

ORDINANCE #2007-13

AN ORDINANCE TO AMEND TITLE 4 OF THE CITY OF LA VERGNE MUNICIPAL CODE BY ADDING A NEW CHAPTER 7 TITLED CODE OF ETHICS.

WHEREAS, Public Chapter 1 of the 2006 General Assembly Session requires Municipalities to adopt a Code of Ethics by Ordinance, prior to July 1, 2007; and

WHEREAS, the City of La Vergne wishes to comply with said Public Chapter and adopt a Code of Ethics applying to elected or appointed officials and employees by amending the La Vergne Municipal Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF LA VERGNE, as follows:

SECTION I. Title 4 of the La Vergne Municipal Code be amended by adding a new Chapter 7 to read as follows:

CHAPTER 7

CODE OF ETHICS

SECTION

- 4-701. Applicability.
- 4-702. Definition of "personal interest."
- 4-703. Disclosure of personal interest by official with vote.
- 4-704. Disclosure of personal interest in nonvoting matters.
- 4-705. Acceptance of gratuities, etc.
- 4-706. Use of information.
- 4-707. Use of municipal time, facilities, etc.
- 4-708. Use of position or authority.
- 4-709. Outside employment.
- 4-710. Ethics complaints.
- 4-711. Violations.
- 4-712. Filing of complaints.

4-701. 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 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.

4-702. Definition of "personal interest." (1) For purposes of Sections 4-703 and 4-704, "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), sibling(s), child(ren), or stepchild(ren).

(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.

4-703. 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.

4-704. Disclosure of personal interest in nonvoting 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 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.

4-705. Acceptance of gratuities, etc. (1) 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:

(a) 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

(b) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

(2) It is presumed that any gift or gratuity accepted by an official or employee equal to, or less than, fifty dollars (\$50.00) shall not constitute a violation of this code.

4-706. 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.

4-707. 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.

4-708. 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.

4-709. Outside employment. With the exception of the City Judge, City Attorney, and any other part time employee or official, 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.

4-710. Ethics complaints. (1) The Board of Mayor and Aldermen shall appoint an ethics officer who shall serve at the pleasure of the Board of Mayor and Aldermen and be compensated for services rendered as the ethics officer. Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics officer 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 ethics officer shall investigate any credible complaint against an elected official, 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 officer's judgment, constitutes a violation of this code of ethics.

(b) The ethics officer 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, 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.

(5) In the event that the ethics officer finds a complaint to be frivolous, or in bad faith, the individual or individuals that filed the complaint shall be subject to a civil penalty equal to the cost associated with the investigation of the frivolous complaint, including any fee charged by the ethics officer for investigation of the complaint.

(6) The Board of Mayor and Aldermen may authorize the city attorney to file a cause of action against the individual or individuals responsible for the frivolous complaint for enforcement and collection of the civil penalty.

4-711. 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.

4-712. Filing of Complaints. Any complaint brought pursuant to this ordinance shall be filed with the City Recorder's Office and shall identify the person or persons making said complaint, their address and telephone number, and the facts upon which this complaint is made. The Board of Mayor and Alderman may, by resolution, set a fee to be charged for the filing of said Complaint. In the event that the subject of a complaint is found to have violated this ordinance, the person that filed the complaint shall be entitled to a refund of the filing fee referenced herein.

The ethics officer shall investigate any complaint he or she deems credible. As part of his or her investigation, the ethics officer shall further make a written finding if any complaint is found to be frivolous or in bad faith. In the event that the ethics officer finds that a complaint on its face to lack credibility or if, in the opinion of the ethics officer, the allegation(s) set forth in the complaint do not constitute a violation of this ordinance, said complaint shall be dismissed.

SECTION II. Each section, subsection, paragraph, sentence and clause of this ordinance is hereby declared to be separable and severable. The validity of any section, subsection, paragraph, sentence or clause shall not be effected by the invalidity of any other portion of this ordinance, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted herefrom.

SECTION III. That this Ordinance take effect forthwith upon its final passage, the public welfare requiring it.

LEGAL STATUS PROVISIONS

Approved by the Mayor and Board of Aldermen:

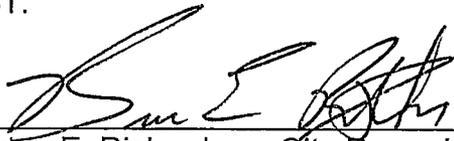


Ronnie Erwin, Mayor

5/01/07
1st Reading

6/05/07
2nd Reading

ATTEST:



Bruce E. Richardson, City Recorder

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