

ORDINANCE NO. 412

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

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

WHEREAS, as provided in said Public Chapter No. 1, the McKenzie Board of Mayor and Council has chosen to adopt model ethical standards as promulgated by the University of Tennessee's Municipal Technical Advisory Service (MTAS).

NOW, THEREFORE, BE IT ORDAINED BY THE MCKENZIE, TENNESSEE, BOARD OF MAYOR AND COUNCIL.

SECTION 1. Applicability. This ordinance is the code of ethics for personnel of the City of McKenzie, Tennessee. 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. The words "municipal" and "municipality" include these separate entities.

SECTION 2. Definition of "personal interest."

- (1) For the purpose of Sections 3 and 4, "personal interest" means:
 - (a) Any financial 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 a vote or that is to be regulated or supervised.
- (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 Ordinance.

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 would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure.

¹ Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

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 City Clerk/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:

- (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 Board of Mayor and Council to be in the best interests of the City of McKenzie.

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 him or others that are not authorized by the City charter, general law, or ordinance or policy of the City of McKenzie.

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 City charter or any ordinance or policy.

SECTION 10. Ethics complaints.

- (1) 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 Ordinance, the city attorney may render an oral or written advisory ethics opinion based upon this Ordinance 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 Ordinance, 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 code of ethics.
 - (b) 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 a member of the Board of Mayor and Council, the Board of Mayor and 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 Board of Mayor and Council determine that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the Board of Mayor and Council.
- (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 Ordinance also constitutes a violation of the 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 City's charter or other applicable law and in addition is subject to censure by the Board of Mayor and Council. An appointed official who violates any provision of this chapter is subject to disciplinary action.

SECTION 12. Notification to be sent to Tennessee Ethics Commission. Upon adoption by the Board of Mayor and Council, the City Clerk/Recorder is hereby directed to notify the Tennessee Ethics Commission in writing that the ethics policy promulgated by the Municipal Technical Advisory Service (MTAS) was adopted by the City of McKenzie and the date such action was taken.

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

SECTION 14. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or circumstances be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by State or Federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION 15. Repealer. All ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

PASSED AND APPROVED THIS 25th DAY OF JANUARY, 2007 BY A ROLL CALL VOTE OF THE BOARD OF MAYOR AND COUNCIL.

Walter Winchester

WALTER WINCHESTER, MAYOR OF MCKENIE, TN.

ATTEST:

Charlie Beal, CMC
Charlie Beal, City Clerk/ Recorder

DATE OF FIRST READING	DATE OF SECOND READING
January 11, 2007	January 25, 2007

SECTION 14. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or circumstances be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by State or Federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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