

ORDINANCE 22-2007-08

AN ORDINANCE AMENDING THE OFFICIAL CODE RELATIVE TO THE ETHICS POLICY OF THE CITY OF CLARKSVILLE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE TENNESSEE:

The *Official Code* of the City of Clarksville, Tennessee, Title 1, "Administration, Officers, and Personnel," Chapter 6, "Code of Ethics," is hereby amended by deleting the existing language in its entirety and by substituting instead the following:

SECTION 1. Applicability

This chapter serves as the code of ethics for employees of the City of Clarksville, Tennessee (hereinafter, "City"). "Employees", in the context of this chapter, includes all full time and part time elected or appointed officials and employees, whether compensated or not, including those of any separate board, council, commission, committee, authority, corporation, or other instrumentality appointed or created by the City.

The maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the City is essential to ensure the proper performance of government business and the maintenance of confidence by citizens in their government. Moreover, the avoidance of misconduct and conflicts of interest on the part of employees of the City is indispensable to the maintenance of these standards. Therefore, this chapter shall be construed at all times in accordance with these goals.

All employees will review this chapter annually and be briefed on any issues of interest related to this chapter. Employees will sign a form of understanding and agreement (to be provided) during the annual review. The signed form will be retained in employee records. New employees will review and sign the form as part of their Human Resources in-processing. The city attorney and Human Resources will coordinate and develop the review/signature/filing processes.

SECTION 2. Employee Responsibilities

Each employee shall avoid any action, whether or not specifically prohibited by statute, regulation, or this chapter, which might result in or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person or organization;

- (3) Impeding government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a government decisions outside official channels;
- (6) Affecting adversely the confidence of the public in the integrity of the government;
- (7) Elected Officials being in joint business ownership or in a joint consultant/management of a business with any other city employee. For the purposes of this subsection, appointed officials shall be specifically excluded from the definition of "city employee" and this subsection shall not prohibit an elected official from being in joint business ownership or in a joint consultant/management of a business with an appointed official;
- (8) Elected Officials, including any immediate family member, and employees, including any immediate family member, co-owning or otherwise being principal stockholders in the same corporation. For the purposes of this subsection, appointed officials shall be specifically excluded from the definition of "city employee" and this subsection shall not prohibit an elected official, including any immediate family member, from co-owning or otherwise being principal stockholders in the same corporation, with an appointed official, including any immediate family member of an appointed official.

SECTION 3. Gifts and Gratuities

No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan guarantee or any other item of monetary value, from any person or entity that:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with any Department of City Government;
- (2) Conducts operations or activities with the City of Clarksville; or,
- (3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

SECTION 4. Exceptions

The prohibition on accepting gifts in Section 3 does not apply to:

- (1) A gift given by a member of the employee's immediate family, or by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship and not by the position of the employee;
- (2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
- (3) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento or other similar items; provided, that any such item shall not be in a form which can be readily converted to cash;
- (4) Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of such item does not exceed fifty dollars (\$50.00) per occasion, per employee attending the event. There may be circumstances where refusal or reimbursement of a gift or dining with a value exceeding fifty (\$50.00) dollars may be awkward and contrary to the larger interests of the City. In such circumstances, the employee shall disclose the gift/dinner, including a description, estimated value, the person or entity providing the gift/dinner and additional explanations as needed within fourteen (14) calendar days of the occurrence to the Internal Auditor or Director of Finance and Administration. A form for this purpose will be provided by the Internal Auditor;
- (5) Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where an employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings;
- (6) Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in Section 3;
- (7) Money, goods or any other commodity donated to any employee for distribution to any segment of the general public. For example, money donated to the Fraternal Order of Police by private retailers for the purpose of selecting identified under privileged children, transporting them to area stores and buying them Christmas gifts; or,

- (8) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.

SECTION 5. FINANCIAL INTERESTS

- (1) Except as hereinafter provided, no employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the City or any of its agencies. In recognition of the fact that many husbands and wives have separate careers, the normal employment compensation of a spouse whose regular ongoing employer or business has a contractual arrangement with the city shall not be considered a "benefit" to the employee, provided the contract with the city was procured without any participation assistance, or influence by the employee, and that employee disclose such contracts. Moreover, this prohibition shall not be construed to prohibit any member of any appointed board, commission, committee, authority, corporation, or other instrumentality appointed or created by City from benefiting, either directly or indirectly, from any contractual arrangement with the City or any of its agencies so long as such member complies with the provisions of Subsection (2). No member of any appointed board, commission, committee, authority, corporation, or other instrumentality appointed or created by City shall vote on any matter where the member or member's immediate family would benefit, either directly or indirectly, from any contractual arrangement with the City or any of its agencies.
- (2) No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her governmental duties or responsibilities. The employee will disclose any known financial interests related to any topic, subject, or program that has city government interest or involvement. If a possible conflict could arise, the employee will disclose these concerns and interests and abstain from any decision-making processes or votes. "Indirect financial interest" in this case includes a substantial interest on the part of parent, spouse, or minor child of the employee. This subsection shall not apply to interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests. If, at the time the employee begins employment with the city or at any subsequent time during city employment, the employee acquires such direct or indirect financial interests prohibited by Subsection (1) or (2), that interest shall be disclosed to the Director of Finance within fourteen (14) calendar days in a form to be provided by the Internal Auditor.

SECTION 6. USE OF INFORMATION

No employee shall, directly or indirectly:

- (1) Use, disclose, or allow the use of official information which was obtained through or in connection with his or her government employment and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the employee; or,
- (2) Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her government employment.

SECTION 7. USE OF CITY PROPERTY

- (1) No employee shall make use of the facilities, equipment, personnel, or supplies of the City or its agencies for private use or gain, except to the extent that the use is incidental or de minimus or is lawfully available to the general public.

SECTION 8. ETHICS COMPLAINTS

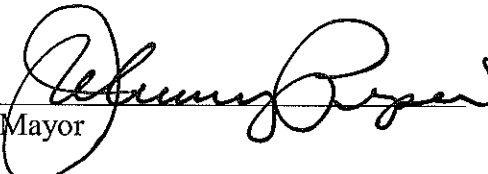
- (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable laws.
- (2) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against any appointed official or employee charged with violating provisions of this chapter, or may undertake an investigation on his or her own initiative when he or she acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the city attorney's judgment, constitutes a violation of this chapter.
- (3) The city 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 interest in a particular matter.
- (4) When a complaint of a violation of any provision of this chapter is lodged against the Mayor or 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.

- (5) The interpretation that a reasonable person would make shall be used in interpreting and enforcing this chapter.
- (6) When a violation of this chapter also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel policy provisions rather than as a violation of this chapter.

SECTION 9. VIOLATIONS

An employee, as defined in Section 1, who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law (including, but not limited to, termination of employment), and in addition is subject to censure to by the governing body and, if warranted, prosecution by the city.


Mayor

ATTEST:


City Clerk

FIRST READING: August 2, 2007
SECOND READING: September 6, 2007
EFFECTIVE DATE: September 9, 2007