

City of Johnson City Tennessee

601 East Main Street • P.O. Box 2150 • Johnson City, TN 37605-2150 • 423/ 434-6009

LEGAL DEPARTMENT

June 29, 2007

Tennessee Ethics Commission
Suntrust Building
201 4th Avenue North
Suite 1820
Nashville, TN 37243

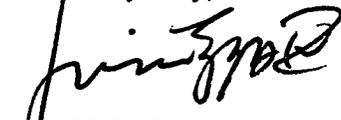
RE: City of Johnson City's Ethics Ordinance; Ordinance #4242-07 Version A

Gentlemen:

Please find enclosed a copy of Johnson City's Ethics Ordinance which was approved on third and final reading this morning.

With kind regards, I am

Yours very truly,


JAMES H. EPPS, IV
Associate Legal Counsel

JHE:pm
Enclosure

RECEIVED
2007 JUL -5 AM 8:44
ETHICS COMMISSION

ORDINANCE NO. 4242-07 (Version A)

AN ORDINANCE TO AMEND THE JOHNSON CITY MUNICIPAL CODE BY ADDING A CODE OF ETHICS AS REQUIRED BY THE TENNESSEE GENERAL ASSEMBLY IN TITLE 8, SECTION 49 OF THE TENNESSEE CODE AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION 1. 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 the Johnson City Housing Authority, those of the Johnson City Power Board, those of the Department of Education of the City of Johnson City, Tennessee, and those of any separate board, commission, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

SECTION 2. Definition of "personal interest."

- (1) "City" means the City of Johnson City, Tennessee.
- (2) "City Commission" means the Board of Commissioners of the City of Johnson City.
- (3) "Municipal board" means the Board of Commissioners of the City of Johnson City, the Johnson City Housing Authority, the Board of Education of the City of Johnson City, the Johnson City Power Board, and any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City.
- (4) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation, whether compensated or not, or any officer, employee or servant thereof, of a county or municipality.
- (5) For purposes of Sections 3 and 4, "personal interest" means:
 - (a) Any financial, ownership, or employment interest in the subject of a vote by the 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).
- (6) 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.
- (7) 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.

SECTION 3. 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 himself¹ from voting on the measure.

SECTION 4. 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 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.

SECTION 5. Acceptance of gratuities, etc.

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:

(1) 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

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

(3) Notwithstanding anything to the contrary as contained in the Johnson City Municipal Code, unreported gifts, gratuities, or other consideration that have a cumulative value of \$50.00 or less shall automatically be exempt from the provisions of this Ethics Ordinance. Reported gifts, gratuities, or other consideration that have a cumulative value over \$50.00 shall, likewise, automatically be exempt from the provisions of this Ethics Ordinance. Campaign contributions of any amount shall automatically be exempt from the provisions of this Ethics Ordinance. An official or employee who receives a gift, gratuity, or other consideration with a cumulative value of more than \$50.00 shall within 72 hours of receipt of that gift, gratuity, or other consideration, file with the City Manager's office a statement containing the following information: (a) a description of the gift, gratuity, or other consideration; (b) the name of the donor; (c) the date of receipt of the gift, gratuity, or other consideration; (d) and the cumulative value of the gift, gratuity, or other consideration. Except for campaign contributions, no official or employee shall accept any monetary consideration, gift, or gratuity in any event. Personal gifts to an official or employee (for birthdays, anniversaries, holidays, retirements, etc.) shall automatically be exempt from the provisions of this Ethics Ordinance.

SECTION 6. 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 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, facilities, etc.

(1) An official or employee may not use or authorize

¹ Masculine pronouns include feminine. Only masculine pronouns have been used for convenience and readability.

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, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

(3) Notwithstanding anything contained in the Johnson City Municipal Code to the contrary, all officials and employees shall be allowed to use, lease, or rent municipal facilities on the same basis and under the same terms that apply to all citizens.

SECTION 8. 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.

SECTION 9. Outside employment.

An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

SECTION 10. Ethics complaints.

(1) The City Attorney is designated as the ethics officer of the City. Upon the written request of any 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 Commission may designate one or more other attorneys to act under this section in the event the City Attorney has or will have a conflict of interest in a particular matter.

(2) If a complaint of a violation of any provision of this chapter is lodged against a member of the City Commission, the Mayor (or the Vice-Mayor if the complaint is against the Mayor), City Manager, and City Attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two of those persons determine that the complaint warrants further consideration, the City Commission shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the City Commission determines that a complaint warrants further investigation, it shall authorize an investigation by the City Attorney or another individual or entity chosen by the City Commission.

(3) If a complaint of a violation of any provision of this chapter is lodged against a member of the Board of Education, the chairperson (or the vice-chairperson if the complaint is lodged against the chairperson), Director of Schools, and Board of Education attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two of those persons determine that the complaint warrants further consideration, the Board of Education shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the Board of Education determines that a complaint warrants further investigation, it shall authorize

an investigation by the Board of Education attorney or another individual or entity chosen by the Board of Education.

(4) If a complaint of a violation of any provision of this chapter is lodged against a member of the Board of Directors of the Johnson City Power Board, the Chairperson (or the Vice-Chairperson if the complaint is lodged against the Chairperson), the General Manager of the Johnson City Power Board, and the Johnson City Power Board's attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two of those persons determine that the complaint warrants further consideration, the Board of Directors of the Johnson City Power Board shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the Board of Directors of the Johnson City Power Board determines that a complaint warrants further investigation, it shall authorize an investigation by its attorney or another individual or entity chosen by the Board.

(5) If a complaint of a violation of any provision of this chapter is lodged against a member of the Board of Directors of the Johnson City Housing Authority, the Chairperson (or the Vice-Chairperson if the complaint is lodged against the Chairperson), Executive Director of the Johnson City Housing Authority, and the Johnson City Housing Authority's attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further consideration. If at least two of those persons determine that the complaint warrants further consideration, the Board of Directors of the Johnson City Housing Authority shall consider the complaint and determine whether (a) the complaint has merit, (b) the complaint does not have merit, or (c) the complaint has sufficient merit to warrant further investigation. If the Board of Directors of the Johnson City Housing Authority determines that a complaint warrants further investigation, it shall authorize an investigation by its attorney or another individual or entity chosen by the Board.

(6) If a complaint of a violation of any provision of this chapter is lodged against an official appointed by the City Commission (including members of municipal boards not specified above, but excluding the City Manager), or against an employee appointed, hired by or working under the authority of the City Manager, the City Attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further investigation. If the City Attorney determines that a complaint warrants further investigation, or if the City Attorney otherwise acquires credible information indicating a violation, he or she may investigate the complaint and make recommendations for action to end or seek redress for any activity that, in the attorney's judgment, constitutes a violation of this Code of Ethics.

(7) If a complaint of violation of any provision of this chapter is lodged against the City Manager, the Mayor (or a member of the City Commission designated by the Mayor) and an outside attorney shall examine the same to determine whether the complaint appears to have sufficient merit to warrant further investigation and shall report their recommendations to the City Commission.

(8) If a complaint of violation of any provision of this chapter is lodged against an employee appointed, hired by or working in connection with or under the authority of officials of the Johnson City Housing Authority, the Johnson City Power Board, the Department of Education of the City of Johnson City, or an employee of any other municipal board, the attorney for that board shall examine the same to

determine whether the complaint appears to have sufficient merit to warrant further investigation. If such attorney determines that a complaint warrants further investigation, or if the attorney otherwise acquires credible information indicating a violation, he or she may investigate the complaint and make recommendations for action to end or seek redress for any activity that, in the attorney's judgment, constitutes a violation of this Code of Ethics. If the complaint is lodged against the Chief Executive or Chief Administrative Officer hired by such board, the attorney for the board shall advise the City Attorney of any investigation which he or she undertakes and the results of that investigation.

(9) The City Attorney, or the attorney representing a municipal board, may request the hiring of another attorney, individual, or entity to act under this section when it appears he or she has or will have a conflict of interest in a particular matter.

(10) Complaints lodged under this section should be in writing and signed by the person or persons making the same.

(11) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics.

(12) When a violation of this Code of Ethics also constitutes a violation of a personnel policy, rule, or regulation, the violations shall be dealt with as a violation of the personnel provisions rather than as a violation of this Code of Ethics.

(13) Any attempt by an official or employee to improperly influence the consideration, investigation, or resolution of a complaint lodged under this section shall constitute a violation of this 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. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 13. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING
ON THE FIRST READING 6/21/07

PASSED IN OPEN, PUBLIC MEETING
ON THE SECOND READING 6/27/07

PASSED IN OPEN, PUBLIC MEETING
ON THE THIRD READING 6/29/07

APPROVED AND SIGNED IN OPEN
MEETING ON THE 29 DAY OF
June, 2007
FOLLOWING PASSAGE ON THIRD
READING

Paul P. Lee

MAYOR

ATTEST:

Janet Jennings

CITY RECORDER

APPROVED AS TO FORM:

James H. Egan, III

CITY ATTORNEY