

ORDINANCE NO. 43-4

“AN ORDINANCE TO AMEND THE MUNICIPAL CODE, ELIZABETHTON, TENNESSEE, 2000, AS AMENDED BY CREATING A NEW CHAPTER 6 IN TITLE 4 ENTITLED “CODE OF ETHICS” AND CREATING SECTIONS 6-101 THROUGH 6-111 AS REQUIRED BY THE STATE OF TENNESSEE.”

WHEREAS, the Tennessee Legislature passed Public Chapter No. 1 during the Extraordinary Session of the 2006 General Assembly which required municipalities to adopt a Code of Ethics by Ordinance before July 1, 2007; and,

WHEREAS, it is in the best interest and welfare of the citizens of the City of Elizabethton, Tennessee, that this Chapter 6 in Title 4 of the Elizabethton Municipal Code be created to adopt the Code of Ethics required by the State of Tennessee.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ELIZABETHTON, TENNESSEE, AS FOLLOWS:

SECTION 1. That Title 4, Chapter 6, Section 6-101, shall be created to read as follows:

6-101. Applicability. This chapter is the Code of Ethics for personnel of the municipality, the City of Elizabethton. 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.

SECTION 2. That Title 4, Chapter 6, Section 6-102, shall be created to read as follows:

6-102. Definition of “personal interest”.

- (1) For purposes of Sections 6-103 and 6-104, “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).

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(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.

SECTION 3. That Title 4, Chapter 6, Section 6-103, shall be created to read as follows:

6-103. 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.

SECTION 4. That Title 4, Chapter 6, Section 6-104, shall be created to read as follows:

6-104. 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 City Clerk. 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 this matter.

SECTION 5. That Title 4, Chapter 6, Section 6-105, shall be created to read as follows:

6-105. 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.

SECTION 6. That Title 4, Chapter 6, Section 6-106, shall be created to read as follows:

6-106. 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.

SECTION 7. That Title 4, Chapter 6, Section 6-107, shall be created to read as follows:

6-107. Use of municipal time, facilities, etc.

(1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the City Council to be in the best interests of the City of Elizabethton.

SECTION 8. That Title 4, Chapter 6, Section 6-108, shall be created to read as follows:

6-108. Use of position or authority.

(1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the City of Elizabethton.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the City of Elizabethton.

SECTION 9. That Title 4, Chapter 6, Section 6-109, shall be created to read as follows:

6-109. 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 City of Elizabethton's charter or any ordinance or policy.

SECTION 10. That Title 4, Chapter 6, Section 6-110, shall be created to read as follows:

6-110. Ethics Complaints.

(1) The City Attorney is designated as the ethics officer of the City of Elizabethton. Upon the written request of an official or employee potentially affected by a provision

of this chapter, the City Attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2)(a) Except as otherwise provided in this subsection, the City Attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgement, constitutes a violation of this code of ethics.

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the Elizabethton City Council, the City Council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the City Council determines that a complaint warrants further investigation, it shall authorize an investigation by the City Attorney or another individual or entity chosen by the City Council.

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

(4) When a violation of this Code of Ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

SECTION 11. That Title 4, Chapter 6, Section 6-111, shall be created to read as follows:

6-111. 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 Charter of the City of Elizabethton 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.

SECTION 12. This ordinance shall take effect ten (10) days from and after its final passage.

PASSED ON FIRST READING:

February 8, 2007

PUBLIC HEARING HELD:

March 8, 2007

PASSED ON SECOND READING:

March 8, 2007

CITY OF ELIZABETHTON, TENNESSEE

BY: Curt Alexander
CURT ALEXANDER, MAYOR

ATTEST:

Larry D. Clark
LARRY D. CLARK, CITY CLERK

THIS DOCUMENT HAS BEEN EXAMINED
BY ME AND IS APPROVED AS TO FORM:

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