

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. MISCELLANEOUS.
2. BOARD OF COMMISSIONERS.
3. DIRECTOR OF CIVIL DEFENSE.
4. CODE OF ETHICS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 1-101. City elections.
- 1-102. Surety bond for commissioners, city manager, city recorder, city clerk and traffic clerk.

1-101. City elections.² An election shall be held on the 8th day of March 1988 for Commissioner of the City of Berry Hill. An election shall be held on the third Tuesday in March of each even year for the election of such commissioners whose terms may be expiring unless the board of commissioners by resolution sets a specific different date for such election. (Ord. #87-238, Dec. 1987)

1-102. Surety bond for commissioners, city manager, city recorder, city clerk and traffic clerk. (1) Pursuant to the provisions of Tennessee Code Annotated, § 6-21-104 each commissioner, and the city manager shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as surety in the amount of five hundred thousand dollars (\$500,000.00).

(2) The city clerk and city recorder shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as

¹Charter reference

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Building inspectors: title 12.

Zoning: title 14.

²Charter reference

Election provisions: title 6, chapter 20.

surety in the amount of two hundred thousand dollars (\$200,000.00). The traffic clerk shall execute a fidelity bond with some surety company authorized to do business in the State of Tennessee as surety in the amount of one hundred thousand dollars (\$100,000.00).

(3) The ordinary costs of the above bonds, excepting any exceptional risks expenses, shall be paid by the City of Berry Hill.

(4) Fidelity bonds required by the city shall be signed by the individual holding the respective office or position and any expenditure or transfer in excess of two hundred thousand dollars (\$200,000.00) shall not be valid unless accompanied by a resolution or ordinance of the board of commissioners specifically approving the expenditure or transfer. (Ord. #98-294, March 1998, as amended by Ord. #2001-318, March 2001)

CHAPTER 2

BOARD OF COMMISSIONERS¹

SECTION

1-201. Time and place of regular meetings.

1-202. Adoption of ordinances.

1-201. Time and place of regular meetings. The regular meetings of the board of commissioners shall be held on the second Monday of each calendar month of the year, at 7:00 P.M. at the city offices. (1986 Code, § 1-201)

1-202. Adoption of ordinances.² Ordinances being considered by the board of commissioners may be read in caption form only on both first and second reading instead of reading the entire ordinance. When ordinances are read in caption form only, copies of the proposed ordinance shall be available at city hall for inspection by persons requesting to see the ordinance during regular business hours and during the time the board of commissioners is in session considering the ordinance on second reading. (1986 Code, § 1-202, as amended by Ord. #97-289, Aug. 1997)

¹Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

Removal of mayor and commissioners: § 6-20-220.

²State law reference

Tennessee Code Annotated, § 6-20-215.

CHAPTER 3

DIRECTOR OF CIVIL DEFENSE¹

SECTION

1-301. Office created.

1-302. Appointment and tenure.

1-303. Powers.

1-301. Office created. The office of director of civil defense is hereby created. (1986 Code, § 1-901)

1-302. Appointment and tenure. The director of civil defense shall be appointed by the mayor for an indefinite term and he shall continue in said office until such time as he may become incapacitated, and/or his tenure is terminated by the appointing authority. (1986 Code, § 1-902)

1-303. Powers. Said officer shall have the following powers, and such other powers as may be from time to time delegated to him by ordinance:

(1) He shall be the director of all units and elements of civil defense within the city.

(2) He shall establish and supervise training schedules and procedures for each unit or element, and shall call out and direct the operation thereof in the event of a disaster or other emergency, such state of disaster or emergency having been declared by the mayor, or, in his absence, any member of the board of commissioners.

(3) He shall within his discretion permit any element or unit to operate beyond the municipal limits of this city when said operations are requested by the director of civil defense for the metropolitan government.

(4) He shall submit requisitions in writing for the purchase of any item of equipment necessary for the operation or training of any unit, and the total of said expenditures required by said requisitions shall not exceed the amount allocated for civil defense for the year in which said requisitions are submitted.

The director nor any officer or agent of any civil defense unit is authorized in any manner to obligate the city for any expenditure or expenditures or obligations whatsoever; nor to accept any item of automotive or mechanized equipment for storage and/or use within the city without the express consent of the board of commissioners in open meeting.

¹State law reference

Tennessee Code Annotated, title 58, chapter 2.

(5) The director shall not permit any unit or agency of civil defense to engage in any political activity whatsoever. (1986 Code, § 1-903)

CHAPTER 4

CODE OF ETHICS¹

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

¹State 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: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated, § 8-47-101 and the following sections.

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Berry Hill. 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 City of Berry Hill. The words "municipal," "municipality," "city" and "City of Berry Hill" include these separate entities. (as added by Ord. #2007-361, May 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "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. (as added by Ord. #2007-361, May 2007)

1-403. 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. (as added by Ord. #2007-361, May 2007)

1-404. 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/herself from the exercise of discretion in the matter. (as added by Ord. #2007-361, May 2007)

1-405. 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 City of Berry Hill:

(1) For the performance of an act, or refraining from performance of an act, that he/she would be expected to perform, or refrain from performing, in the regular course of his/her duties; or

(2) That might reasonably be interpreted as an attempt to influence his/her action, or reward him/her for past action, in executing municipal business. (as added by Ord. #2007-361, May 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his/her 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/her official capacity or position of employment with the intent to result in financial gain for himself/herself or any other person or entity. (as added by Ord. #2007-361, May 2007)

1-407. 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/herself.

(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 board of commissioners to be in the best interests of the City of Berry Hill. (as added by Ord. #2007-361, May 2007)

1-408. 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 City of Berry Hill.

(2) An official or employee may not use or attempt to use his/her position to secure any privilege or exemption for himself/herself or others that is not authorized by the city's charter or any ordinance or policy. (as added by Ord. #2007-361, May 2007)

1-409. 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 city's charter or any ordinance or policy. (as added by Ord. #2007-361, May 2007)

1-410. Ethics complaint. (1) The city attorney is designated as the ethics officer of the city. 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/her 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 board of commissioners hire another attorney, individual, or entity to act as ethics officer when he/she 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 City of Berry Hill Board of Commissioners, the board 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 board determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the board of commissioners.

(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. (as added by Ord. #2007-361, May 2007)

1-411. 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 city's charter or other applicable law, and in addition is subject to censure by the board of commissioners. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2007-361, May 2007)