

ORDINANCE 2006 - 41

**AN ORDINANCE TO AMEND TITLE 1,
ADMINISTRATION, OFFICERS, AND PERSONNEL TO
ADD A NEW CHAPTER 13 CODE OF ETHICS**

WHEREAS, The General Assembly adopted the Comprehensive Ethics Reform Act of 2006 ("Act") requiring all municipal governments to adopt an Ethics Code; and

WHEREAS, The City Commission of the City of Mt. Juliet desires to adopt the model ethics code drafted by the Municipal Technical Advisory Service ("MTAS"), which is authorized by the Act, and to provide notice to the newly created State Ethics Commission that the MTAS model ethics code has been adopted.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Mt. Juliet:

Section 1. Title 1 is hereby amended to add a new Chapter 13, Ethics Code as follows:

13-1-101. 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.

13-1-102. Definitions

(1) For purposes of Sections 13-1-103 and 13-1-104, "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).

(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.

13-1-103. 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.

13-1-104. 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 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.

13-1-105. Acceptance of gratuities, consideration or favors

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.

13-1-106. Use of information.

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.

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.

13-1-107. Use of municipal time, facilities, equipment or supplies

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.

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.

13-1-108. Use of position or authority.

An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

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.

13-1-109. 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 municipality's charter or any ordinance or policy.

13-1-110. Ethics complaints.

The city attorney is designated as the ethics officer of the municipality. 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 judgment, constitutes a violation of this code of ethics.

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

(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.

13-1-111. 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.

Section 2. The City Recorder is hereby directed to provide notice to the newly created State Ethics Commission that the MTAS model ethics code has been adopted by the City Commissioners of the City of Mt. Juliet.

BE IT FURTHER ORDAINED, in case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the conflicting ordinance is repealed to the extent of the conflict but no further.

If any section, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance.


This ordinance shall take effect on the earliest date allowed by law.

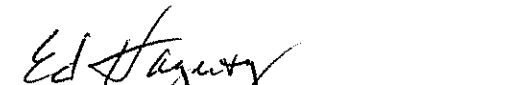
PASSED:

FIRST READING:

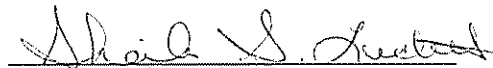
SECOND READING:

8/28/06
9/25/06


Linda C. Elam, Mayor


Ed Hagerty, Vice Mayor

ATTEST:

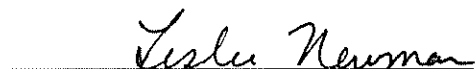

Sheila Lockett, CMC
City Recorder

Glen Linthicum, Commissioner


Ray Justice, Commissioner


James Bradshaw, Commissioner

APPROVED AS TO FORM:


Leslie Newman
City Attorney


Robert Shearer, City Manager