

Kingston Springs
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ORDINANCE 06-013

2007 JAN 18 PM 3:50
AN ORDINANCE AMENDING THE KINGSTON SPRINGS MUNICIPAL CODE, TITLE 1, GENERAL ADMINISTRATION, CREATING A NEW CHAPTER 4, CODE OF ETHICS.

TENNESSEE
ETHICS COMMISSION

WHEREAS, Public Chapter No. 1 of the extraordinary session of the 2006 General Assembly of the State of Tennessee required municipalities to adopt a Code of Ethics by ordinance to be applicable to all boards, commissions, authorities, corporations and other entities created or appointed by the municipality; and

WHEREAS, the aforementioned legislative act charged the Municipal Technical Advisory Service (MTAS) to develop a model ethical standards for municipalities; and

WHEREAS, the Board of Commissioners of the Town of Kingston Springs, Tennessee desires to adopt the MTAS model by ordinance as the Code of Ethics for the Town, codifying the same within its code of ordinances under Title 1, General Administration, to become a new Chapter 4 therein.

NOW, THEREFORE, be it ordained by the Board of Commissioners of the Town of Kingston Springs, Tennessee, that Title 1, General Administration, Kingston Springs Municipal Code is here and now amended by creating a new Chapter 4, Code of Ethics, to wit:

CODE OF ETHICS¹Ouster law—T.C.A. § 8-47-101 and the following sections.

SECTION 1. Applicability. This chapter 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. Definition of "personal interest".

(1) For purposes of Sections 3 and 4, "personal interest" means:

- (a) 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
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include 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. A brief synopsis of each of these laws appears in the appendix of the municipal code.

3) 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.

SECTION 3. Disclosure of personal interest 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 or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself² from voting on the measure.

SECTION 4. Disclosure of personal interest 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 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 himself from the exercise of discretion in the matter.

SECTION 5. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance—T.C.A. Title 2, Chapter 10. conflict of interests—T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements—T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials—T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office)—T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information—T.C.A. § 39-16-401 and the following sections.

²Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

SECTION 6. Use of information.

(1) 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.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

SECTION 7. Use of municipal time, facilities, etc.

(1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) 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 or lease that is determined by the governing body to be in the best interests of the municipality.

SECTION 8. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

SECTION 9. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

SECTION 10. Ethics complaints.

(1) The city attorney or assistant city attorney or attorney designee by the city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2)(a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request that the governing body hire 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 a member of the municipality's governing body, the governing body 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 governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

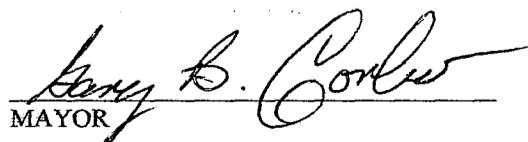
(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

SECTION 11. 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 chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

Upon this ordinance becoming final, the City Recorder shall notify the Tennessee Ethics Commission that the Town of Kingston Springs has adopted the MTAS model ordinance as required under Public Chapter No. 1 of the 2006 General Assembly. Further, the City Recorder shall make available for disclosure a form of disclosure of personal interest by virtue of this ordinance to be used when applicable and to be filed with the City Recorder.

This ordinance shall become effective fifteen (15) days after final passage.


ORDAINED this 21 day of DEC., 2006.


MAYOR

ATTEST:

Debbie K. Finch
DEBBIE FINCH, City Recorder

APPROVED AS TO FORM AND LEGALITY:


LARRY D. CRAIG, City Attorney

Submitted to Public Hearing on DECEMBER 21, 2006, at 7:00 p.m. after publication of notice of public hearing by advertisement in the Advocate newspaper on NOVEMBER 22, 2006.

Passed 1st Reading: OCTOBER 19, 2006
Passed 2nd Reading: DECEMBER 21, 2006

TOWN OF KINGSTON SPRINGS

Disclosure of Personal Interest

This form should be filled out and filed with the recorder or clerk by any municipal employee or official, except those who serve on boards or other bodies, who must exercise discretion relative to any matter and who has a personal interest in the matter. A personal interest is any financial, ownership, or financial interest in a matter to be regulated or supervised by the employee or official that could affect the employee's or official's discretion. This includes any financial, ownership, or employment interest of the employee's or official's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren). "Employment interest" includes any situation in which the employee or official or one or more of his or her family members designated above is negotiating possible employment with a person or organization that is to be regulated or supervised by the employee or official in carrying out municipal business. Use item 1 of this form to report individual occurrences and item 2 to make a yearly report of situations that will occur more than once during a calendar year.

NAME OF EMPLOYEE OR OFFICIAL: _____

1. Individual occurrence

BRIEFLY DESCRIBE THE SITUATION IN WHICH YOU MUST EXERCISE DISCRETION AND IN WHICH YOU HAVE A PERSONAL INTEREST THAT COULD AFFECT THAT DISCRETION:

2. Continual occurrences

FOR INDIVIDUALS, BUSINESSES, OR ENTITIES THE MUNICIPALITY WILL ENTER INTO TRANSACTIONS WITH MORE THAN ONCE EACH CALENDAR YEAR AND IN WHICH YOU HAVE A PERSONAL INTEREST, YOU MAY MAKE ONE (1) DISCLOSURE FOR THE CALENDAR YEAR BY REPORTING HERE:

Name of Individual, Business, or Entity _____

Briefly describe the transactions that will take place between the municipality and the named entity during the calendar year in which you will exercise discretion and in which you have a personal interest that could affect that discretion:

Date: _____

Employee's or Official's Signature