

CHARLES E. PATTERSON
MAYOR

JIM E. GARLAND
RECORDER

RECEIVED
City of Henderson
2007 APR 27 AM 8:30
P.O. Box 68 • 121 CROOK AVENUE
HENDERSON, TENNESSEE 38340
TELEPHONE: 731-983-5000 • FAX: 731-983-5050
ETHICS COMMISSION

April 24, 2007

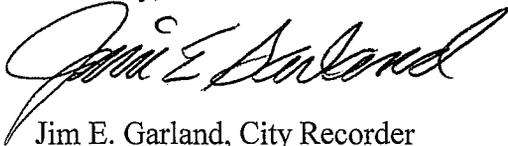
Tennessee Ethics Commission
SunTrust Building
201 4th Ave North, Suite 1820
Nashville, TN 37243

RE: Ethics Policy for the City of Henderson

To Whom It May Concern:

The City of Henderson Board of Mayor and Aldermen adopted the enclosed Ordinance #421 on April 12, 2007 by unanimous vote. As part of this ordinance, Chapter 6 entitled "Code of Ethics" was added to the municipal code. As required by state law this ordinance is being forwarded to your office. If you have any questions, please feel free to contact me at the above number.

Sincerely,



Jim E. Garland, City Recorder

Enclosure

ORDINANCE NO. 421

AN ORDINANCE TO AMEND TITLE 4, CHAPTER 2, OF THE HENDERSON MUNICIPAL CODE.

Section 1. BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF HENDERSON, TENNESSEE, that Title 4, Chapter 2, Sections 4-228 and 4-229 are hereby amended to read as follows:

4-228. **Discrimination Prohibited.** The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. 2000e - 2000e-15; Equal Pay Act 1963 - 29 U.S.C. 206(d); Age Discrimination in Employment Act - 29 U.S.C. 621 et seq.; Americans With Disabilities Act - 42 U.S.C. 506 et seq.)

4-229 **Prohibitions.** No person, applicant or employee shall be favored or discriminated against due to political affiliation.

No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position with the city, or any increase in wages or other advantage in employment in such a position, for the purpose of influencing the vote or political actions of any person, or for any other consideration.

No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position with the city.

Section 2. BE IT FURTHER ORDAINED that Title 4 be amended by the addition of Chapter 6 entitled "**CODE OF ETHICS**" as follows:

4-601. **Applicability.** This ordinance 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.

4-602. **Definition of "personal interest."** (1) For purposes of Sections 4-603 and 4-604, "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), stepparent(s), grandparent(s), mother-in-law and father-in-law, sibling(s) and their spouse(s), child(ren) and their spouse(s), stepchild(ren) and their spouse(s), grandchild(ren) and their spouses.

(2) The words "employment interest" includes 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.

4-603. **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/herself from voting on the measure.

4-604. **Disclosure of personal interest in nonvoting matters.** At any publicly advertised meeting, if an official or employee 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, he/she shall publicly disclose said personal interest before the exercise of the discretion. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself/herself from the exercise of discretion in the matter.

In any situation other than at a publicly advertised meeting, if an official or employee must exercise discretion relative to any matter, 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 himself/herself from the exercise of discretion in the matter.

4-605. **Acceptance of gratuities, gifts, etc.** Except as permitted in Section 4-606 below, 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.

4-606. **Exceptions to Section 4-605 (gratuities, gifts, etc.)** Section 4-605 of this Ordinance is not applicable to the following:

- (a) Opportunities, benefits and services which are available on the same conditions as for the general public.
- (b) Anything for which the covered officer or employee or a member of his or her immediate family, pays the fair market value.
- (c) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fundraising event in support of a political organization or candidate.
- (d) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.
- (e) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, any spouse of those listed above and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.
- (f) Intra-governmental and inter-governmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- (g) Ceremonial gifts or awards which have insignificant monetary value.
- (h) Unsolicited gifts of nominal value (less than \$10.00) or trivial items of informational value.
- (i) Food or refreshments not exceeding twenty-five dollars (\$25.00) per person in value on a single calendar day; provided that the food or refreshments are: consumed on the premises from which they were purchased or prepared; or catered.
- (j) Food, refreshments, lodging, transportation and other benefits provided by an organization or a private company for officials or employees to attend a bonafide training conference, seminar or event provided that it is in the best interest of the city for the employee(s) or official(s) to attend. Travel shall be approved as required by the city's travel policy.

4-607. **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.

4-608. **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 agreement, contract or lease that is determined by the governing body to be in the best interests of the municipality.

4-609. **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/herself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

4-610. **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. Outside employment must be approved in writing by the mayor for all full time employees.

4-611. **Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the 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) Complaints can take place in two different formats: (a) Formal Written Complaint: a formal written complaint shall include all details of the alleged violation including dates and shall be signed by the complainant and notarized. Formal written complaints shall be reviewed by the city attorney as outlined in this section. (b) Informal Complaint: If the mayor or any department head receives information about a possible violation of this chapter by any other means than a formal complaint, they shall investigate the matter and if it appears a violation has occurred, they shall forward the matter to the city attorney for a formal investigation. If no proof of a violation is found by the mayor or department head, no further action is needed.

(3)(a) The city attorney shall investigate any credible complaint against any official or employee for the alleged 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. The city attorney shall report his findings in writing to the governing body.

(b) The city attorney may request that the governing body 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.

(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 or rule, the violation shall be dealt with as a violation of the both policies and any punishment allowed by either policy or code could apply.

4-612. **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.

Section 3. BE IT FURTHER ORDAINED that this ordinance shall take effect upon final passage, the public safety and welfare requiring it.

Passed First Reading: April 12, 2007 .

Passed Second & Final Reading: April 12, 2007 .

Approved this the 12 th day of April , 2007.



Mayor

Attest:



City Recorder