

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

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

#### CHAPTER 1

### MISCELLANEOUS

#### SECTION

- 4-101. Standards of conduct generally.
- 4-102. Preferring charges against officers.

**4-101. Standards of conduct generally.** (1) No officer or agent of the city shall have a direct interest in any contract to which the city is a party or speculate in city bonds or warrants or other evidences of indebtedness; nor shall the mayor, any commissioner or other officer or agent of the city order or contract or do anything whereby a financial liability is incurred, unless authorized by existing laws or by order of the board of commissioners; nor shall any salaried official engage in, or carry on, any business or occupation which interferes with a prompt and proper discharge of his duties to the city. As used in this subsection, "direct interest" means any contract with any business in which the officer or agent is the sole proprietor, a partner or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(2) No officer or agent of the city shall be indirectly interested in any contract to which the city is a party unless the officer or agent publicly acknowledges his interest and excuses himself from any of his duties which include the consideration of, voting on or overseeing the particular contract. As used in this subsection, "indirectly interested" means any contract in which the officer or agent is interested but not directly so, but includes contracts where the officer or agent is directly interested but is the sole supplier of goods or services in the city.<sup>1</sup> (1985 Code, § 2-45)

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<sup>1</sup>State law reference

Conflict of interest law: Tennessee Code Annotated, § 12-4-101, et seq.

Interest of officer in municipal contracts: Tennessee Code Annotated,

(continued...)

**4-102. Preferring charges against officer.**<sup>1</sup> (1) Charges against the mayor, any commissioner or any other city official shall be in writing, addressed to the board of commissioners, signed by the person making the same and filed with the recorder, or with the mayor, when such charges are against the recorder. Charges must be made as brief as possible, shall be made only on paper filed as a pleading in the case and shall be tried before such board, sitting as a court, over which the mayor shall preside. In the event of any charges against the mayor or any commissioner, such mayor or commissioner shall not sit as a member of the court. The recorder shall be the clerk of such court, unless he is on trial, in which case the board shall elect one (1) of its members to act in his stead.

(2) The recorder, at the request of the board or of any person interested in the proceedings, shall issue subpoenas or other compulsory process to compel the attendance of persons and the production of books and papers before such court or any committee of same. Any person failing or refusing to obey such summons or process shall be guilty of contempt and shall be subject to the same penalties as prescribed in like cases before the city court. The board may refer the case to a committee of its members to take evidence and prepare the case, but the final decision shall rest with the board itself and a two-thirds vote of all members of the board, qualified to vote in such court, shall be necessary for a conviction. (1985 Code, § 2-46)

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<sup>1</sup>(...continued)  
§ 6-54-107.

<sup>1</sup>Charter references  
Punishment for contemptuous behavior: § 27.  
Removal of city officers generally: § 29.

## CHAPTER 2

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

#### 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 chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Johnson City, Tennessee. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**4-202. Purpose.** The City of Johnson City, Tennessee 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.

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<sup>1</sup>The complete "Plan of Operation for the Occupational Safety and Health Program Plan for the Employees of the City of Johnson City, Tennessee" is available in the office of the city recorder.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(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. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**4-203. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Johnson City, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**4-204. Standards authorized.** The Occupational Safety and Health standards adopted by the City of Johnson City, Tennessee 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.<sup>1</sup> (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**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

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**4-206. Administration.** For the purposes of this chapter, the city manager or his designee is designated as the director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The 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. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

**4-207. Funding the program.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Board of Commissioners of the City of Johnson City, Tennessee. (Ord. #3975-03, Nov. 2003, as replaced by Ord. #4482-13, April 2013)

## CHAPTER 3

### CODE OF ETHICS<sup>1</sup>

#### 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.

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<sup>1</sup>State 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.

**4-301. 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. (as added by Ord. #4242-07, June 2007)

**4-302. 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. (as added by Ord. #4242-07, June 2007)

**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 himself<sup>1</sup> from voting on the measure. (as added by Ord. #4242-07, June 2007)

**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 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. #4242-07, June 2007)

**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 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 fifty dollars (\$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 fifty dollars (\$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 fifty dollars (\$50.00) shall within seventy two (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

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

automatically be exempt from the provisions of this ethics ordinance. (as added by Ord. #4242-07, June 2007)

**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. #4242-07, June 2007)

**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 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. (as added by Ord. #4242-07, June 2007)

**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 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. #4242-07, June 2007)

**4-309. 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. (as added by Ord. #4242-07, June 2007)

**4-310. 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 (2) 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 (2) 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 (2) 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 (2) 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. (as added by Ord. #4242-07, June 2007)

**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 governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #4242-07, June 2007)