

ORDINANCE NO. 06-3069

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO REPLACE TITLE 22 OF THE LEBANON MUNICIPAL CODE DESIGNATED AS THE "CODE OF ETHICS" WITH A NEW TITLE 22: CODE OF ETHICS

WHEREAS, on September 5th, 2006, the Lebanon City Council passed Ordinance No. 06-2982 and thereby adopted a citywide code of ethics; and

WHEREAS, Ordinance No. 06-2982 created a new title to the Lebanon Municipal Code, and designated the new title as Title 22: Code of Ethics; and

WHEREAS, the code of ethics adopted by Ordinance No. 06-2982 was a verbatim representation of the model policy created by the Municipal Technical Advisory Service; and

WHEREAS, in order to achieve a more comprehensive and tailored code of ethics, certain amendments to MTAS's model policy are required.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to replace Title 22 of the Lebanon Municipal Code, adopted by Ordinance No. 06-2982 and designated as the "Code of Ethics," with the new Title 22, also designated as the "Code of Ethics," attached hereto and incorporated herein by reference as if appearing verbatim.

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.


Attest:

Approved:


Commissioner of Finance & Revenue


Mayor

Approved as to form:


City Attorney

Passed first reading: 5/01/07

Passed second reading: 6/05/07

TITLE 22

CODE OF ETHICS¹

SECTION

- 22-101. Applicability.
- 22-102. Definition of Personal Interest.
- 22-103. Disclosure of Personal Interest by Official with Vote.
- 22-104. Disclosure of Personal Interest in Non-Voting Matters.
- 22-105. Acceptance of Gratuities, Etc.
- 22-106. Use of Information.
- 22-107. Use of Municipal Time, Facilities, Etc.
- 22-108. Use of Position or Authority.
- 22-109. Outside Employment.
- 22-110. Ethics Complaints.
- 22-111. Violations.
- 22-112. Appearance of Impropriety.

22-101. Applicability. This Title is the Code of Ethics for personnel of the City of Lebanon. 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.

¹ State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance - T.C.A. Title 2, Chapter 10.

Conflict of interests - T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements - T.C.A. § 8-50-501 and the following sections. Consulting fee prohibition for elected municipal officials - T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster law - T.C.A. § 8-47-101 and the following sections.

22-102. Definition of "Personal Interest". (1) For purposes of Sections 103 and 104 of this Title, "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); or

(d) Any such financial, ownership, or employment interest of the official's or employee's spouse's parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include:

(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 Lebanon; and

(b) Any 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 a vote of any City of Lebanon board, committee, or commission, or that is to be regulated or supervised by the City of Lebanon.

(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.

22-103. 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 himself² from voting on the measure.

22-104. 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, or is in a reasonably apparent position of influence over such matter, shall disclose, before the exercise of the discretion or influence, 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.

² Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

22-105. Acceptance of Gratuities. 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.

22-106. 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.

22-107. Use of Municipal Time or Facilities. (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.

22-108. 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 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.

22-109. Outside Employment or Other Position of Financial Interest.

(1) Outside employment, or other position of financial interest, shall be defined as any job, occupation, consultation, or other position for which the employee is compensated, whether by a third party/entity or in a self-employed capacity, other than the City of Lebanon.

(2) All positions of outside employment, or other position of financial interest, must be submitted on the Outside Employment form provided by the City and approved on an annual basis by the employee's respective department head prior to the acceptance, or continuance, of such outside employment, or other position of financial interest.

(3) No employee of the City of Lebanon shall be permitted to continue in, commence, or accept any position of outside employment, or other position of financial interest, if such outside employment, or other position of financial interest:

(a) Will unreasonably inhibit the performance of any affirmative duty of the City position or conflict with any provision of the City's charter or any ordinance or policy;

(b) Is likely to interfere with the employee's satisfactory performance of his or her duties and responsibilities; or

(c) Is incompatible with City employment in any way, including the appearance of any conflict of interest or impropriety.

22-110. Ethics Complaints. (1) The city attorney is designated as the ethics coordinator for the City of Lebanon. Upon the written credible request or ethics complaint of an official or employee potentially affected by a provision of this chapter, the city attorney shall gather and organize any information required to fully investigate the written request and shall forward such information to an attorney designated by the Lebanon City Council as an ethics investigator. 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. The written ethics request or 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 a perjury charge. The Mayor and City Council shall be advised that an ethics inquiry is occurring.

(2) Such ethics investigator shall be chosen from any one of three attorneys approved annually by resolution at the second City Council meeting of July as administrative law officers, and with whom the City of Lebanon has entered into an agreement for compensation to act in such capacity.

(3) 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, witnesses, or statements and providing such information to the ethics investigator. The subpoena power of the City Council may be used to obtain information, if required. 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 City Council action. Upon request, the ethics investigator may also be asked to issue a written advisory opinion about an ethics question or situation.

(4) 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 Lebanon City Council, the Mayor, 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.

(5) 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.

(6) 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. A policy regarding procedures and protections for reporting alleged ethics violations shall be incorporated into the Lebanon Personnel Rules and Regulations.

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

(8) 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.

22-111. 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 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.

22-112. Appearance of Impropriety. At all times, every City of Lebanon employee or official, whether elected or appointed, shall conduct himself or herself in a manner so as to avoid even the appearance of any impropriety.

City of Lebanon
Disclosure of Personal Interest by City Employee

Any City of Lebanon employee who has apparent influence over or exercises discretion relative to any matter, and who has a personal interest, as defined by Lebanon Municipal Code (LMC) 22-102, in the matter, must complete this form and file it with the Commissioner of Finance. LMC 22-102 defines a personal interest as any financial, ownership, or employment interest in a matter to be regulated or supervised by the employee that could affect, or could reasonably be inferred to affect, the employee's discretion or influence. This includes any financial, ownership, or employment interest of the employee's or official's spouse, and such spouse's, parent(s), step-parent(s), grandparent(s), sibling(s), child(ren), or step-child(ren),

NAME OF EMPLOYEE: _____

1. Individual Occurrence

Briefly describe the situation in which you have apparent influence or must exercise discretion, and in which you have a personal interest that could affect such influence or discretion:

2. Continual Occurrences

For individuals, businesses, or entities that the City of Lebanon will enter into transactions with more than once each calendar year and in which you have a personal interest, you may make one (1) disclosure for the calendar year by reporting it here:

Name of Individual, Business, or Entity _____

Briefly describe the transactions that will take place between the municipality and the named entity during the calendar year in which you will exercise discretion and in which you have a personal interest that could affect that discretion:

Date: _____

Employee's Signature

**CITY OF LEBANON
OUTSIDE EMPLOYMENT OR OTHER POSITION OF FINANCIAL INTEREST
DISCLOSURE FORM**

Part I

- A. The City of Lebanon, Tennessee, requires all employees, whether part time or full time, to disclose, and receive approval for, any and all positions of outside employment, or other positions of financial interest. Outside employment, or other position of financial interest, as defined by LMC 22-109, shall include any job, occupation, consultation, or other position for which the employee is compensated, whether by a third party/entity or in a self-employed capacity, other than the City of Lebanon. For all full time, classified City of Lebanon employees, his or her employment with the City shall be considered the employee's primary employment and any other outside employment, or other position of financial interest, shall be considered subordinate to the City position.
- B. All positions of outside employment, or other position of financial interest, must be approved in writing on an annual basis by the employee's respective department head prior to the acceptance, or continuance, of such secondary employment. Each and every instance of secondary employment must receive approval. No blanket approvals shall be granted.
- C. No employee of the City of Lebanon shall be permitted to continue in, commence, or accept any position of outside employment, or other position of financial interest, if such outside employment, or other position of financial interest:
1. Will unreasonably inhibit the performance of any affirmative duty of the City position or conflict with any provision of the City's charter or any ordinance or policy;
 2. Is likely to interfere with the employee's satisfactory performance of his or her duties and responsibilities; or
 3. Is incompatible with City employment in any way, including the appearance of any conflict of interest.
- D. Upon approval or disapproval, a copy of this form shall be given to the employee for his or her personal records and the original shall be placed in the employee's City of Lebanon personnel file.

Part II

This request must be submitted to, and approved by, the employee's department head prior to the initiation or acceptance of any position of outside employment, or other position of financial interest, or to continue any position of outside employment, or other position of financial interest, the employee has prior to the adoption of this form. Additionally, the submission and approval of this request form shall be renewed annually. Any changes in outside employment, or other position of financial interest, shall be immediately reported to the department head.

Name of Employee: _____ Position: _____

Outside Employer: _____

Outside Employer's Address: _____

Outside Employer's Telephone: _____

Secondary Employment Commencement Date: _____

Describe in detail the type of work to be performed in the outside employment, or other position of financial interest: _____

I, _____, hereby consent to my outside employer releasing my employment record and information to the City of Lebanon. I also understand that my failure to comply with City of Lebanon rules, regulations, and policies regarding outside employment may result in disciplinary action against me.

Employee's signature: _____

Date: _____

Department Head Signature: _____

Date: _____

Approved: _____

Disapproved: _____