

## ORDINANCE NO. 5558

AN ORDINANCE TO REPEAL SECTION 2-97 OF THE KINGSPORT CITY CODE; TO ESTABLISH A CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, T.C.A. section 8-17-101 *et. seq.* requires municipalities to adopt a code of ethics by ordinance on or before June 30, 2007; and

WHEREAS, the board of mayor and aldermen having considered the requirement and desiring to comply with the same has determined that the provisions of this ordinance will cause the city to be in compliance with the statute; Now therefore,

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

Section I. That section 2-97, Free passes, tickets or services prohibited, is hereby repealed and the following substituted in its place:

### Sec. 2-97 Applicability.

(a) The provisions of this code of ethics, Sections 2-97 through 2-106, are applicable to all full-time and part-time officials, officers, employees, servants, member of any board, agency, commission, authority or corporation, whether compensated or not and any officer, employee, or servant thereof of the city. This includes any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city as set out in T.C.A. section 8-17-102 including, but not limited to; Kingsport Board of Mayor and Aldermen , Kingsport Board of Education, and employees, Kingsport Industrial Development Board, Kingsport Housing and Redevelopment Authority, Kingsport Emergency Communications District Board, Kingsport Regional Planning Commission, Board of Zoning Appeals, Beverage Board, Bays Mountain Park Commission, Electrical Board of Examiners, Gateway Review Commission, Historic Zoning Commission, Mechanical, Plumbing and Gas Board of Examiners, Parks and Recreation Advisory Committee, Public Library Commission, Senior Citizens Advisory Board, Sidewalk Board, and Wastewater Appeals Board.

(b) In any situation in which a personal interest under this code of ethics is also a conflict of interest under state law, the provisions of the state law shall govern. In accordance with T.C.A. section 8-17-103 to the extent an issue is covered by an ethical standard addressed by a law of general application, public law of local application, local option law, or private act nothing herein shall be construed to be less restrictive than such laws.

Sec. 2-98 Definitions. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section:

(a) "City" means the City of Kingsport, Tennessee.

(b) "Board of mayor and aldermen" means the board of mayor and aldermen of the city.

(c) "Municipal board" means any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city, including those set out in T.C.A. section 8-17-102.

(d) "Personal interest" means:

(1) Any financial, ownership, or employment interest which is the subject of a vote by a municipal board or board of mayor and aldermen not otherwise regulated by state statutes on conflict of interest; or

(2) Any financial, ownership, or employment interest in a matter to be regulated or supervised by the board of mayor and aldermen or a municipal board.

(3) 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).

(e) "Employment interest" means 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.

(f) "Official or employee" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation, whether compensated or not, or any officer, employee or servant thereof, of the city.

#### Sec. 2-99 Disclosure of personal interest.

(a) An official on the board of mayor and aldermen or any municipal board with the responsibility to vote on a matter 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 matter. In addition, the official may recuse themselves from voting on the matter.

(b) 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 themselves from the exercise of discretion in the matter.

#### Sec. 2-100 Prohibition of Acceptance of Gifts and Gratuities.

An official or employee may not solicit, accept, directly or indirectly, on behalf of themselves or any member of their household, any money, gift, gratuity, service, transportation, loan, loan guarantee or other consideration or favor of any kind from any person, other than the city:

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

(b) Who has, or is seeking, to obtain, contractual or other business or financial relations with any department of the city or conducts operations or activities that are regulated by the department of the city where the employee is employed or the official has authority to act;

(c) Who has interests that may be substantially affected by the performance or nonperformance of the official duties of the official or employee;

(d) Who has some mutual understanding that the gift will influence the official's or employee's decisions on behalf of the city.

(e) That might reasonably be interpreted as an attempt to influence the action of the official or employee or reward such official or employee for past action in executing city business.

(f) Notwithstanding anything in this section to the contrary, gifts, gratuities, services or favors, which are allowed in Section 2-101 are not prohibited by this section.

#### Sec. 2-101 Acceptance of Gifts and Gratuities.

The following are not deemed gifts subject to the aforementioned prohibitions in Section 2-100:

1. A personal gift from a relative or friend; if such gift is unrelated to city matters.

2. An item of tangible personal property with an estimated retail value of less than fifty dollars (\$50.00) from any one person or entity at any one occurrence, provided it is not solicited by the official or employee and is of limited frequency; Employees who are supervisors or acting in such capacity are not permitted to accept cash gifts in any amount when such is related to or as a consequence of such employee's employment with the city or other entity covered by this chapter.

3. A foodstuff gift, plant or flower arrangement which can be shared by everyone in a work area;

4. A discount for meals or services that is offered to employees as a marketing strategy by business to encourage trade from a large employee base, provided the discount is not solicited by the employee and is of limited frequency;

5. A business meal of a type and kind ordinarily associated with normal business activity;

6. Food, refreshments, sports activity or transportation when they are part of an official's or employee's participation in a charitable, civic, political or community event that bears a relationship to the official's or employee's office and the official or employee is attending in an official capacity;

7. A promotional, business logo gift item with an estimated retail value of less than fifty dollars (\$50.00) that is given for the primary purpose of advertising the business eatery or industry providing the logo gift item; or multiple promotional business logo gift items with a combined estimated retail value of less than fifty dollars (\$50.00) during a calendar year;

8. A door prize that is randomly won or received and where the opportunity to win/receive the gift is random and with low statistical likelihood, and when the employee is eligible for the prize as a consequence of his/her employment with the city or other entity covered by this chapter; provided however, that a door prize with an estimated retail value in excess of fifty dollars (\$50.00) that is won as a consequence of employment with the city or other entity covered by this chapter may be accepted provided a gift declaration form is completed and submitted to the city manager within five (5) business days of receipt of the gift; and provided further that the final disposition of the door prize (i.e. to be retained by the employee, assigned to city use, or disposed/refused) shall be made by the city manager;

9. Receipt of entertainment or athletic tickets or entry to a private or sports/athletic suite, tickets to banquets, luncheons, receptions, local area golf tournaments and such for non-business related purpose; and

10. A gift or thing of value provided by the city to an employee in the course of the employer-employee relationship.

Sec. 2-102 Procedure for return of gifts and gratuities.

A gift, or gratuity prohibited in Section 2-100 of this ordinance shall be declined and returned to the donor. If a gift is not easily returned, the gift shall be donated to a local charitable agency or organization in the name of the donor. Said donor shall be notified of such, as well as, notified of the city's gift prohibition regulation. In addition, the following procedures and practices are to be followed:

(a) A copy of all letters to donors shall be copied to the city manager;

(b) Questions regarding the acceptability of a certain gift should be directed to the city manager for clarification.

Sec. 2-103 Use of information.

(a) 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.

(b) An official or employee may not, directly or indirectly use or disclose information obtained in his official capacity or position of employment, that has not been made available to the general public, with the intent to result in financial gain for such official or employee or any other person or entity or to acquire or aid another to acquire, a pecuniary interest in any property, transaction, or enterprise that may be affected by the information, or to speculate, or aid another to speculate, on the basis of the information.

Sec. 2-104 Use of municipal time, facilities, etc.

(a) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage of such official or employee, except to the extent that such are lawfully available to the general public.

(b) 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, lease or that is determined by the board of mayor and aldermen to be in the best interest of the city.

Sec. 2-105 Use of position or authority.

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

(b) An official or employee may not use or attempt to use their position to secure any privilege or exemption for themselves or others that are not authorized by the charter, general law, or ordinance or policy of the city.

Sec. 2-106 Violation and Penalty

Any person violating any section of this division shall be deemed guilty of an offense and upon conviction is punishable under the city's general penalty clause or other applicable laws. An employee who violates any provision of this division is subject to disciplinary action, including termination from employment.

SECTION II. That the city recorder is instructed to file a certified copy of this ordinance with the ethics commission in accordance with the requirements of T.C.A. section 8-17-104 immediately after passage of this ordinance.

SECTION III. That this ordinance shall take effect on June 30, 2007, the public welfare of the City of Kingsport, Tennessee requiring it.

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DENNIS R. PHILLIPS, Mayor

ATTEST:

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ELIZABETH A. GILBERT  
Deputy City Recorder

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: June 5, 2007

PASSED ON 2ND READING: June 19, 2007