

City of Lexington Ethics Policy

Ordinance Number 200704
As Amended by Ordinance Number 201102

In compliance with Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly that requires municipalities to adopt a code of ethics, the Board of Mayor and Aldermen adopted the following policy effective as of the 10th day of April 2007 as amended as of 8th day of March 2011.

Section 1. Applicability. This policy 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 policy, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

- (a) "City" means the municipality of Lexington, 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) 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
 - (2) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
 - (3) Any such financial, ownership, or employment interest of the official's or employee's spouse, child(ren) or parent(s).
 - (4) The words "employment interest" includes 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.

- (5) 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.

(e) Personal interest of officers prohibited.

- (1) It is unlawful for any officer, committee member, director, or employee whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which the City of Lexington shall or may be interested, to be directly interested in any such contract. "Directly interested" means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.
- (2) It is unlawful for any officer, committee member, director, or employee whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which the City of Lexington shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.

(f) Interest of officer in municipal contracts prohibited.

- (1) No person holding office in the City of Lexington shall, during the time for which such person was elected or appointed, be capable of contracting with the City of Lexington for the performance of any work that is to be paid for out of the treasury. Nor shall such person be capable of holding or having any other direct interest in such a contract. "Direct interest" means any contract with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.
- (2) No officer in the City of Lexington shall be indirectly interested in any contract to which the city is a party unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.

Section 3. Gift ban. Except as permitted in Section 4 of this policy, no covered official or employee, nor any immediate family member of a covered official or employee, shall intentionally or knowingly solicit or accept any gift as defined herein.

Section 4. Gift ban exceptions. Section 3 of this policy 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 covered 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 covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fund-raising 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 policy, "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 intergovernmental gifts. For the purpose of this policy, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "intergovernmental 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 policy 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 a 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 (Appendix A) provided by and filed with the City Recorder. 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 a disclosure file. The City Recorder shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of five (5) years after which the statements shall be destroyed.

Section 9. Ethics complaints.

- (a) 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 policy, the city attorney may render an oral or written advisory ethics opinion based upon this policy and other applicable laws.
- (b) Except as otherwise provided in this policy, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this policy, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this policy. 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 policy is lodged against the mayor or a member of the city board, the city 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 city 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 city board.
- (d) When a violation of this policy 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 policy.

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 policy is subject to punishment as provided by the city charter or other applicable law and, in addition, is subject to censure by the city board. An appointed official or employee who violates any provision of this policy is subject to disciplinary action up to, and including, termination of employment.