

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL POLICY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. CODE OF ETHICS.

CHAPTER 1

PERSONNEL POLICY

SECTION

4-101. Policy adopted.

4-101. Policy adopted. The personnel policy as adopted by ordinance number 19-67, dated August 19, 2019, replaced title 4 of this code in its entirety. The full text of the policy, and any amendments thereto, has been placed at the back of the code as Appendix A. (as amended by Ord. #19-67, Aug. 2019 *Ch12_12-06-21*)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances from standards authorized.
- 4-206. Administration.
- 4-207. Funding the program.

4-201. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Portland. (as added by Ord. #16-13, June 2016)

4-202. Purpose. The City of Portland in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Record, keep, preserve, and make available to the commissioner of labor and workforce development, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the commissioner of labor and workforce development with regard to the adequacy of the form and content of records.

¹The occupational safety and health program plan for the City of Portland, and any amendments thereto, may be found in the recorder's office.

(5) Consult with the commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #16-13, June 2016)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Portland shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #16-13, June 2016)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Portland are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #16-13, June 2016)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #16-13, June 2016)

4-206. Administration. For the purposes of this chapter, Thomas McCormick is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee

Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #16-13, June 2016)

4-207. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Portland. (as added by Ord. #16-13, June 2016)

CHAPTER 3

CODE OF ETHICS¹

SECTION

- 4-301. Applicability.
- 4-302. Definition of "personal interest."
- 4-303. Disclosure of personal interest by official with vote.
- 4-304. Disclosure of personal interest in non-voting matters.
- 4-305. Acceptance of gratuities, etc.
- 4-306. Use of information.
- 4-307. Use of municipal time, facilities, etc.
- 4-308. Use of position or authority.
- 4-309. Outside employment.
- 4-310. Ethics complaints.
- 4-311. Violations.

4-301. Applicability. This chapter is the code of ethics for personnel of the City of Portland. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance—Tennessee Code Annotated, title 2, chapter 10.

Conflict of interests—Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements—Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials—Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office)—Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information—Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law—Tennessee Code Annotated, § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

"city" or "City of Portland" include these separate entities. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)

4-302. Definition of "personal interest." (1) For purposes of §§ 4-303 and 4-304, "personal interest" means:

(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; 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).

(2) 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.

(3) 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. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)

4-303. 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. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)

4-304. 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 the 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. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)

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

4-305. 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 city:

(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. (as added by Ord. #19-80, Sept. 2019 ***Ch12_12-06-21***)

4-306. 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. (as added by Ord. #19-80, Sept. 2019 ***Ch12_12-06-21***)

4-307. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize 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 city council to be in the best interests of the city. (as added by Ord. #19-80, Sept. 2019 ***Ch12_12-06-21***)

4-308. 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 city.

(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 city. (as added by Ord. #19-80, Sept. 2019 ***Ch12_12-06-21***)

4-309. Outside employment. A full-time employee of the city may not accept any outside employment without written authorization from the mayor. The mayor may not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, is incompatible with his/her municipal employment, or is likely to cast discredit upon or create embarrassment for the city. (as added by Ord. #19-80, Sept. 2019 ***Ch12_12-06-21***)

4-310. Ethics complaints. (1) The city attorney is designated as the 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.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he 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.

(b) The city attorney may request the city council to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the city council, the city council 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 city council 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 council.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)

4-311. 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 city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #19-80, Sept. 2019 *Ch12_12-06-21*)