

1ST READING 4-6-10  
2ND READING 4-13-10  
INDEX NO. \_\_\_\_\_

ORDINANCE NO. 12376

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, BY ADDING A NEW ARTICLE XV TO ESTABLISH A "WHISTLE BLOWER" PROTECTION.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, be and the same is hereby amended by adding a new Article XV as follows:

**ARTICLE XIV. WHISTLE BLOWER PROTECTION**

**Sec. 2-781. Purpose.**

The purpose of this Article is to establish protection by confidentiality for City employees who report illegal, improper, wasteful or fraudulent activity in good faith.

**Sec. 2-782. Audit Committee.**

The Audit Committee appointed by the City Council shall be responsible for oversight of the provisions of this Article. It shall recommend to the mayor, administrators, and department heads internal controls or procedures that will tend to reduce fraud, waste, abuse, and illegal or unethical behavior. It shall recommend to the City Council policies and procedures needed to implement this article. It shall when warranted recommend to the City Council changes to the City Code or ordinances of the City.

**Sec. 2-783. Confidential Reports.**

- (a) All City officials, appointees, and employees are required to report any instances of suspected waste, abuse, fraud or other illegal acts upon becoming aware of such suspect activity or issues within City government.
- (b) The City shall maintain a telephone hotline number providing any employee, vendor, or member of the public the ability to anonymously and confidentially report any suspected fraud, waste, abuse, illegal or unethical behavior. The Audit Committee shall have oversight of the hotline's administration. In addition to a telephone hotline, web and e-mail based reporting may be utilized.

- (c) The audit working papers of the internal audit staff regarding illegal, improper, wasteful or fraudulent activity or any investigation of illegal, improper, wasteful or fraudulent activity are confidential pursuant to T.C.A. 10-7-504(22) and, therefore, not open to public inspection.
- (d) The Audit Committee shall keep all information confidential while an active investigation is being conducted. When an investigation results in a criminal indictment or arrest, it shall be considered active until disposed of by the judicial system. This shall not be construed to limit those conducting an actual investigation from revealing or discussing information as necessary to facilitate said investigation.
- (e) Nothing in this ordinance shall be construed to limit, discourage, or prevent employees from reporting inappropriate or unethical activities directly to their supervisor, Administrator, the Mayor, the Personnel Department or the Internal Audit Division.

**Sec. 2-784. Employee protection.**

- (a) Employees of the City of Chattanooga shall be protected from being disciplined, discharged, or subjected to threats thereof, or otherwise discriminated against in retaliation for bringing forth, in good faith, charges of fraud, unlawful conduct, unethical conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision by any official, employee, appointee, contractor, or vendor of the City.
- (b) Good faith is established if an employee had a reasonable belief that an official, employee, appointee, contractor, or vendor of the City engaged in fraud, unlawful conduct, unethical conduct, or conduct in violation of a City policy, directive, ordinance, or Charter provision.
- (c) An employee will not have protection under this Article if they were the subject of an ongoing or existing disciplinary action or investigation prior to filing a report of fraud, unlawful conduct, unethical conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision.

- (d) An employee who knowingly or with reckless indifference to the truth, makes a false report shall be subject to disciplinary and legal action.
- (e) Employees who believe they have suffered retaliation must file a detailed written report within thirty (30) days from the date of the alleged retaliatory action or when the employee first had knowledge of alleged retaliatory action. The report must be filed with the Director of Internal Audit, the Administrator of Personnel, and the Chair of the City Council. The written report must include all the relevant facts concerning the alleged retaliatory action including:
  - (1) The name and work address of the complainant;
  - (2) The name and title of each City employee against whom the complaint of retaliation is made;
  - (3) The specific type and date of retaliation;
  - (4) A statement as to the facts that form the basis of the complaint of retaliation; and
  - (5) A statement of the complainant's explanation of how his or her reported allegation of fraud or misconduct and/or participation in an investigation, proceeding, or hearing is related to the retaliation.
- (f) All complaints alleging a violation of this Section shall be promptly investigated. In the event that the City Council determines that an investigation conducted by City staff would present a conflict of interest, an independent investigator may be appointed by the Audit Committee.
- (g) Those involved in initiating, recommending, imposing and/or implementing disciplinary action against the employee shall not be in violation of this Article if they can demonstrate they had no knowledge that a report of fraud, unlawful conduct, unethical conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision had been filed by the employee prior to initiating disciplinary action against the employee.
- (h) Nothing herein shall supplant any other remedies available to City officers and employees pursuant to the City Code.

SECTION 4. BE IT FURTHER ORDAINED, That this Ordinance shall take effect as opposed to its operative date on July 1, 2010.

PASSED on Second and Final Reading

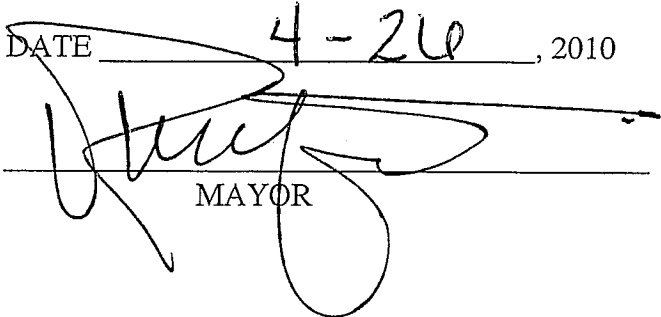
April 13, 2010.



CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

DATE 4-26, 2010



MAYOR

MAM/add/mms