

Kenton

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ORDINANCE NO. 2006-3

AN ORDINANCE ENACTING AN ETHICS POLICY FOR THE OFFICERS, EMPLOYEES, AND ADVISORY BOARD MEMBERS OF THE CITY OF KENTON, TENNESSEE.

WHEREAS, Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly requires municipalities to adopt a code of ethics.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCILMEN OF THE CITY OF KENTON, TENNESSEE.

Section 1. Applicability. This ordinance 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.

Section 2. Definitions. For the purposes of interpreting this Ordinance, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

- (a) "City" means the municipality of Kenton, Tennessee.
- (b) "Gift" means the transfer or conveyance of anything of economic value, regardless of form, without adequate and lawful consideration.
- (c) "Immediate family" means parents, spouse and children.
- (d) "Personal interest" means:
 - (1) The holding or acquisition of any financial or ownership interest of either ten thousand dollars (\$10,000.00) or five percent (5.00%) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000.00) or more with the City, or is regulated by any agency of the City, or
 - (2) The ownership of any real estate having a value of one thousand dollars (\$1,000.00) or greater which the City has or is negotiating an acquisition, leasehold, or easement agreement, or
 - (3) Any such financial or ownership interest as defined in Section 2(d)(1) and 2(d)(2) of this Ordinance by the officer or employee's spouse or immediate family member.

Section 3. Gift ban. Except as permitted in Section 4 of this Ordinance, no official or employee, nor any immediate family member of such official or employee for whom this Ordinance is applicable, shall intentionally or knowingly solicit or accept any gift as defined herein.

Section 4. Gift ban exceptions. Section 3 of this Ordinance is not applicable to the following:

- (a) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (b) Anything for which the officer or employee, or a member of his or her immediate family, pays the fair market value.
- (c) Any contribution that is lawfully made to the officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fundraising event in support of a political organization or candidate.
- (d) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.
- (e) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.
- (f) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:
 - (1) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and
 - (2) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
 - (3) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- (g) Food or refreshments not exceeding fifty dollars (\$50.00) per person in value on a single calendar day; provided that the food or refreshments are:
 - (1) consumed on the premises from which they were purchased or prepared; or
 - (2) catered.

For the purposes of this Ordinance, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

- (h) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official

duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

- (i) Intra-governmental and inter-governmental gifts. For the purpose of this Ordinance, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- (j) Bequests, inheritances, and other transfers at death.
- (k) Ceremonial gifts or awards which have insignificant monetary value.
- (l) Unsolicited gifts of nominal value or trivial items of informational value.

Section 5. Disposition of Gifts. An officer or employee, his or her spouse or an immediate family member, does not violate this Ordinance if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

Section 6. Disclosure of personal interests 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 the official's vote on the measure. Additionally, the official may recuse himself or herself from voting on the measure.

Section 7. Disclosure of personal interests in nonvoting 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 the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the City Clerk. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter.

Section 8. City Recorder to maintain disclosure file. The City Clerk shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of seven (7) years after which the statements shall be destroyed.

Section 9. Ethics complaints.

- (a) The city attorney is designated at the ethics officer of the City. Upon the written request of an official or employee potentially affected by a provision of this Ordinance, the city attorney may render an oral or written advisory ethics opinion based upon this Ordinance and other applicable laws.
- (b) Except as otherwise provided in this Ordinance, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this Ordinance, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations to end any activity that, in the attorney's judgment, constitutes a violation of this Ordinance. The city attorney may request that the city council retain 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 the mayor or a member of the city council, the city council 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 city council determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city council.
- (d) When a violation of this Ordinance also constitutes a violation of the City's personnel policies, rules, or regulations, the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this Ordinance.

Section 10. 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 ordinance is subject to punishment as provided by the City charter or other applicable law and, in addition, is subject to censure by the city council. The City Manager, the City Attorney, or municipal employee who violates any provision of this Ordinance is subject to disciplinary action up to, and including, termination of employment.

Section 11. Repealer clause. All ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 12. City Recorder to file copy of Ordinance with Tennessee Ethics Commission. Upon adoption by the Mayor and City Council, the City Clerk is hereby directed to file a duly signed and attested copy of this Ordinance with the Tennessee Ethics Commission, in compliance with Section 49 of Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly.

Section 13. Effective date. This Ordinance shall become effective from and after its date of adoption, the public welfare requiring it.

PASSED AND APPROVED THIS 5th DAY OF December, 2006 BY A ROLL CALL VOTE OF THE CITY COUNCIL OF KENTON, TENNESSEE.


CHRIS CALLINS MAYOR

ATTEST: Camelia Cunningham
CITY CLERK

DATE OF FIRST READING	DATE OF SECOND READING	DATE OF THIRD READING
<u>Oct 5, 2006</u>	<u>Nov 7, 2006</u>	<u>Dec 5, 2006</u>