GRATUITIES
SECTION 6:	USE OF INFORMATION
SECTION 7:	USE OF MUNICIPAL TIME, ETC.
SECTION 8:	USE OF AUTHORITY
SECTION 9:	OUTSIDE EMPLOYMENT
SECTION 10:	ETHICS COMPLAINTS
SECTION 11:	VIOLATIONS
SECTION 12:	VALIDITY
SECTION 13:	ORDINANCE IN FORCE

## **SECTION 1.           APPLICABILITY**

The Gordonsville Codes of Ethics Ordinance applies to all full-time and part-time elected and appointed officials, whether compensated or not, as mandated by the Ethics Act passed by the State of Tennessee General Assembly.

It also applies to members and employees of any existing or separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality (i.e., Planning Commission, Board of Zoning Appeals, Alcoholic Beverage Control Board, Codes Enforcement Board, Housing Authorities, etc.). The words "municipal" and "municipality" include these separate entities.

The Ethics Act passed by the General Assembly requires that "personal interests" that affect, or appear to affect, the actions of municipal officials and employees must be disclosed. This is a broad definition and is much more encompassing than the state's conflict of interest laws.

It includes ANY financial ownership, or employment interest of an official or employee in a business or entity the municipality does business with, regulates, or supervises. It also includes the interests of the family members of the official or employee.

It includes situations in which the official, employee, or family member is negotiating employment with an affected entity (e.g., a family member of a member of the governing body who is an employee of a business seeking to do business with the municipality). Although not a direct or indirect conflict of interests under the state law, it is a personal interest that would have to be disclosed under the Code of Ethics.

## **SECTION 2.           DEFINITIONS**

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 ordinance.

### **1.     Personal Interest**

- 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;
- b.     Any financial, ownership, or employment interest in a matter to be regulated or supervised by the municipality;
- c.     Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

## 2. Employment Interest

- a. 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 by the municipality.
- b. State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For relative provisions, 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;

Consulting Fee Prohibition for Elected Municipal Officials-T.C.A. §§ 210-122, 124;

Crimes involving Public Officials (bribery, soliciting unlawful compensation, buying and selling in regard to office)-T.C.A. § 39-16-101;

Crimes of Official Misconduct, Official Oppression, Misuse of Official Information-T.C.A. § 39-16-401; and

Ouster Law-T.C.A. § 8-47-101 and the following sections.

## SECTION 3. DISCLOSURE

An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place and **BEFORE** the vote so it appears in the minutes of the meeting, 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. However, the state statute does not require that an official with a personal interest recuse himself/herself from voting. After disclosure, the official may vote.

#### **SECTION 4. PERSONAL INTERESTS**

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 City 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.

#### **SECTION 5. GRATUITIES**

Any official or employee is prohibited from taking any money, gift, or other consideration or favor of any kind from anyone or any entity other than the municipality for:

1. The performance of an official's or employee's regular duties, or that gives the appearance of attempting to influence the actions of the official or employee in carrying out municipal business;
2. For the performance of an act, or refraining from the performance of an act that he/she would be expected to perform, in the regular course of his duties; or
3. Any action or manipulation that might reasonably be interpreted as an attempt to influence his/her action(s), or reward him/her for past action, in executing municipal business.

#### **SECTION 6. USE OF INFORMATION**

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.

An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

#### **SECTION 7. USE OF MUNICIPAL TIME, ETC.**

All officials and employees are prohibited from using, or authorizing the use, of municipal time, facilities, equipment, or supplies for private gain or an advantage to any person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

## **SECTION 8. USE OF AUTHORITY**

All officials and employees are prohibited from using their position to make, or attempt to make, private purchases, for cash or otherwise, in the name of the municipality and from using their position or influence to gain privileges or exemptions that are not authorized by charter, general law, ordinance, or policy.

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, ordinance or policy of the municipality.

## **SECTION 9. OUTSIDE EMPLOYMENT**

This Ordinance prohibits outside employment by officials or employees if the outside work interferes, or inhibits the performance, with municipal duties or if the employment is in conflict with any provision of the charter, any ordinance, any policy of the municipality, or employed by a business or entity the municipality does business with, regulates, or supervises (including the interests of the family members of the official or employee).

All outside employment by employees must be voted on and approved by the Mayor and Board of Aldermen and permission granted in writing by the City Attorney.

## **SECTION 10. ETHICS COMPLAINTS**

The City Attorney is designated as the Ethics Officer of the municipality.

Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

The City Recorder is designated to receive complaints about the governing body, officials and employees and provide this information in writing to the Ethics Officer.

Except as otherwise provided in this subsection, the City Attorney shall investigate any credible complaint against an appointed official or employee charged with any violation of this ordinance 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.

When a complaint of a violation of any provision of this ordinance is lodged against a member of the Mayor and Board of Aldermen, 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 City Attorney or another entity chosen by the governing body.

The Ethics Officer is designated to investigate complaints about the governing body and officials and employees who are not members of the governing body. The Ethics Officer shall request that the Mayor and Board of Aldermen designate another attorney, or retired judge, to act as Ethics Officer when he/she has, or will have, a conflict of interest in a particular matter.

When a violation of the Code of Ethics by an employee also constitutes a violation of a personnel policy, rule, or regulation, the infraction will be managed as a violation of the personnel provisions rather than a violation of the Code of Ethics.

## **SECTION 11. 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 and in addition is subject to censure by the governing body.

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

## **SECTION 12. VALIDITY**

- 12.1 The provisions of this Ordinance shall supersede and take precedence over any other ordinance, or part thereof, or any other rules and regulations of the Town of Gordonsville.
- 12.2 It is hereby declared the intention of the Town of Gordonsville that sections, paragraphs, sentences, clauses, and words of this Ordinance are severable: and if any such section, paragraph, sentence, clause, or phrase be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional or illegal section, paragraph, sentence, clause or phrase.

This Ordinance shall become effective after final adoption on Third Reading, the welfare of the Town of Gordonsville requiring it.

Dated the 16<sup>th</sup> day of October, 2006

*James P. Smith*  
Mayor

*[Signature]*  
City Recorder

ATTEST:

SECTION 13. ORDINANCE IN FORCE