



## City of Henderson Ethics Code

### Chapter 2.40 – Ethical Standards for Public Servants

AMENDED 10/17/2017

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#### **2.40.010 - Purpose.**

- A. The purpose of this chapter is to:
1. Create a city ethics committee that consists of the mayor-pro tem, the city manager, the city attorney and the director of human resources.
  2. State ethical standards that are to be applied in public service to the city;
  3. To provide a process by which public servants may identify and resolve ethical issues; and
  4. To promote public confidence and trust in the integrity of public servants.

#### **2.40.020 - Coverage.**

- A. This chapter applies to all public servants of the city. Public servants include:
1. Elected officials—Mayor and members of city council;
  2. Public appointees—All persons appointed by the city council to a city board, commission, or committee that makes decisions, sets policy, or advises or makes recommendations to the city;
  3. All city employees; and
  4. Contracted employees — All persons who are not city employees but meet all of the following criteria:
    - a. Enter into a contract with the city;
    - b. Are paid compensation with public money;
    - c. Serve in a position that involves the performance of public duties under the substantial and continuing direction and control of a city executive or supervisory employee;
    - d. The position ordinarily would be held or filled by a city employee and would require the city employee to hold a valid professional or occupational license or similar type of authorization issued by a state or local agency to perform the public duties of the position, other than a general business license or similar type of authorization;
    - e. The position is entrusted with public duties of a substantial and continuing nature which ordinarily would require a city employee to avoid conflicts between the



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private interests of the city employee and those of the city whom the city employee serves; and  
f. The person occupies the position on a full-time basis or its equivalent for a substantial and continuing period of time.

B. The provisions of this chapter may not be the exclusive source of guidance, rules, regulations or other requirements addressing the ethical behavior of public servants.

1. The ethical standards found in NRS 281A apply to all elected officials, city employees, certain public appointees, and contracted employees.

2. The city manager may make rules regarding the ethical conduct of city employees in addition to, or stricter than, those found in this chapter.

3. If there is a conflict between this chapter and a more specific provision found in the Henderson Municipal Code, a city manager directive or the city administrative policies, the two will be interpreted together if possible, but if not, the more stringent provision will govern.

### **2.40.030 - Policy of the city.**

A. The proper operation of democratic government requires that public servants:

1. Are independent, impartial and responsible to the public;

2. Are agents of the public and hold their position for the benefit of the public;

3. Do not use public office or employment for personal gain;

4. Are bound to discharge faithfully the duties of their public position, regardless of personal considerations, recognizing that the public interest must be their primary concern and shall be loyal to the objectives expressed by the public and the programs developed to attain those objectives;

5. Shall uphold the Constitution of the United States, the Constitution of the State of Nevada and the Charter of the City of Henderson, and carry out impartially the laws of the United States, the State of Nevada and the Henderson Municipal Code, and thus foster respect for all government;

6. Shall not exceed their authority or breach the law or ask others to do so;

7. Shall work in full cooperation with other public servants in the City of Henderson unless prohibited from so doing by law or by the officially recognized confidential nature of their work; and

8. As representatives of the public, their conduct in both official and private affairs should be above reproach.

### **2.40.035 - Commitments in a Private Capacity.**

A. "Commitment in a private capacity," means a commitment, interest or relationship of a public servant with a person or entity:

1. Who is the spouse or domestic partner of the public servant;

2. Who is a member of the household of the public servant;

3. Who is related to the public servant, or to the spouse or domestic partner of the public servant, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;

4. Who employs the public servant, the spouse or domestic partner of the public servant or a member of the household of the public servant;

5. With whom the public servant has a substantial and continuing business relationship; or



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6. With whom the public servant has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

### **2.40.040 - Prohibited conduct.**

A. A public servant shall not use the public servant's position to secure or grant unwarranted privileges, preferences, exemptions, or advantages for the public servant or any other person or business entity. "Unwarranted" means without justification or adequate reason.

B. A public servant shall not participate as an agent for the city in the negotiation or execution of a contract between the city and a business entity in which the public servant has any significant pecuniary interest.

C. A public servant shall not accept any salary, retainer, augmentation, expense allowance, or other compensation for themselves, or for any other person to whom the public servant has a commitment in a private capacity, from any private source for the performance of the public servant's public duties.

D. A public servant shall not use any information acquired through the public servant's public duties that is not available at the time to the general public to further the pecuniary interests of that public servant or any other person or business entity.

E. A public servant shall not suppress or revise any city report or document because it might unfavorably affect the public servant's pecuniary interest, or those of any other person or entity to whom the public servant has a commitment in a private capacity.

F. A public servant shall not use city property, money, time, equipment, or other facility for non-city use or to benefit the public servant's pecuniary interest, or the interests of a person or entity to whom the public servant has a commitment in a private capacity, unless specifically permitted by and in compliance with a city administrative policy and the provisions of this chapter.

G. A public servant shall not attempt to benefit the public servant's personal or pecuniary interest, or any person or entity to whom the public servant has a commitment in a private capacity, through the influence of a subordinate or other public servant.

H. A public servant shall not seek concurrent employment or contracts for themselves, or any person or entity to whom the public servant has a commitment in a private capacity, through the use of the public servant's official position.

### **2.40.045 - Gifts.**

A. A public servant shall not seek or accept any gift, service, favor, employment, emolument or economic opportunity that would tend to improperly influence a reasonable person in the public servant's position to depart from the faithful and impartial discharge of the public servant's public duties.



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B. A public servant, on behalf of their city office or department, may accept unsolicited gifts of food items of nominal value if they are shared with all of the public servants within that office or department.

C. All city employees, contracted employees, and public appointees shall report in writing all meals and/or gifts with an annual aggregate value in excess of \$200 from any one person or business entity conducting business, including any lobbyist registered pursuant to chapter 2.100, with or within the city to the city attorney within 30 days of the receipt of the meal and/or gift.

1. The city attorney may direct a city employee, contracted employee, or public appointee to return a gift, or reimburse the cost of the meal and/or gift if it determines that the gift and/or meal violates subsection 2.40.040(A) of this chapter.

2. Acceptance of tickets or admission by city employees to charitable events or fundraisers is acceptable and is not subject to the meal and/or gift reporting requirements under this chapter if the acceptance is approved by the city attorney.

D. Elected officials and public appointees shall comply with the provisions of NRS 281A, as applicable, and make all required financial disclosures of gifts covered under state law.

E. A city employee or contracted employee may accept gifts from charitable, community or professional organizations, other than an honorarium, if such gifts are a bona fide award or incident to a bona fide award that is given for meritorious public service or achievement by that city employee or contracted employee, and the gift, if valued over \$200.00, is reported to the city attorney within 30 days of the receipt of the gift.

1. The city attorney may direct a city employee or contracted employee to return a gift, or reimburse the cost of the gift if it determines that the gift violates subsection 2.40.040(A) of this chapter.

F. When a public servant is assigned to participate as a speaker or panel participant or otherwise to present information on behalf of a city office or department at a conference or other event, their acceptance of an offer of free attendance, including meals, lodging and travel expenses, is permissible when provided by the sponsor of the event if their participation in the event on that day is viewed as a customary and necessary part of their performance of the assignment.

G. A gift for the purposes of this chapter does not include:

1. Any item given from a "family member," which includes anyone living in the same home or dwelling, including the spouse or domestic partner of the public servant, or who is related to the public servant by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity; and

2. Campaign contributions made legally under state law.

### **2.40.050 - City contracts.**

A. A public servant shall not participate as an agent for the city in the negotiation of a contract between the city and the public servant, or between the city and any person or entity to whom the public servant has a commitment in a private capacity.



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B. Except as otherwise provided in this section and NRS 332.800, an elected official, city employee, or a contracted employee, or a family member of an elected official, city employee, or contracted employee, shall not bid on or enter into a contract between the city and any business entity in which the elected official, city employee, or contracted employee, or a family member of an elected official, city employee, or contracted employee, has a significant pecuniary interest unless:

1. The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;
2. The sources of supply are limited;
3. The elected official, city employee, or contracted employee has not taken part in developing the contract plans or specifications; and
4. The elected official, city employee, or contracted employee will not be personally involved in opening, considering or accepting offers.

C. An elected official shall not, either individually or through any business entity in which the elected official, or a family member of the elected official, has a significant pecuniary interest, sell goods or services to the city unless:

1. The elected official, or the business entity in which the elected official, or a family member of the elected official has a significant pecuniary interest, offers the sole source of supply of the goods or services within the city;
2. The public notice and agenda for the meeting at which the city council will consider the purchase of such goods or services contains a clear and conspicuous statement that it is considering purchasing such goods or services from an elected official, or from a business entity in which the elected official, or a family member of an elected official, has a significant pecuniary interest;
3. At the meeting, the elected official discloses his or her significant pecuniary interest, or that of their family member, in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and
4. The city council approves the purchase of such goods or services in accordance with all other applicable provisions of law.

D. If an elected official, or a family member of an elected official, is authorized to bid on or enter into a contract with the city pursuant to subsections B or C, pursuant to the requirements of NRS 281A.420 and 281A.430(4), the elected official shall disclose either their interest, or the interest of their family member, in the contract and shall not vote on or advocate the approval of the contract.

E. For purposes of this section, the term "family member" includes anyone living in the same home or dwelling, including the spouse or domestic partner of the elected official, city employee, or contracted employee, or who is related to the elected official, city employee, or contracted employee by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

F. The City Ethics Committee may relieve an elected official, city employee, or contracted employee from the strict application of the provisions of this section if:

1. The elected official, city employee, or contracted employee requests an



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advisory opinion pursuant to section 2.40.100; and

2. The City Ethics Committee determines that such relief is not contrary to:
  - a. The best interests of the public;
  - b. The continued ethical integrity of the city; and
  - c. The provisions of NRS 281A.

### **2.40.060 - Conflicts of interest.**

A. A conflict of interest exists when the personal interest of a public servant affects or could affect the public servant's ability to perform public duties in an impartial manner and in the best interests of the city.

B. Conflicts of interest arise when a public servant has the power or duty to take or participate in the taking of any action or make or participate in the making of any decision on a particular matter. Conflicts of interest include, without limitation:

1. The public servant, or a person or entity to whom the public servant has a commitment in a private capacity, has or acquires any economic interest that the public servant knows or has reason to know is likely to be affected, directly or indirectly, by a city action or decision in regard to the particular matter;

2. The public servant, or a person or entity to whom the public servant has a commitment in a private capacity, has or acquires any interest in any business entity representing, advising, or appearing on behalf of any party in regard to the particular matter;

3. The public servant seeks, accepts, or negotiates employment with an outside business entity that is a party to, or has an interest in, the particular matter;

4. A city action or decision that is reasonably related to the nature of any representation or counseling that the public servant provided to a private person or entity for compensation before another government agency within the immediately preceding year;

5. A city action or decision involving and affecting a person or entity from whom a public servant has received one or more gifts or loans with an annual aggregate value in excess of \$200;

6. A city action or decision regarding the particular matter is likely to affect, directly or indirectly, the economic interests of any person or entity to whom the public servant has a commitment in a private capacity; or

7. Other circumstances that would cause a reasonable person to believe that the public servant may be improperly influenced in performing public duties in regard to the particular matter.

C. Generally, a city employee or a contracted employee who has a conflict of interest in regard to a particular matter shall not take or participate in the taking of any action or make or participate in the making of any decision relating to that matter unless the conflict of interest has first been disclosed to the city attorney and the city manager.

1. If the conflict of interest affects the city employee's or a contracted employee's own pecuniary interests the city employee or a contracted employee shall not be involved in the approval, disapproval, review or action by the city relating to that matter.

2. After the conflict of interest is disclosed by the city employee or a contracted employee, and depending on the nature of the conflict of interest, the city attorney and the city manager may direct the city employee or a contracted employee to not take or participate in the taking of any action or make or participate in the making of any decision relating to that



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matter.

3. The city employee or a contracted employee may also seek a written advisory opinion from the city attorney as provided in section 2.40.100 of this chapter.

D. Except as provided in subsection 2.40.060(E), an elected official, member of a city board, commission or committee who has a conflict of interest in regard to a particular matter is not prohibited from voting or otherwise acting on the matter if the elected official discloses the conflict of interest to the chair and other members of the body at the time it is considered. The disclosure shall be sufficient to inform the public of the potential effect of the passage or failure of the matter on the interests of the elected official or the interests of any other person or business entity implicated in the conflict of interest.

1. If an elected official has received a campaign contribution by a person or entity that has a matter before the city council the elected official is not required to make a public disclosure of that contribution if it has been reported, or will be reported by the next reporting deadline, pursuant to NRS Chapter 294.

2. A campaign contribution received by an elected official does not create a conflict of interest under this chapter that would require the elected official to be disqualified from voting or taking action on a matter.

E. An elected official, member of a city board, commission or committee who has a conflict of interest in regard to a particular matter that would materially affect the independence or judgment of a reasonable person in their situation shall recuse and not vote on the matter. The elected official, member of a city board, commission or committee shall disclose the conflict of interest to the chair and other members of the body at the time the matter is being considered. The elected official, member of a city board, commission or committee may not advocate the passage or failure of the matter or otherwise participate in the consideration of the matter after they have recused themselves from the matter.

F. An elected official, member or a city board, commission or committee should not recuse pursuant to 2.40.060(E), if the conflict of interest does not materially affect the independence or judgment of a reasonable person in the public servant's situation where the benefit or detriment to the interests of the public servant's or any other person or business entity implicated in the conflict of interest is no different than that accruing to any other member of the general business, profession, occupation, or group that is affected by the action or decision on the matter.

### **2.40.070 - Disclosure of confidential information.**

A. Except as necessary to perform the duties of the public servant's position, a public servant shall not disclose confidential information in any manner to any individual or business entity without prior written authorization from the city attorney. This section does not prohibit a city employee from disclosing such information for purposes of reporting improper action by a public servant under NRS 281.621 or as otherwise required by law.

B. The term "confidential information" shall mean all information that relates to any matter that is or may be the subject of any action or decision by the city and at the time of disclosure is not a part of the public record or public information. The term includes, without limitation, information relating to litigation, potential litigation, investigations, transactions, administrative



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determinations, personnel decisions, development agreements, contract negotiations, legal communications from the city attorney's office and records and data that are privileged or confidential by law.

### **2.40.080 - Outside employment of city employees.**

A. All full-time city employees must receive prior approval from their department director and the director of human resources before they engage in employment outside the city. Any outside employment must comply with any city or departmental policy relating to outside employment.

B. Attorneys who are full-time employees of the city, whether as an attorney or in any other capacity, may not engage in the practice of law for compensation outside of their assigned duties for the city. An attorney may, with prior approval of the city attorney, represent clients on a pro bono basis. An attorney may engage in other outside employment that is approved pursuant to city policy.

### **2.40.090 - Political activity of city employees.**

A. A city employee may make contributions of personal funds to federal, state, and local candidates, committees and other entities authorized by law to accept contributions for political purposes.

B. A city employee may run for political office.

C. While pursuant to section 1.080 of the City Charter a city employee may not hold the office of mayor or councilmember, a city employee may hold political office outside of the city so long as that office is not inconsistent with the employee's job duties, or would violate a provision of state or federal law.

D. A city employee may participate in an election campaign including attendance at political rallies and fund raising events.

1. A city employee may do nothing to imply that the employee is acting with the approval or disapproval of the city.

2. A city employee must make an appropriate effort to indicate that participation in a political campaign is one in a personal capacity.

### **2.40.100 - Advisory opinions.**

A. A public servant may request a written advisory opinion from the city attorney regarding the interpretation and application of the provisions of this chapter to a particular set of facts and circumstances relating to the past, present or future conduct of the public servant. The request must be in writing to the city attorney and include the public servant's presentation and interpretation of the facts and the applicability of the relevant provisions. The city attorney may, as warranted, refer the request to the state ethics commission, the attorney general's office, or any other appropriate entity. If a public servant requests an advisory opinion from the city attorney regarding the interpretation of the ethics provisions found in NRS 281A, the request may be referred to the state ethics commission.





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B. The city attorney's written opinion shall be reviewed and approved by the city ethics committee and, until amended or revoked, shall be binding in any subsequent actions concerning the public servant if the public servant acted in good faith in reliance on the opinion. The opinion shall not be binding if the public servant omitted or misstated material facts in making the request for the opinion.

C. The request for the written advisory opinion, all information submitted or acquired relating to the request, and the opinion shall be confidential unless:

1. The public servant acts in contravention of the opinion;
2. The requesting public servant discloses the contents of the opinion or any portion thereof; or
3. The requesting public servant requests the city attorney to disclose the opinion.

D. The city attorney may make public abstracts of its written advisory opinions that do not include the name and position of the public servant who requested the advisory opinion for ethics training purposes.

E. Public servants may obtain informal legal advice from the city attorney or its designee regarding the provisions of this chapter or the provisions of NRS 281A to a particular set of facts and circumstances relating to the past, present or future conduct of the public servant. Nevertheless, this legal advice is not binding unless the public servant establishes by sufficient evidence that: (1) the public servant sought legal advice from the city attorney or its designee; (2) the public servant relied in good faith upon the advice; (3) the act or failure to act by the public servant was not contrary to a prior published city administrative policy or the provisions of NRS 281A; and (4) the public servant did not omit or misstate any material facts in making the request for legal advice.

### **2.40.110 - Enforcement.**

A. The city attorney shall have the primary responsibility for the enforcement of this chapter. The city attorney, in coordination with the director of human resources, shall have the authority to review and investigate complaints and recommend corrective or other action to the city manager.

1. If a complaint is made against a city employee covered under NRS chapter 289 the city attorney shall coordinate its investigation with the proper city investigative body or agency.

2. If a complaint is made against a city employee any discipline issued by the city manager shall comply with any applicable civil service rules or the terms of a collective bargaining agreement.

B. Any person who believes that a provision of this chapter has been violated by a public servant may file a complaint with the city attorney in writing. The city attorney may, as warranted, refer the complaint to the state ethics commission or other appropriate entity. The city council or city manager may also direct the city attorney to investigate an apparent violation of a provision of this chapter. The city attorney, in coordination with the director of human resources, shall have the authority to review and investigate complaints and recommend corrective or other action to the city manager.



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C. City employees, contracted employees, and public appointees shall comply with a request from the city attorney or his designee to appear and provide testimony, information or documents pursuant to an investigation pursuant to this chapter. If a city employee fails to comply with a request to provide testimony, information or documents under this chapter they shall be subject to discipline up to and including termination of employment.

### **2.40.120 - Violations.**

- A. Willful violations of a provision of this chapter may result in the following sanctions:
1. For a city employee, upon a recommendation from the city attorney, discipline issued by the city manager, up to and including termination of employment;
  2. For a public appointee, upon a recommendation from the city attorney, discipline as imposed by the city ethics committee up to and including removal from the city board, commission or committee;
  3. For an elected official, upon a recommendation from the city ethics committee, discipline as imposed by the city council, which may include a referral to the state ethics commission; and
  4. For a contracted employee, upon a recommendation from the city attorney and the city manager, termination of their city contract.
- B. A public servant may also be referred by the city attorney to the appropriate agency for criminal prosecution for conduct violating a provision of this chapter.
- C. A public servant shall not be considered to have made a willful violation of this chapter if: (1) the public servant sought legal advice from the city attorney or its designee; (2) the public servant relied in good faith upon the advice; (3) the act or failure to act by the public servant was not contrary to a prior published city policy or the provisions of NRS 281A; and (4) the public servant did not omit or misstate any material facts in making the request for legal advice.

### **2.40.130 - Retaliation prohibited.**

- A. No public servant, or body comprised of public servants, shall retaliate against a city employee who files a written complaint with the city attorney under section 2.40.110 of this chapter. The term "improper governmental action" includes violation of law, violation of this chapter, abuse of authority, gross waste of public money, or an action that results in a substantial and specific danger to the public health or safety.
- B. A city employee who has disclosed improper governmental action and believes that as a result of the disclosure a retaliatory action has been taken against the city employee may appeal such action.
- C. The appeal must be filed with the director of human resources no later than six months after the date of the disclosure of improper governmental action and within 30 days from the date of the alleged retaliatory action. The appeal shall be made in writing to the city attorney and contain:
1. The type of improper governmental action alleged, the date of the disclosure, and to whom or what entity the information was disclosed; and



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2. All facts regarding each alleged instance of retaliatory action, including, the nature of the action, the date of the action and the individual(s) initiating or taking the action.

D. The city attorney shall appoint a hearing officer to hear the appeal. The hearing officer shall be an attorney licensed to practice in Nevada.

E. The hearing officer shall set the date and time for the hearing and provide not less than ten calendar days notice thereof. The hearing shall be conducted as an administrative hearing and the technical rules of evidence shall not apply.

F. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law. If the hearing officer determines that the action taken was retaliatory, the hearing officer may issue an order directing the appropriate person(s) to desist and refrain from engaging in such action. The hearing officer may also recommend other relief to the city attorney and the city manager to remedy any harm to the city employee resulting from the retaliatory action.

G. "Retaliatory action" includes disciplinary action, denial of promotion, reduction in pay, demotion, transfer, poor evaluation, and unfavorable changes in work assignment, work time and location, and in staff or other personnel necessary to perform duties.

H. This section does not prohibit disciplinary action against a public servant who in filing a complaint or disclosing improper governmental action knowingly makes false or untruthful statements.

### **2.40.140 - Cooling-off period, lobbying and former attorneys.**

A. Elected officials, city employees, and planning commission members shall comply with the cooling-off period found in section 2.100.030.

1. Members of the planning commission shall not act as lobbyists pursuant to chapter 2.100 during their term as a member of the planning commission.

B. Representation or counseling by a former assistant city attorney of an individual or business entity on a criminal case in municipal court is not prohibited by this section, provided that the case arose after the termination of service or separation from employment.

C. Any former city attorney, senior assistant city attorney or assistant city attorney shall not represent a client in connection with a matter in which they participated as an attorney for the city unless they receive approval and a written waiver by city attorney.

D. For the purposes of this section, the term "matter" is to be construed broadly and includes, without limitation, requests, proceedings, litigation, applications, appeals, bids, contracts, and investigations.

E. Violations of this section by a former public servant may include:

1. A civil penalty of up to \$500.00 per occurrence issued by the city attorney; and
2. Referral to the state ethics commission.



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### **2.40.150 - Ethics orientation.**

A. The city attorney shall maintain a City Ethics Web Portal on the city website that contains a current copy of this chapter as well as a copy of the state ethical standards.

B. All public servants shall, either on the day they take their oath of office or on their first day of employment, receive a written ethics notice that provides notice of the existence of this chapter and the state ethical standards found in NRS Chapter 281A. This notice shall contain the website address of the City Ethics Web Portal.

1. The city clerk shall obtain and keep a written acknowledgment from each elected official or public appointee of their receipt of the ethics notice on the day they take their oath of office.

2. The human resources department shall obtain and keep a written acknowledgement from city employees of their receipt of the ethics notice on their first day of employment.

### **2.40.160 - Severability.**

A. If any part of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this chapter.