

ORDINANCE NO. 244

AN ORDINANCE to adopt a Code of Ethics for those persons elected, appointed or employed in municipal service.

WHEREAS, it is essential that those persons engaged in municipal service in their actions and performance of official duties do so with the highest standards of personal and professional conduct and integrity.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED AND ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MCEWEN, TENNESSEE, as follows:

SECTION 1. Applicability. This ordinance establishes a code of ethics for full and part time elected and appointed officials and employees of City of McEwen (hereinafter referred to as the "municipality"), whether compensated or not, including those serving on separate boards, commissions, committees, authorities, corporations, and other instrumentalities appointed or created by the municipality.

SECTION 2. General. For purposes of this ordinance the following terms shall have the meanings assigned:

a. "Personal Interest" shall be:

- (1) Financial, ownership, or Employment Interest in the subject of a vote by a municipal official which is not otherwise regulated by state statutes relative to conflicts of interests; or

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(2) Financial, ownership, or Employment Interest in a matter regulated or supervised by a municipal official or employee which is not otherwise regulated by state statutes relative to conflicts of interest, or

(3) Financial, ownership, or Employment Interest of a family member of a municipal official or employee.

b. A "Family Member" is a spouse, parent, stepparent, grandparent, sibling, child, or stepchild.

c. "Employment Interest" includes situations in which a municipal official or employee or a Family Member is negotiating possible employment with a person or organization that is the subject of the vote of a municipal official or who will be regulated or supervised by a municipal official or employee.

d. 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.

e. Nothing herein shall be deemed to repeal or supercede of the provisions of Chapter 3 of Title 4 of McEwen Municipal Code regulating conflicts of interest of municipal officers and employees, but the provisions of this ordinance shall be deemed to be in addition and supplementary thereto.

SECTION 3. Disclosure of Personal Interest by official with vote. A municipal official with the responsibility to vote on a measure shall disclose during the meeting at

which the vote takes place, before the vote is taken, so that it appears in the minutes, any Personal Interest that affects or would lead a reasonable person to infer that it affects the vote on the measure. The municipal official may recuse himself or herself from voting on the measure.

SECTION 4. Disclosure of Personal Interest in nonvoting matters. A municipal 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 such discretion, before the exercise of the discretion, when possible, shall disclose his or her interest in writing which shall be filed with the Recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter.

SECTION 5. Acceptance of gratuities, etc. A municipal official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

- (a) For performing an act or refraining from performing an act expected or required to be performed in the regular course of his or her duties; or
- (b) That might reasonably be interpreted as an attempt to influence his or her action or reward him or her for past action in executing municipal business.

SECTION 6. Use of information. (a) A municipal official or employee may not

disclose any information obtained in his or her official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(b) A municipal official or employee may not use nor disclose information obtained in his or her official capacity or position of employment with intent to result in financial gain for himself or herself or any other person or entity.

SECTION 7. Use of municipal time, facilities, etc. (a) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself or herself or to a Family Member.

(b) A municipal official or employee may not use nor 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.

SECTION 8. Use of position or authority. (a) A municipal official or employee may not make nor attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(b) A municipal official or employee may not use nor attempt to use his or her position to secure any privilege or exemption for himself or herself or others which is not authorized by the charter, general law, ordinance or policy of the municipality.

SECTION 9. Outside employment. A municipal official or employee may not

accept nor continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of his or her municipal position or conflicts with any provision of the municipal charter, ordinance or policy.

SECTION 10. Ethics complaints. (a) The City Attorney is designated as the Ethics Officer of the municipality. Upon the written request of a municipal official or employee who is potentially affected by a provision of this ordinance, the City Attorney may render an oral or written advisory ethics opinion based upon this ordinance and other applicable law.

(b) (1) Except as otherwise provided in this subsection, the City Attorney shall investigate credible complaints against appointed municipal officials and employees charging violation of this ordinance, or undertake an investigation on his or her own initiative when information indicates a possible violation. The City Attorney shall make recommendations for action to end or seek retribution for any activity which in his or her judgment constitutes a violation of this ordinance.

(2) The City Attorney may request the governing body engage another attorney, individual, or entity to act as ethics officer when he or she has or will have a conflict of interest in a particular matter.

(3) When a complaint of a violation of any provision of this ordinance is lodged against a member of the governing body and the governing body determines the complaint has merit or sufficient appearance of merit to warrant further investigation, the

governing body shall authorize and direct an investigation by the City Attorney or by such other individual or entity designated by the governing body.

(c) In interpreting and enforcing this ordinance the standard shall be what a reasonable municipal official or employee would do in the same or similar circumstances.

(d) When a violation of this ordinance also constitutes a violation of a personnel policy, rule, or regulation of the municipality, the violation shall be dealt with as a violation of such provisions in addition to a violation of this ordinance.

SECTION 11. Violations. An elected or appointed official or appointed member of a separate board, commission, committee, authority, corporation, or other instrumentality of the municipality who violates any provision of this ordinance shall be punished as provided by the charter or other applicable law and in addition shall be subject to removal from office as provided by law and/or censure by the governing body. A municipal employee who violates any provision of this ordinance is subject to disciplinary action as the governing body shall determine.

BE IT FURTHER ORDAINED, That this ordinance take effect immediately.

Adopted and Approved this 8th day of May 2007.

Clyde Adams
Clyde Adams, Mayor

Attest:
Jane M. Sparks
Jane M. Sparks, Recorder