

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. SOCIAL SECURITY.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. PERSONNEL ADVISORY BOARD.
5. NEPOTISM POLICY.

#### CHAPTER 1

### SOCIAL SECURITY

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Exemptions from coverage.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, 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 city shall take such action as may be required by applicable state and federal laws or regulations. (1991 Code, § 4-101)

**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. (1991 Code, § 4-102)

**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. (1991 Code, § 4-103)

**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. (1991 Code, § 4-104)

**4-105. Records and reports.** The city manager shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1991 Code, § 4-105)

**4-106. Exemptions from coverage.** There is hereby excluded from this chapter any authority to make any agreement with respect to emergency employees and to any position, or employee or official not authorized to be covered by applicable federal, state laws and regulations. Acting under Section 2 of Emergency Ordinance passed and approved on September 21, 1951, the mayor is hereby directed to make and enter into an Amendment to the Social Security Agreement of January 1, 1951, so as to extend the benefits of the System of Federal Old Age and Survivors Insurance to include part-time positions, elective officials in "legislative" and judicial positions, effective January 1, 1979 and, to include employees and officials rendering services on a fee-basis, effective January 1, 1983. This agreement is also to exclude the services performed by election officials and election workers if the remuneration paid for such services is less than \$100.00 in a calendar year, to be effective not earlier than the last day of the calendar quarter in which a modification to the agreement is mailed to the Federal Social Security Administration, pursuant to Federal Law. (1991 Code, § 4-106)

## CHAPTER 2

### PERSONNEL SYSTEM<sup>1</sup>

#### SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Personnel rules and regulations.
- 4-205. Records.
- 4-206. Right to contract for special services.
- 4-207. Discrimination.

**4-201. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the City of Kingston that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (1991 Code, § 4-201)

**4-202. Coverage.** All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials.
- (2) The city manager.
- (3) Members of appointed boards and commissions.
- (4) Consultants, advisers, and legal counsel rendering temporary professional service.
- (5) City attorney.
- (6) Independent contractors.
- (7) Persons employed by the city for not more than six (6) months during a fiscal year.
- (8) Part-time employees paid by the hour of the day, and not considered permanent.

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<sup>1</sup>Charter reference

Oath of office: art. VI, § 6.03.

Manager's powers: art. VI, § 6.04.

To be bonded: art. VI, § 6.09.

- (9) Volunteer personnel appointed without compensation.
- (10) City judge.

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (1991 Code, § 4-202)

**4-203. Administration.** The personnel system shall be administered by the personnel clerk under the direction of the city manager. (1991 Code, § 4-203)

**4-204. Personnel rules and regulations.** Amendments to the rules and regulations shall be made in accordance with the procedure set out in the initial personnel rules and regulations, which are incorporated by reference in this chapter as if fully set out herein.<sup>1</sup> (1991 Code, § 4-204)

**4-205. Records.** The personnel clerk shall maintain adequate records of the employment record of every employee as specified herein. (1991 Code, § 4-205)

**4-206. Right to contract for special services.** The city council may direct the city manager to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (1991 Code, § 4-206)

**4-207. Discrimination.** No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (1991 Code, § 4-207)

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<sup>1</sup>The personnel rules and regulations and any amendments are of record in the office of the city clerk.

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

**4-301. Title.** This section shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of City of Kingston. (1991 Code, § 4-301)

**4-302. Purpose.** The Kingston City Council, 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.
- (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. (1991 Code, § 4-302)

**4-303. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Kingston shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Kingston whether part-time or full-time, seasonal or permanent. (1991 Code, § 4-303)

**4-304. Standards authorized.** The occupational safety and health standards adopted by the Kingston City Council 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). (1991 Code, § 4-304)

**4-305. Variances from standards authorized.** The City of Kingston 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 City of Kingston 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 safety officer shall be deemed sufficient notice to employees. (1991 Code, § 4-305)

**4-306. Administration.** For the purposes of this chapter, the safety officer 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 said plan. 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. (1991 Code, § 4-306)

**4-307. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Kingston City Council. (1991 Code, § 4-307)

## CHAPTER 4

### PERSONNEL ADVISORY BOARD<sup>1</sup>

#### SECTION

- 4-401. Established.
- 4-402. Purpose.
- 4-403. Membership, election, and officers.
- 4-404. Terms of office.
- 4-405. Meetings.
- 4-406. Advisory duties.
- 4-407. Complaint review.

**4-401. Established.** A personnel advisory board is hereby established pursuant to article IV, section 4.12 of the city charter. (1991 Code, § 4-401)

**4-402. Purpose.** The personnel advisory board is established to advise the city manager and city council on various personnel matters such as, but not limited to, those enumerated hereinafter, and to investigate all written complaints of employed personnel of the city. (1991 Code, § 4-402)

**4-403. Membership, election, and officers.** The personnel advisory board shall consist of three members who are registered voters and residents of the city. One member shall be elected by the council, one shall be elected by the regular city employees, and the third shall be appointed by the city manager. No person who holds any salaried office or employment in the city government shall serve on the board. Members shall serve without compensation but may be reimbursed for necessary expenses incurred on official duties. A chairman and a secretary shall be elected at the first meeting in each fiscal year. (1991 Code, § 4-403)

**4-404. Terms of office.** Members of the personnel advisory board shall normally serve for a single three year term. However, of the members first appointed, the member elected by the regular city employees shall serve for two (2) years and the member appointed by the city manager shall serve for one year. Other than normal completion of a term of office, a member's position on the board shall become vacant upon his death, resignation, failure to perform his duties, or removal of residence out of the city. Vacancies occurring during a term shall be filled for the balance of that term in the same manner as the original selections were made. (1991 Code, § 4-404)

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<sup>1</sup>Charter reference

Advisory boards: art. IV, § 4.12.



**4-405. Meetings.** The personnel advisory board shall meet at such times and places as shall be specified by call of the chairman or a majority of the members. All meetings at which business is transacted shall be open to the public and the secretary shall make permanent records of transactions taken by the board and these records shall be available for inspection by the public. (1991 Code, § 4-405)

**4-406. Advisory duties.** The board shall advise the manager regarding personnel rules, establishing salary schedules, administrative organization, written instructions for specific employees where desired, and other matters of general personnel management. It shall assist, if requested, in the evaluation of personnel performance and advise the city manager and council on recommended manpower needs in each department of the city. It may assist the manager, if requested, in preparing qualifications for specific positions of employment and in the review of applicants for employment. Furthermore, the board shall advise the city manager in the preparation of at least an annual report to council as to the personnel status, effectiveness of operation, and manpower needs of each department. This report may include recommendations for promotions, salary increases, or proposed changes in personnel rules or administrative organization. (1991 Code, § 4-406)

**4-407. Complaint review.** The board shall promptly investigate complaints made to it in writing by any officer or employee of the city who is suspended or removed from his position or otherwise adversely affected by a personnel action. The board shall report its findings and recommendations, which shall be advisory in nature, in writing to the manager; however, the decision of the manager in these matters shall be final. If, in the opinion of the board, established personnel rules were not complied with, the board shall make their decisions also known to the city council in writing. (1991 Code, § 4-407)

## CHAPTER 5

### NEPOTISM POLICY

#### SECTION

- 4-501. Definitions.
- 4-502. Employment.
- 4-503. Effect of city council member's resignation.
- 4-504. Continuous employment exception.
- 4-505. Trading.
- 4-506. Federal funds.
- 4-507. Illustrative examples.

**4-501. Definitions.** (1) "Consanguinity." Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. For this purpose, an adopted child or a step child is treated as a natural child. The degree of relationship by consanguinity between a person and his descendent is determined by the number of generations that separate them. If a person and his relative are related by consanguinity, but neither are descended from the other, the degree of relationship is determined by adding the number of generations between the person and the next common ancestor shared by his and her relative to the number of generations between the relative and the nearest common ancestor.

If a supervisor is the prospective employee's parent or child, there exists a relationship in the first degree. If a supervisor is the prospective employee's grandparent, grandchild, sister or brother, there is a relationship in the second degree. If a supervisor is the prospective employee's great-grandparent, great-grandchild, aunt, uncle, niece or nephew, there is a relationship in the third degree. These are the only relationships by consanguinity that are prohibited by the nepotism law.

(2) "Affinity." Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person. Divorce or the death of a spouse terminates relationships by affinity created by a marriage unless a child of the marriage is living. If a child of the marriage is living, the marriage is considered to continue until the youngest child of that marriage reaches the age of twenty-one (21). A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of relationship by affinity is the same as the degree of the underlying relationship by consanguinity. If a supervisor's spouse is the prospective employee's parent or child, or if the prospective employee's spouse is a supervisor's parent or child, there exists a relationship in the first degree. If a supervisor's spouse is the prospective employee's grandparent, grandchild, sister or brother, or if the prospective employee's spouse is a supervisor's grandparent, grandchild, sister, or brother

there is a relationship in the second degree. These are the only relationships by affinity that are prohibited by the nepotism law.

(3) "Supervisor." The term "supervisor" as used in this chapter shall mean the mayor and any member of city council, any member of the water board, the city manager, the utility director and any department head of the city or the utility. (1991 Code, § 4-501)

**4-502. Employment.** No person shall be employed by the city or the utility who is related to any supervisor of the city or the utility by blood (consanguinity) within the third degree, or marriage (affinity) within the second degree. The method of computing degrees of relationship is the civil law method. (1991 Code, § 4-502)

**4-503. Effect of city council member's resignation.** All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a council member's resignation is filled by a successor, the council member continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. (1991 Code, § 4-503)

**4-504. Continuous employment exception.** The nepotism prohibitions described in this chapter shall not apply to the confirmation or appointment of an individual to a position if the individual is employed in the position immediately before the election or appointment of the supervisor to whom the individual is related in a prohibited degree and that prior employment is continuous for at least:

Thirty (30) days, if the supervisor is appointed; or  
Six (6) months, if the supervisor is elected.

If a person continues in a position under this exception, the supervisor who is related to the employee shall not participate in any deliberation or voting on the appointment, reappointment, employment, re employment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employee. (1991 Code, § 4-504)

**4-505. Trading.** It is illegal to evade the provisions of this chapter by trading.

NOTE: An example of trading would be if a supervisor employed the relative of a person subject to the nepotism statute, in return for which that person employed a relative of the supervisor, given the fact that neither employer could legally employ his nor her own relative. (1991 Code, § 4-505)

**4-506. Federal funds.** The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. (1991 Code, § 4-506)

**4-507. Illustrative examples.** These illustrations depict the relationships that violate the nepotism law.

CONSANGUINITY (Blood Kinship): Supervisor is prospective employee's:

First degree:

Parent

Child

Second degree:

Grandparent

Grandchild

Sister/brother

Third degree:

Great-grandparent

Great-grandchild

Aunt/uncle niece/nephew

AFFINITY (Marriage): Kingston City Council member's spouse is the prospective employee or Kingston City Council member's spouse is prospective employee's or prospective employee's spouse is the council member's:

First degree:

Parent

Child

Second degree:

Grandparent

Grandchild

Sister/brother

Note: The spouses of two persons related by blood are not by that fact related. The affinity chart supposes only one affinity relationship between the supervisor and prospective employee through either of their spouses. (1991 Code, § 4-507)