

ORDINANCE 22-17

AN ORDINANCE AMENDING THE MUNICIPAL CODE TITLE 4, CHAPTER 6 CODE OF ETHICS,

WHEREAS, the Board of Mayor and Aldermen wishes to amend the Municipal Code Title 4 Municipal Personnel Chapter 6 Code of Ethics;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen that the Municipal Code Title 4 Chapter 6 Code of Ethics is amended as indicated below.

*Amends are made in bold, italics, and underlined text.

CHAPTER 6

CODE OF ETHICS

SECTION

- 4-601. Applicability.
- 4-602. Definition of "~~personal interest.~~" ***Personal Interest***
- 4-603. Disclosure of ~~P~~personal ~~I~~nterest by ~~O~~fficial with ~~V~~ote.
- 4-604. Disclosure of ~~P~~personal ~~I~~nterest in ~~nonvoting~~ ***Non-Voting M***atters.
- 4-605. Acceptance of ~~G~~ratuities, etc.
- 4-606. Use of ~~I~~nformation.
- 4-607. Use of ~~M~~municipal ~~T~~ime, ~~F~~acilities, etc.
- 4-608. Use of ~~P~~osition or ~~A~~uthority.
- 4-609. Outside ~~E~~mployment ***or Other Position of Financial Interest.***
- 4-610. Ethics ~~C~~omplaints.
- 4-611. Violations.
- 4-612. Appearance of Impropriety.***

4-601. Applicability. This chapter is the ~~C~~ode of ~~E~~thics for personnel of the ~~municipality~~ ***City of White House***. 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 "~~P~~personal ~~I~~nterest." 1. For purposes of §§ 4-603 and 4-604 ***of this Chapter***, "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.~~

- a. ***Any job, occupation, consultation, or other position for which the employee or official is compensated, whether by a third party/entity or in a self-employed capacity, other than the City of White House; and***

- b. Any situation in which an official or employee or a designated family member is negotiating possible employment with a person or entity that is the subject of a vote of any City of White House board, committee, or commission, or that is to be regulated or supervised by the City of White House.

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 from voting on the measure.

4-604. Disclosure of Personal Interest in nonvoting 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~~ particular person or entity being regulated or supervised 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 before the exercise of discretion when possible. 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.

4-605. 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. (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. (2) That might reasonably be interpreted as an attempt to influence his ~~action~~ discretion, or reward him for past ~~action~~ exercise of discretion, in executing municipal business.

4-606. Use of Information. (1) 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. (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.

4-607. Use of Municipal Time, Facilities, etc. (1) 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. (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.

4-608. Use of position or authority. (1) 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. (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.

4-609. Outside Employment or Other Position of Financial Interest. 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.

4-610. Ethics Ceomplaints. (1) 1. The city attorney is designated as the ethics officer of the municipality coordinator for the City of White House. Upon the submission to the city attorney of any written, credible request of an official or employee potentially affected by a provision or ethics complaint regarding any alleged violations of this chapter by any employee or official, whether appointed or elected, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law. shall gather and organize any information required to fully investigate the written request or ethics complaint. The written request or ethics complaint shall be delivered to the city attorney as a sworn statement of facts, under oath, before a notary public. False statements of fact may be subject to perjury charge as permitted by the law of the State of Tennessee. The Board of Mayor and Aldermen shall be advised that an ethics inquiry is occurring.

(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 judgment, constitutes a violation of this code of ethics.

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.

e. When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body 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 governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

2. Ethics Investigator

- a. If the city attorney determines that his investigation of an alleged violation of this chapter by any employee or official is or will be a conflict of interest, then he may select another attorney, subject to the City of White House Board of Mayor and Aldermen's approval, to serve as the ethics investigator of that alleged violation. In all respects the city attorney shall act as the City's liaison to the ethics investigator during, and at the conclusion of such investigation.
- b. Such ethics investigator shall review all information provided by the city attorney and shall render a written advisory ethics opinion to the city attorney as to whether any violations have occurred based upon this ethics policy or other applicable law. Should the ethics investigator require additional information, the city attorney shall be responsible for coordinating any other information, witness, or statements and providing such information to the ethics investigator. The subpoena power of the City of White House Board of Mayor and Aldermen may be used to obtain information, if required.
- c. The ethics investigator shall report the findings to the city attorney within sixty (60) days of the complaint, unless more time is required and approved by the City of White House Board of Mayor and Aldermen action. Upon request, the ethics investigator may also be asked to issue a written advisory opinion about an ethics question or situation.
- d. Once the ethics investigator concludes an investigation and renders an opinion about a complaint or request, the city attorney shall forward such written opinion, along with any recommendations for action(s) to end or seek retribution for any activity that, in the ethics investigator's judgment, constitutes a violation of this Code of Ethics, to the City of White House Board of Mayor and Aldermen, and, if the subject of the investigation is an employee, to the employee and such employee's department head. The opinion shall also be sent to the person(s) that filed the request or complaint.

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

3. When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the investigation of such complaint shall proceed as heretofore described.

(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.

4. Any complaint filed with malice or under false statements of fact or, in an obvious attempt to embarrass, shall be the subject of proper sanctions or disciplinary action. However, any city employee shall be able to file a valid complaint without fear of retaliation. Any supervisor, or any other employee, who harasses or retaliates against an employee filing a complaint shall be subject to disciplinary action, including dismissal.
5. The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics.
6. 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.

4-611. 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.

4-612. Appearance of Impropriety. At all times, every City of White House employee or official, whether elected or appointed, shall conduct himself or herself in a manner so as to avoid even the appearance of impropriety.

This ordinance shall become effective upon its final reading and adoption by the Board of Mayor and Aldermen, and publication, the public welfare requiring it.

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| First Reading: | November 17, 2022 | PASSED |
| Second Reading: | December 15, 2022 | PASSED |



Farris H. Bibb, Jr., Mayor

ATTEST:



Derek Watson, City Recorder