

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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CHAPTER 1

SOCIAL SECURITY--TOWN PERSONNEL

SECTION

- 4-101. Policy and purpose as this is your life to coverage.
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- 4-103. Withholdings from salaries or wages.
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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the Town of Gates shall take such action as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1988 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-704)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-705)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official not covered or authorized to be covered by any other ordinance creating any retirement system for any employee, official, or position not authorized to be covered under applicable state or federal laws or regulations. It is now the intent and purpose of the board of mayor and aldermen of the Town of Gates, Tennessee, to amend the Social Security Agreement by and between the Town of Gates, Tennessee, and the State Old Age and Survivors Insurance Agency, to exclude from its coverage group under the federal system of Old Age, Survivors, Disability, Health Insurance, the services of election officials/workers if the enumeration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount thereafter determined under Section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (1988 Code, § 1-706, as amended by Ord. #95-1, July 1995)

CHAPTER 2

VACATIONS, SICK LEAVE AND HOLIDAYS--TOWN PERSONNEL

SECTION

- 4-201. Applicability of chapter.
- 4-202. Vacation leave.
- 4-203. Sick leave.
- 4-204. Leave records.
- 4-205. Holidays.
- 4-206. Grievance pay.

4-201. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission. (1988 Code, § 1-801)

4-202. Vacation leave. All full time employees shall be allowed one (1) week of vacation leave after one (1) year of employment. After three (3) years of employment, the employee is allowed two (2) weeks of vacation and after ten (10) years, three (3) weeks of vacation leave is allowed. When taking vacation, employee must give two (2) weeks notice and it must be taken in one week intervals unless a certain situation arises. Vacation leave will not be carried over from one year to the next. (1988 Code, 5 1-802, modified)

4-203. Sick leave. All officers and employees shall be given a credit of five (5) working days of sick leave with pay per year. Sick leave shall be taken only when approved by the mayor or by such other officer as he may designate. Sick leave, up to the number of days accrued, shall be approved for all officers and employees whose absence from duty is due to illness, bodily injury, exposure to contagious disease, or death in the immediate family of the officer or employee. However, the mayor may, in his discretion, require doctors' certificates or other satisfactory evidence that absences are properly chargeable as sick leave. Sick leave can't be carried over from year to year. (1988 Code, 5 1-803, modified)

4-204. Leave records. The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all time showing credits earned and leave taken under this chapter. (1988 Code, § 1-804)

- 4-206. Holidays.** Employee's shall receive the following holidays off:
- (1) New Years Day;
 - (2) Martin Luther King's Birthday;
 - (3) Good Friday;

- (4) Memorial Day;
- (5) July 4th;
- (6) Labor Day;
- (7) Thanksgiving Day;
- (8) Christmas Eve;
- (9) Christmas Day.

4-206. Grievance pay. Employees shall receive up to three (3) days grievance pay in the event of a death of a mother, father, sister, brother, husband, wife, daughter, son, grandson, and granddaughter. One (1) day of grievance pay shall be given in the event of a death of a grandparent, aunt, or uncle.

CHAPTER 3

MISCELLANEOUS REGULATIONS--TOWN PERSONNEL

SECTION

4-301. Business dealings.

4-302. [Repealed.]

4-303. [Repealed.]

4-304. Political activity.

4-305. [Repealed.]

4-306. [Repealed.]

4-307. Strikes and unions.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his town duties, it shall be unlawful for any town officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the town. (1988 Code, § 1-901)

4-302. [Repealed.] (1988 Code, § 1-902, as repealed by Ord. #08-07, July 2007)

4-303. [Repealed.] (1988 Code, § 1-903, as repealed by Ord. #08-07, July 2007)

4-304. Political activity. Municipal officers and employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided the city is not required to pay the employee's salary for work not performed for the city. Provided, however, municipal employees shall not be qualified to run for elected office in the governing body. The restriction against running for office in the governing body shall not apply to elective officials. (1988 Code, § 1-904, modified, as amended by Ord. #03-03, June 2003)

4-305. [Repealed.] (1988 Code, § 1-905, as repealed by Ord. #08-07, July 2007)

4-306. [Repealed.] (1988 Code, § 1-906, as repealed by Ord. #08-07, July 2007)

4-307. Strikes and unions. No town officer or employee shall participate in any strike against the town, nor shall he join, be a member of, or

solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1988 Code, § 1-907)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Enforcement.
- 4-402. Travel policy.
- 4-403. Travel reimbursement rate schedules.
- 4-404. Administrative procedures.

4-401. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #94-1, Sept. 1994)

4-402. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling- on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

- (a) Directly related to the conduct of the city business for which

travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances. (Ord. #94-1, Sept. 1994)

4-403. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the state travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted. The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #94-1, Sept. 1994)

4-404. Administrative procedures. (1) Travel documentation. It is the responsibility of the authorized traveler to:

- prepare and accurately describe the travel,
- certify the accuracy of the reimbursement request,
- note on the reimbursement form all direct payments and travel advances made by the city, and
- file the reimbursement form with the necessary supporting documents and original receipts.

(a) Vehicles.

(i) Personal vehicle. The city will pay a mileage rate not to exceed the rate allowed by the state reimbursement schedule. The miles for reimbursement shall be paid from origin to destination and back by the most direct route.

(ii) City vehicle. The city may require the employee to drive a city vehicle. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business.

(b) Lodging. The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the state rate schedule.

(i) Original lodging receipts must be submitted with the reimbursement form.

(ii) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(iii) If the best rate is secured, and it still exceeds the maximum lodging per diem, the CAO may authorize a higher reimbursement amount.

(c) Meals and incidentals. Receipts are required for meals and incidentals. The authorized traveler may be reimbursed up to the daily amount based on the state rate schedule and the authorized length of stay.

(d) Miscellaneous expenses.

(i) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees.

(ii) The traveler may be reimbursed for personal phone calls while on official travel, but the amount will be limited to \$5 per day.

(iii) A \$4 allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(iv) Laundry, valet service, tips and gratuities are considered personal expenses and aren't reimbursable.

(e) Entertainment. The city may pay for certain entertainment expenses provide that:

(i) The entertainment is appropriate in the conduct of city business;

(ii) The entertainment is approved by the CAO;

(iii) The group or individuals involved are identified; and

(iv) Documentation is attached to the expense form to support the entertainment expense claims.

(2) Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #94-1, Sept. 1994)

CHAPTER 5

SEXUAL HARASSMENT POLICY

SECTION

- 4-501. General policy.
- 4-502. Definition.
- 4-503. Employee complaints.
- 4-504. Investigation.

4-501. General policy. The Town of Gates has a strict policy against sexual harassment. Sexual harassment by any employee will not be tolerated. (Ord. #95-2, July 1995)

4-502. Definition. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees that adversely affects an employee's job or job performance.

Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs. (Ord. #95-2, July 1995)

4-503. Employee complaints. Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the mayor and at least one alderman. The Town of Gates will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment. (Ord. #95-2, July 1995)

4-504. Investigation. The Town of Gates will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In doing the investigation, the Town of Gates will try to be fair to all parties involved.

If the Town of Gates determines that sexual harassment has occurred, corrective action will be taken. This corrective action may include a reprimand, demotion, discharge, or other appropriate action. The Town of Gates will attempt to make the corrective action reflect the severity of the conduct.

If it is determined that no harassment has occurred or that there is not sufficient evidence that harassment occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination. (Ord. #95-2, July 1995)

CHAPTER 6

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-601. Title.
- 4-602. Purpose.
- 4-603. Coverage.
- 4-604. Standards authorized.
- 4-605. Variances from standards authorized.
- 4-606. Administration.
- 4-607. Funding the program.

4-601. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of the Town of Gates. (as added by Ord. #03-5, April 2005)

4-602. Purpose. The mayor and board, in electing to update their established program plan will maintain an effective occupational safety and health program 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 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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 State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

¹The Occupational Safety and Health Program for the Town of Gates, including all Appendices, is included in this municipal code as Appendix A.

(5) Consult with the State 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, 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. (as added by Ord. #03-5, April 2005)

4-603. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Gates shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Gates whether part-time or full-time, seasonal or permanent. (as added by Ord. #03-5, April 2005)

4-604. Standards authorized. The occupational safety and health standards adopted by the Town of Gates 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 1972.¹ (as added by Ord. #03-5, April 2005)

4-605. Variances from standards authorized. The Town of Gates may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Town of Gates shall notify or serve notice to 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 as designated by the mayor and board shall be deemed sufficient notice to employees. (as added by Ord. #03-5, April 2005)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

4-606. Administration. For the purposes of this chapter, Danny George, Water Plant Operator is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the safety program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #03-5, April 2005)

4-607. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board and mayor. (as added by Ord. #03-5, April 2005)

CHAPTER 7

CODE OF ETHICS¹

SECTION

- 4-701. Applicability.
- 4-702. Definition of "personal interest."
- 4-703. Disclosure of personal interest by official with vote.
- 4-704. Disclosure of personal interest in non-voting matters.
- 4-705. Acceptance of gratuities, etc.
- 4-706. Use of information.
- 4-707. Use of municipal time, facilities, etc.
- 4-708. Use of position or authority.
- 4-709. Outside employment.
- 4-710. Ethics complaints.
- 4-711. Violations.

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, ch. 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.

4-701. 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 any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #08-07, July 2007)

4-702. Definition of "personal interest." (1) For purposes of §§ 4-703 and 4-704, "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. #08-07, July 2007)

4-703. 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 himself from voting on the measure. (as added by Ord. #08-07, July 2007)

4-704. 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 himself¹ from the exercise of discretion in the matter. (as added by Ord. #08-07, July 2007)

4-705. 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. (as added by Ord. #08-07, July 2007)

4-706. 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. #08-07, July 2007)

4-707. 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 governing body to be in the best interests of the municipality. (as added by Ord. #08-07, July 2007)

4-708. 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. (as added by Ord. #08-07, July 2007)

4-709. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

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

performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #08-07, July 2007)

4-710. Ethics complaints. (1) The town 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 town 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 town 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 town attorney may request the governing body 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 municipality's governing body, 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 town attorney or another individual or entity chosen by the governing body.

(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. #08-07, July 2007)

4-711. 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. (as added by Ord. #08-07, July 2007)