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City of Chattanooga

Office of the City Attorney

March 4, 2014

Wade A. Hinton
City Attorney

Phillip A. Noblett
Deputy City Attorney

Tennessee Ethics Commission
Bureau of Ethics & Campaign Finance
404 James Robertson Pkwy., Suite 104
Nashville, TN 37243

RE: **City of Chattanooga – Ethics Ordinance**

Dear Sir/Madam:

Please find enclosed a copy of the updated Ethics Code adopted by the City of Chattanooga by Ordinance No. 12804. This updated Ethics Code became effective on March 4, 2014.

Should you have any questions or concerns, please feel free to contact me.

Sincerely,

WADE A. HINTON
City Attorney

Encl.

WAH/vmm

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First Reading: February 11, 2014
Second Reading: February 18, 2014

ORDINANCE NO. 12804

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, ARTICLE XIII, BY DELETING SECTIONS 2-750 THROUGH 2-774 IN THEIR ENTIRETY AND SUBSTITUTING NEW SECTIONS IN LIEU THEREOF TO THE CODE OF ETHICS ORDINANCE FOR CITY OF CHATTANOOGA PERSONNEL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That

SECTION 1. Chattanooga City Code, Part II, Chapter 2, Article XIII, Sections 2-750 through 2-774 be deleted in their entirety and the following sections substituted in lieu thereof:

Sec. 2-750. Applicability.

This Article is the code of ethics for personnel of the City of Chattanooga ("City"). It applies to all full-time and part-time employees, including individuals serving on any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City, whether compensated or not.

Sec. 2-751. Definition of "personal interest."

- A. For purposes of Sections 2-752 and 2-753, "personal interest" means:
 - 1. 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; or
 - 2. Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
 - 3. 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).
- B. "Employment interest" includes, but is not limited to, a situation in which an official or employee or an immediate family member is negotiating possible employment with a person or entity that is the subject of the vote or that is to be regulated or supervised.

- C. 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 Article.

Sec. 2-752. 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 shall not lobby any official or employee of the City of Chattanooga or vote on matters in which they have a personal interest.

Sec. 2-753. Disclosure of personal interest in nonvoting 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 Office of the City Attorney. In addition, the official or employee shall not participate in any way on matters in which they have a personal interest.

Sec. 2-754. Acceptance of gratuities, etc.

- A. 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 City:
 - 1. For the performance of an act, or refraining from performance of an act, that he or she would be expected to perform, or refrain from performing, in the regular course of his or her duties; or
 - 2. That might reasonably be interpreted as an attempt to influence his or her action, or reward him or her for past action, in executing business of the City.
- B. No official or employee shall solicit or accept, directly or indirectly, on behalf of himself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing 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 operations or activities that are regulated by the City; or

3. Has interests that may be substantially affected by the performance or nonperformance of the official's or employee's duties.
- C. Exceptions. The prohibition of accepting gifts does not apply to:
1. A gift or gratuity that is not cash or a cash equivalent (such as a check or gift card), and which has a value of Fifty Dollars (\$50.00) or less, shall not be interpreted as an attempt to influence the action of an official or employee;
 2. A gift given by a member of an official's or employee's immediate family, or by an individual if the gift is given for a non-business purpose and is motivated by a close personal relationship;
 3. Informational materials, such as books, periodicals, audio or video, or sample merchandise helpful as a part of the employee's or official's duties in determining the appropriateness of the product for use as a part of city business;
 4. Unsolicited tokens or awards of appreciation, honorary degrees or bona fide awards in recognition of public service, provided that any such item cannot be readily converted to cash;
 5. Food, refreshments, foodstuffs, entertainment or beverages provided as a part of a meal or other event in which the employee or official is attending or is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization;
 6. Loans from established financial institutions made in the ordinary course of business on usual and customary terms; and
 7. Voluntary, legally disclosed political campaign contributions given in accordance with applicable federal and state statutes to an individual covered by the provisions of this section who has announced his intention to seek elected office.

For purposes of this section, a gift is defined as anything of economic value, whether in, the form of money, service, loan,

Sec. 2-755. Use of information.

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

Sec. 2-756. Use of municipal time, facilities, etc.

- A. An official or employee shall not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or herself.
- B. An official or employee shall 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.

Sec. 2-757. Use of position or authority.

- A. An official or employee shall not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- B. An official or employee shall not use or attempt to use his or her position for personal financial gain or to secure any privilege or exemption for himself, herself, or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

Sec. 2-758. Outside employment.

An official or employee shall 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 and outside employment must comply with Sections 2-189 and 2-190 of this chapter.

Sec. 2-759. Ethics Officer.

- A. Authority. The city attorney is designated as the Chief Ethics Officer of the City. 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.
- B. Conflicts of Interest. Except as otherwise provided in this subsection, the Chief Ethics Officer shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his or her own initiative when he or she acquires information indicating a possible violation 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.

- C. Conflicts of Interest for the Chief Ethics Officer. When a conflict of interest exists in a particular matter, the Chief Ethics Officer may request that the governing body hire another attorney, individual, or entity to act as Chief Ethics Officer.

Sec. 2-760. Ethics Committee.

- A. Creation and membership. There is created the Ethics Committee for the City. The Ethics Committee shall consist of the Director of Human Resources, the Chief Financial Officer, and the Chair of the City Council or his or her designee.
- B. Duties of the Ethics Committee. The Ethics Committee shall work with the Chief Ethics Officer to review ethics opinions as provided in subsection C of this section and to perform such other duties as provided in this Article.
- C. Ethics opinions.
 - 1. An official or employee subject to this Article may request an ethics opinion; provided, however, that the Ethics Committee or the Chief Ethics Officer shall retain sole discretion concerning whether such a formal ethics opinion should be issued.
 - 2. The Chief Ethics Officer shall place and publish formal ethics opinions on the Office of City Attorney's website for public access.

Sec. 2-761. Complaints and Complaint Procedures.

- A. Complaints against an official or employee.
 - 1. Any citizen of the City, including but not limited to officials or employees, may submit a complaint in writing and under oath, alleging that one or more officials or employees have violated or may have violated any provision of this Article within ninety (90) days following of the alleged violation.
 - 2. The complaint must be signed by the complainant and notarized, and must contain the following:
 - (i) The complainant's legal name and current mailing address;
 - (ii) The name or names of any officials or employees who committed or may have committed the alleged violation;
 - (iii) A summary of the facts giving rise to the complaint; and
 - (iv) Some explanation of why those facts constitute or may constitute a violation of this Article.
 - 3. Anyone filing a false complaint will be subject to the penalties for perjury.

4. The Chief Ethics Officer, or his or her designee, may assist complainants in completing the form of a complaint.
 5. The complaint must be filed with the Chief Ethics Officer. Upon receipt, the Chief Ethics Officer shall promptly provide a copy of the complaint to the official or employee named therein and to the Ethics Committee. As used in this section, unless otherwise noted, the term "provide" means to send by U.S. mail or to hand deliver.
 6. The Chief Ethics Officer will evaluate the complaint, applying the law of the standards of conduct to the facts alleged in the complaint.
 7. Within twenty-one (21) days from receipt of the complaint, the Chief Ethics Officer shall issue a report and recommendation, including a copy of the complaint, to the Ethics Committee. The report should provide a conclusion as to whether the facts alleged in the complaint, if true, would give rise to a violation of this Article.
 8. After receiving the Chief Ethics Officer's report, the Ethics Committee shall review the Chief Ethics Officer's report, and may accept or reject the Chief Ethics Officer's recommendation. Based on its findings, the Ethics Committee is authorized to dismiss the complaint or make certain recommendations to the official, administrator, or chair of the board, commission, or committee on which an employee or official serves. .
 9. Any decision shall require the affirmative concurring vote of at least two members of the Ethics Committee. The decision shall be filed with the Chief Ethics Officer, who shall within a reasonable amount of time place all such decisions on City Attorney's office website for public access, and provide to the complainant and to the official or employee named in the complaint.
 10. From the time a complaint has been received by the members of the Ethics Committee, until a written decision has been issued, no member of the Ethics Committee shall participate in any communication regarding the allegations or merits of the complaint, outside of the Ethics Committee's public meetings or hearings, except as contemplated by these procedures.
 11. If a complaint is filed against a member of the Ethics Committee, that member shall recuse himself or herself from any discussion contemplated by this article pursuant to the process outlined herein.
- B. Complaints against members of City Council. When a complaint of a violation of any provision of this Article is lodged against a member of City Council, the Chief Ethics Officer shall present such complaint at the next regularly scheduled meeting of the City Council. Upon hearing the nature of the complaint, by a majority vote, the City Council shall 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 by a majority vote, the City Council determines that a complaint warrants further investigation, it shall authorize an investigation by the Chief Ethics Officer or another individual or entity chosen by the City Council.

Sec. 2-762. Reporting; whistleblower protection; abuse of process; complicity.

- A. It is the duty of every employee of the City to report, directly and without delay, to their supervisor, Chief Ethics Officer, or City Auditor any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity, by an official or employee, which concerns his or her office or employment or by persons dealing with the City, which concerns their dealings with the City. The knowing failure of any official or employee to report as required above shall subject the official or employee to disciplinary action. For purposes of this Subsection A, a report made to the ethics hotline shall be considered a report to the City Auditor.
- B. Officials and employees are encouraged to report suspected ethical violations to the Ethics Committee.
- C. No official 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 or otherwise bring to the attention of the Ethics Committee information relating to an ethics violation or investigation.
- D. No official or employee shall use or threaten to use any official authority or influence to effect any action to retaliate against any person who reports or initiates a complaint, or otherwise assists in the investigation of an ethics complaint.
- E. No official or employee shall file a complaint with the Chief Ethics Officer absent a good-faith basis for the allegations.
- F. An official or employee shall not falsely accuse another official or employee of failing to comply with this Article.
- G. No official or employee may knowingly induce, encourage, or aid anyone to violate any provision of this Article.
- H. Any violation of this subsection shall be subject to investigation and action by the Chief Ethics Officer and the Ethics Committee.

Sec. 2-763. 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 Article is subject to punishment as provided by the Charter, City Code, or other applicable law and, in addition, is subject to censure by the governing body, which censure shall be made a part of the minutes of the governing body. Additionally, an appointed official or an employee who violates any provision of this Article is subject to disciplinary action.

Sec. 2-764. Conduct during meetings.

Conduct of individual members during meetings of any municipal board, commission, committee, authority, corporation, or other instrumentality is expected to reflect a total sense of respect for the office held by those assembled to conduct business. Members shall be courteous to one another, to any member of the administrative staff, as well as to other persons who may address the municipal board, commission, committee, authority, corporation, or other instrumentality. A member may not speak until recognized by the Chair and shall not be recognized the second time on the same subject matter until all members who wish to speak have had an opportunity to do so. Any disorderly conduct shall be noted by the Chair, and the offending member shall forfeit the privilege of the floor for the remainder of the meeting, except for the purpose of casting his or her vote.

Sec. 2-765. Meeting attendance.

Municipal board, commission, committee, authority, corporation, or other instrumentality members shall be prompt and regular in attendance for scheduled meetings. Failure of a member to be present at three consecutive scheduled meetings for a calendar year shall constitute grounds for terminating his/her membership. The removal of City Council members for failure to attend meetings is provided for in Title 8, Section 8.5 of the City of Chattanooga Charter and therefore not governed by this section.

Sec. 2-766. Ethics Training.

The ethics training program to be provided by the Ethics Committee in accordance with the City's ethics ordinance shall be mandatory for all City personnel described in Section 2-750. The training should not simply be a review of this ethics ordinance, policy or law. Instead, training should emphasize ethical decision making in complex and/or high pressure situations.

Sec. 2-767. Ethics Pledge.

The following persons shall comply with the requirements of this section:

- (1) Any employee who serves in the Office of the Mayor;
- (2) Any Administrator or Director reporting to the Mayor;
- (3) Any employee who serves City Council; and

- (4) Any person who is appointed by the Mayor or the City Council to a statutory board, commission, authority, or agency on or after February 4, 2014.

As a condition of employment or appointment, any person meeting the requirements of Section 6(a) shall sign, and upon signing shall be contractually committed to, the following pledge:

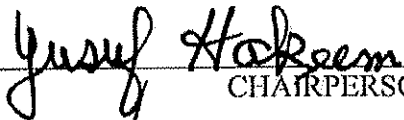
“As a condition, and in consideration, of my employment or appointment by the City of Chattanooga in a position of the public trust, I hereby acknowledge and agree to abide by the City of Chattanooga’s Code of Ethics as set forth in City Code Section 2-750 *et seq.* which I understand is binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by my government service.”

Any person required to sign a pledge under this section shall file such pledge with the Chief Ethics Officer within fourteen (14) days of commencing employment or appointment.

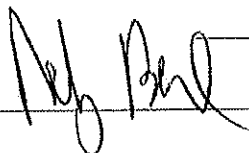
Secs. 2-768 – 2-774. Reserved.

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: February 18, 2014


CHAIRPERSON

APPROVED: DISAPPROVED:


MAYOR

WAH/vlm/mms/kac