

ORDINANCE NO. 5206

AN ORDINANCE TO REPLACE THE CODE OF ETHICS FOR CITY OFFICIALS ADOPTED ON OCTOBER 12, 1999, UNDER ORDINANCE 4709, AND CODIFIED UNDER CHAPTER 2-10 OF THE CODE OF ORDINANCES OF MEMPHIS, TENNESSEE (REPEALED) PURSUANT TO THE COMPREHENSIVE GOVERNMENTAL ETHICS REFORM ACT OF 2006, CODIFIED AT TENNESSEE CODE ANNOTATED §§ 8-17-101 ET SEQ. WHICH REQUIRES ALL MUNICIPALITIES IN TENNESSEE TO ADOPT AN ETHICS POLICY FOR ALL MUNICIPAL ELECTED OFFICIALS AND CERTAIN EMPLOYEES, AS WELL AS ANY BOARDS, COMMISSIONS, AUTHORITIES, CORPORATIONS OR OTHER INSTRUMENTALITIES APPOINTED OR CREATED BY THE MUNICIPALITY.

PREAMBLE

WHEREAS, The General Assembly has passed, and the Governor has signed into law, the Comprehensive Governmental Ethics Reform Act of 2006, codified at Tennessee Code Annotated §§ 8-17-101 et seq. which requires all municipalities in Tennessee to adopt an ethics policy for all municipal elected Officers and Employees, as well as any boards, commissions, authorities, corporations, or other instrumentalities appointed or created by the municipality, by June 30, 2007; and

WHEREAS, The Memphis City Council on October 12, 1999, under Ordinance 4709, adopted an aspirational Code of Ethics; and

WHEREAS, The Memphis City Council, in compliance with the laws mentioned hereinabove, has found this ordinance and code of ethics therein suitable for the City of Memphis.

NOW, THEREFORE, BE IT ORDAINED, By the Memphis City Council, that Ordinance 4709, codified under Chapter 2-10 of the Code of Ordinances of Memphis, Tennessee (repealed) is replaced with the following Code of Ethics, adopted for application to all elected officers and certain employees of the City of Memphis, and to all boards, commissions, authorities, corporations, or other instrumentalities appointed or created by City of Memphis:

Section 1. Applicability.¹

This chapter is the code of ethics for personnel of the City. It applies to all full-time and part-time elected or appointed officers and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City. The term "City" includes these separate entities.

Section 2. Definition of "personal interest."

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

(1) Any financial, ownership, or employment interest in the subject of a vote by a board or commission of the City 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 officer's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(b) The words "employment interest" include a situation in which an officer 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.

(c) 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 officer with vote.

¹ State 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.
Ouster law—T.C.A. § 8-47-101 and the following sections.

An officer 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 officer's vote on the measure. In addition, the officer may recuse himself from voting on the measure.

Section 4. Disclosure of personal interest in nonvoting matters.

An officer 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 officer 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 officer 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 City:

- (a) 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
- (b) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing business of the City.

Section 6. Use of information.

(a) An officer or employee may not disclose any information obtained in his officer capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(b) An officer or employee may not use or disclose information obtained in his officer 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 City time, facilities, etc.

(a) An officer or employee may not use or authorize the use of the time, facilities, equipment, or supplies of the City for private gain or advantage to himself.

(b) An officer or employee may not use or authorize the use of the time, facilities, equipment, or supplies of the City 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 City.

Section 8. Use of position or authority.

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

(b) An officer 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 City.

Section 9. Outside employment.

An officer or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the City position or conflicts with any provision of the City's charter or any ordinance or policy.

Section 10. Board of Ethics of the City.

(a) Creation, organization, and membership.

(1) There is created the Board of Ethics of the City. The Board of Ethics shall consist of seven (7) members. The members of the Board of Ethics shall have resided in the City of Memphis for five years and be selected from each of the seven City Council districts of Memphis, with one member being selected from each district. Each member shall be a resident of the district he or she represents. At least one member of the Board of Ethics shall be a retired judicial officer who during his or her tenure presided over a Tennessee chancery, circuit, criminal, general sessions, juvenile, or probate court, or served as a federal judicial officer in a court with jurisdiction over the City, and who retired or left office in good standing.

(2) The members of the Board of Ethics shall be appointed by the Mayor of the City, from a slate of candidates proposed by the City Council member who represents the district from which the Board member is to be selected, and approved by the City Council, provided that a City Council member may decline to provide a slate of candidates in which case the Mayor may appoint a member of the Board of Ethics in his or her discretion, with approval of the City Council.

(3) Any vacancy due to any cause shall be filled for the unexpired term in the same manner as the original appointment. A vacancy shall be deemed to exist upon the occurrence of any one or more of the following conditions:

(A) Upon the expiration of a term;

(B) Upon the death or disability or incapacity for more than 90 days of a member;

(C) Upon the written resignation of a member, when accepted by the Nominating Committee. A resignation tendered but unaccepted for more than 30 days shall be deemed accepted;

(D) Upon a member's candidacy for, election to, or appointment to public office.

(4) Members shall serve without compensation.

(5) Members shall not:

(A) Engage or participate in City election political activities;

(B) Make campaign contributions to candidates in City elections during their terms as board members;

(C) Hold elective office of the State of Tennessee or the City;

(D) Be an Employee of the City;

(E) Be an officer of any political party;

(F) Lobby or employ a lobbyist; or

(G) Be employed by any elected Officer in the State of Tennessee.

(6) Members shall serve terms of six (6) years; provided, however, that the initial terms of the members shall be staggered as follows:

(A) The initial term of members of the Board of Ethics representing Districts 1, 4, and 7 shall be two (2) years.

(B) The initial term of members of the Board of Ethics representing Districts 2 and 5 shall be four (4) years.

(C) The initial term of members of the Board of Ethics representing Districts 3 and 6 shall be six (6) years.

(7) Members shall elect a chair from amongst their number in April of every odd-numbered year. The chair of the Board of Ethics shall be a retired judicial officer who during his or her tenure presided over a Tennessee chancery, circuit, criminal, general sessions, juvenile, or probate court, or served as a federal judicial officer in a court with jurisdiction over the City, and who retired or left office in good standing.

(8) The Board of Ethics may, in its sole discretion, but subject to the limitations of its budget, hire legal counsel.

(9) The Board of Ethics shall hold a regularly scheduled meeting once per month, and may hold special meetings when the Board determines the need for such meetings.

(b) Duties of the Board of Ethics. The Board of Ethics shall have the following duties and responsibilities:

(1) To establish and publish the procedures and rules governing its internal organization and the conduct of its affairs;

(2) To conduct or oversee investigations and to make recommendations about conduct as provided herein;

(3) To maintain records of its investigations, inquiries, and proceedings, and to make such records available for public access on the Board of Ethics internet website;

(4) To issue Formal Ethics Opinions as provided in Section (c) below;

(5) To supervise training of all Officers and Employees concerning their duties and obligations under this Code of Ethics;

(6) From time to time, to produce such reports as it may deem appropriate from the disclosures made under Sections 3 and 4 of this Code of Ethics;

(7) On an annual basis provide a report of its expenditures to the Audit Committee of the City Council; and

(8) To perform such other duties as herein provided.

(c) Ethics Opinions.

- (1) Upon request by a city officer or employee, the Board of Ethics may issue Formal Ethics Opinions that shall bind the Board of Ethics and the person requesting the opinion, and shall constitute a body of principles upon which Officers, Employees, and others may rely for guidance in specific situations.
 - (2) Requests for Formal Ethics Opinions shall be addressed to the Board of Ethics in writing, stating the factual situation in appropriate detail, and may be accompanied by a short brief or memorandum citing the provisions of this Code of Ethics involved and any other pertinent authorities.
 - (3) The Chief Ethics Officer may issue Advisory Ethics Opinions when there is readily available precedent. Any such opinions shall not bind the Board of Ethics.
 - (4) Any Officer or Employee subject to this Ethics Code may request a Formal Ethics Opinion or an Advisory Ethics Opinion; provided, however, that the Board of Ethics and the Chief Ethics Officer, respectively, shall retain sole discretion concerning whether such an opinion should be issued.
 - (5) The Chief Ethics Officer shall place and publish Formal Ethics Opinions and Advisory Ethics Opinions, as well as any requests for them, on the Board of Ethics' internet website for public access. The Chief Ethics Officer may annotate or otherwise organize the opinions and requests for opinions, so that they are easily searchable.
- (d) Procedures for evaluations and hearing of complaints regarding conduct.

(1) Complaint procedures:

(A) Any citizen of Memphis, including but not limited to the Chief Ethics Officer or any member of the Board of Ethics, may submit a complaint in writing and under oath, alleging that one or more Officers or Employees have violated or may have violated any provision of this Code of Ethics within one month of the alleged violation.

(B) The complaint must be signed by the complainant and notarized, and must contain the following:

- (i) The complainant's legal name and current mailing address;
- (ii) The name or names of any Officers or Employees who committed or may have committed the alleged violation;
- (iii) A summary of the facts giving rise to the complaint; and

- (iv) Some explanation of why those facts constitute or may constitute a violation of the Code of Ethics.
- (v) **Anyone filing a false complaint will be subject to the penalty(s) for perjury.**
- (C) The Chief Ethics Officer, or his or her designee, may assist complainants in completing the form of a complaint.
- (D) The complaint must be filed with the Chief Ethics Officer. Upon receipt, the Chief Ethics Officer shall promptly provide a copy of the complaint to the Officer or Employee named therein and to the Board of Ethics. As used in this Section, unless otherwise noted, to "provide" is to send by U.S. Mail or to hand-deliver.
- (E) During years in which the City holds municipal elections, the Chief Ethics Officer shall not accept any complaints during a period from the last day on which a person may qualify as a candidate until after 11:59 p.m. of the following election day. If a special election is called, the Chief Ethics Officer shall not accept any complaints relating to the office subject to the special election during a period from the last day on which a person may qualify as a candidate for the special election until after 11:59 p.m. of the date of the special election.
- (F) The Chief Ethics Officer will evaluate the complaint, applying the law of the standards of conduct to the facts alleged in the complaint.
- (G) Within fourteen (14) days from receipt of the complaint, the Chief Ethics Officer shall:
 - (i) Issue a report including a copy of the complaint, concluding whether the facts alleged in the complaint, if true, would give rise to a violation of the Code of Ethics, and recommending that a hearing be held on the complaint; or,
 - (ii) Dismiss the complaint, subject to the approval of the Board of Ethics.
- (H) The City Ethics Officer shall promptly provide a report or a dismissal of complaint to the chair of the Board of Ethics.
- (I) If the Chief Ethics Officer dismisses a complaint, the Board of Ethics shall at its next meeting vote on whether to approve the dismissal. If the Board of Ethics, by a majority vote, approves the Chief Ethics Officer's dismissal of the complaint, then the complaining party may, within 30

calendar days, request, in writing that the Board reconsider its decision. If the Board of Ethics fails to approve the Chief Ethics Officer's dismissal, or if the Board of Ethics, by a majority vote, agrees to reconsider a complaint, then the Chief Ethics Officer shall issue a report on the facts and circumstances of the complaint.

(J) After receiving the Chief Ethics Officer's report, the chair of the Board of Ethics shall call a public meeting of the Board, including appropriate notice to the public. The Chief Ethics Officer shall also provide notice of the meeting to the complainant and to the Officer or Employee named in the complaint.

(K) At the Board of Ethics meeting, the board shall evaluate the Chief Ethics Officer's report, and may accept or reject the Chief Ethics Officer's recommendation. The board may decide to dismiss the complaint or call for a hearing on the complaint.

(L) Whether or not the Board of Ethics holds a hearing on the complaint or dismisses the complaint, it shall issue a decision in writing. Any decision shall require the affirmative concurring vote of at least four members of the board. If a hearing is to be held, no final decision shall be made or issued until after the hearing is held. The decision shall be filed with the Chief Ethics Officer, who shall promptly place all such decisions on the Board of Ethics' internet website for public access, and provided to the complainant and to the Officer or Employee named in the complaint.

(M) From the time a complaint has been received by the members of the Board of Ethics, until a written decision has been issued by the board, no member of the board shall participate in any communication regarding the allegations or merits of the complaint, outside of the board's public meetings or hearings, except as contemplated by these procedures.

(N) If a complaint is filed against a member of the Board of Ethics, the Memphis City Council will sit in designation as the Board of Ethics for any hearing contemplated by this Code of Ethics pursuant to the process outlined in the City of Memphis Charter Article 27, Section 185.

(2) Hearing procedures.

(A) If the Board of Ethics calls for a hearing on a complaint, the hearing shall be conducted as follows:

(i) The hearing shall be noticed to and open to the public, in accordance with state law and these procedures.

(ii) Notice of hearing shall be provided to the complainant and to the person or persons named as respondents in the complaint, the hearing shall be held no less than thirty (30) days after notice of hearing is provided to the respondent.

(iii) A hearing panel consisting of the chairman and two (2) members of the Board of Ethics selected at random shall hear the complaint.

(iv) The complaint shall be prosecuted in a hearing before the hearing panel by the Chief Ethics Officer or, with the approval of the Board of Ethics, by counsel designated and hired for that purpose by the Chief Ethics Officer.

(v) The complainant shall not be considered a party to any proceeding before the Board of Ethics, but to the extent possible, the complainant shall be kept apprised of the progress of the proceeding by the Chief Ethics Officer.

(vi) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but the hearing shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of common law or statutory rules which might make improper the admission of such evidence in civil actions. Either party may impeach any witness regardless of which party called the witness. No still or moving photography shall be allowed in the hearing room during the hearing. The hearing shall be recorded by court reporter or some other form of stenographic transcription or recording.

(vii) The respondent and the Chief Ethics Officer may, but are not required to, submit material to the hearing panel. If either does wish to submit such material to the board, the party must file the material with the Board of Ethics, and provide a copy of the same to the other party and the Board of Ethics, at least seven calendar days prior to the hearing.

(viii) The parties shall have a full and fair opportunity to present their positions and facts to the hearing panel at the hearing. Each party has the right to the assistance of legal counsel at its own expense. Each party shall be allotted a reasonable amount of time to make its presentation to the hearing panel.

(ix) The parties may each call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses will be subject to cross-examination. Each party must file with the hearing panel a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the hearing panel may permit such an unnamed witness to be called by a party if, in the panel's judgment, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(x) Should the hearing panel determine that justice requires that further witnesses be called, it may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names.

(xi) If any witness refuses to appear before the hearing panel, the Board of Ethics may request that the City Council subpoena the witness to appear before the hearing panel. Any party may request that the Board do so.

(xii) The members of the hearing panel may ask questions of any party, counsel, or witness at any time during the hearing.

(xiii) The hearing panel may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party.

(xiv) The hearing panel may continue a hearing to a later date.

(xv) All findings of fact by the hearing panel shall be rendered upon a showing of the preponderance of the evidence.

(xvi) Upon the conclusion of the hearing, the hearing panel shall deliberate toward a decision on the matter in public session, shall render written findings and conclusions of law in the matter, and shall arrive at a decision on such findings and conclusions by majority vote.

(xvii) All decisions of the Board of Ethics shall be placed and published within 30 days on the Board of Ethics' internet website for public access. The Chief Ethics Officer may annotate or otherwise organize the decisions so that they are easily searchable.

(3) If, after a hearing, a hearing panel of the Board of Ethics decides that an Officer or Employee violated any provision of the Code of Ethics, then the Board may take one or more of the actions listed in Section 13, as decided by affirmative concurring vote of at least two members of the hearing panel.

(e) Reporting; Whistleblower Protection; Abuse of Process; Complicity.

(1) Officers and Employees are encouraged to report suspected ethical violations to the Board of Ethics.

(2) No Officer or Employee shall use or threaten to use any officer authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Board of Ethics information relating to an ethics violation or investigation.

(3) No Officer or Employee shall use or threaten to use any officer authority or influence to effect any action to retaliate against any person who reports, initiates a complaint, or otherwise brings to the attention of the Board of Ethics information relating to a board investigation or an ethics violation.

(4) No Officer or Employee shall file a complaint with the Board of Ethics absent a good faith basis for their allegations.

(5) An Officer or Employee shall not falsely accuse another Officer or Employee of failing to comply with this Code of Ethics.

(6) No Officer or Employee may knowingly induce, encourage, or aid anyone to violate any provision of this Code of Ethics.

(7) Any violation of this Subsection shall be subject to investigation and action by the Board of Ethics.

(f) Because the purpose of the Board of Ethics can only be fulfilled if it furthers the goal of accountability, responsibility, and transparency in the ethical conduct of municipal government, the Board of Ethics shall operate, to the greatest extent possible, in a manner that is open and accessible to the public. Thus, the Board of Ethics shall establish and maintain policies and procedures, including an internet website that is searchable to the greatest extent possible, that will promote the widest possible dissemination of information about its activities and operations, including any

hearings, decisions, and opinions of the Board of Ethics and the Chief Ethics Officer. Further, the City acknowledges and affirms that the Board of Ethics is, in all respects, subject to the access requirements of the Tennessee Public Records Act, T.C.A. § 10-7-503, and the Tennessee Open Meetings Act, T.C.A. §§ 8-44-101 et seq.

(g) The hearing shall be closed upon the request of the officer who is prosecuting an indictment or in the discretion of the Board when to do otherwise would jeopardize the proceedings on an indictment in a court of law.

Section 11. The Chief Ethics Officer.

(a) There is created the office of the Chief Ethics Officer.

(b) The Board of Ethics shall appoint, in its sole discretion, a Chief Ethics Officer, who a term of six (6) years or until such time as:

(1) he or she resigns;

(2) he or she dies; or

(3) the Board of Ethics, in its discretion, by a majority vote, determines to remove him or her.

(c) The Chief Ethics Officer shall be a member of the Tennessee bar, in good standing, who has practiced law not fewer than ten (10) years.

(d) The Chief Ethics Officer shall not be a member of the Board of Ethics.

(e) The duties of the Chief Ethics Officer. The Chief Ethics Officer shall:

(1) Maintain the Board of Ethics' records and minutes;

(2) Act as secretary to the Board of Ethics;

(3) Manage the administrative functions of the Board of Ethics, maintaining, including the supervision of any other staff;

(4) Maintain the Board of Ethics website;

(5) Receive and provide copies to the Board of Ethics of all filings required by this Code of Ethics;

(6) Provide advisory ethics opinions to the Board of Ethics, as well to others who may request them;

(7) Provide, or otherwise arrange for, and supervise training of all Officers and Employees concerning their duties and obligations under this Code of Ethics;

(8) Provide periodic reports to the City Council of the actions of the Board of Ethics; and

(9) Perform other duties delineated in this Code of Ethics.

(10) The Chief Ethics Officers shall process and forward a complaint concerning a violation by a City of Memphis employee to the Mayor for disposition under the Civil Services provisions outlined in Article 34 of the City of Memphis Charter and Code of Ordinances.

(f) The Chief Ethics Officer shall serve with compensation.

(g) The Chief Ethics Officer may employ an administrative staff to aid in the commission of its duties.

(h) In addition to the aforementioned duties, the Chief Ethics Officer shall create, subject to the approval of the Board of Ethics, a program to train Officers and Employees regarding compliance with this Code of Ethics on an annual basis and within sixty (60) days of the entry of an Officer or Employee into office.

Section 12. Recusal of Members of the Board of Ethics and Chief Ethics Officer.

(a) Members of the Board of Ethics and the Chief Ethics Officer shall not take part in any matter in which a judge, similarly situated, would have to recuse himself or herself.

(b) If the Chief Ethics Officer recuses himself or herself in a particular matter, the Board of Ethics may, in its discretion, appoint a member the Tennessee bar, in good standing, who has practiced not fewer than ten (10) years, to serve in place of the Chief Ethics Officer in that particular matter.

Section 13. Penalties for Violation of this Code of Ethics.

(a) Upon a finding of a violation of any provision of this Code of Ethics, the Board of Ethics is empowered to take any one or more of the following actions:

(1) Recommend to the City Court that it assess any penalty provided herein, the City Court shall hold a de novo proceeding during which the Chief Ethics Officer shall act as the prosecution;

- (2) Recommend to the City Council that it censure any Officer;
- (3) Recommend to the City Council suspension of any appointed Officer who is charged or indicted for any felony pending the outcome of such indictment pursuant to the process as outlined in the City of Memphis Charter Article 27, Section 185;
- (4) Recommend to the City Council removal of any appointed Officer pursuant to the process as outlined in the City of Memphis Charter Article 27, Section 185;
- (5) Refer the matter to the District Attorney General or the United States Attorney for appropriate action; or
- (6) Refer the matter to the City Attorney or District Attorney General with a request that an appropriate civil action for restitution, ouster, or other relief be instituted.

(b) Upon a finding of a violation of the applicable provision of this Code of Ethics, the City Court is empowered to assess the following penalties:

- (1) Any person who violates a provision of this Code of Ethics may be subject to a fine of up to fifty dollars (\$50) for each violation.
- (2) Any person who fails to make any disclosure required by this Section 5 of this Code of Ethics may be fined fifty dollars (\$50) per day, up to a maximum of two thousand five hundred dollars (\$2,500), from the first day the disclosure is due until the disclosure is filed.
- (3) Any person who violates the provisions of Section 5 of this Code of Ethics concerning Gratuities may be subject to forfeiture up to the fair market value of any Gratuity concerned.

(c) The various sanctions provided under this Section are cumulative to other remedies provided under Tennessee law or under the Charter and Ordinances of the City.

Section 14. Transition and Effective Date.

- (a) This ordinance shall be effective July 1, 2007.
- (b) Prior to the appointment of the members of the Board of Ethics and the Chief Ethics Officer, the functions of the Chief Ethics Officer shall, to the extent practicable, be performed by the City Attorney.

BE IT FURTHER ORDAINED, That for those boards, commissions, authorities, corporations, and other instrumentalities created by The City of Memphis along with one or more other local governmental entities, that The City of Memphis and such local governmental entity shall amend the interlocal creating agreement of such body, to designate the ethical standards that govern such body.

BE IT FURTHER ORDAINED, That upon passage of this ordinance by the City Council, and its signing into law by the Mayor, that the administrator of the City Council shall cause a copy of it to be filed with the Tennessee Ethics Commission as required by state law.

BE IT FURTHER ORDAINED, That all laws or ordinances of The City of Memphis, Tennessee, not in conflict with this policy, be and the same are continued in full force and effect, and all laws or ordinances in conflict therewith are hereby repealed.

BE IT FURTHER ORDAINED, That should any section of this ordinance be in conflict with the City of Memphis Charter, the Charter shall prevail.

BE IT FURTHER ORDAINED, That the various sections of this Ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions.


BE IT FURTHER ORDAINED, That this Ordinance shall become effective according to law.

THE FOREGOING ORDINANCE
5206 PASSED

1st Reading 4-10-07
2nd Reading 4-24-07
3rd Reading 6-5-07

Approved: 
Chairman of Council

Date Signed: 6/20/07

Approved: 
Mayor, City of Memphis

Date Signed: 6/29/2007

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Sipes
Comptroller

Ord. # 5207

AN ORDINANCE REPEALING ORDINANCE NO. 4709, ASPIRATIONAL CODE OF ETHICS UPON ADOPTING A MANDATORY CODE OF ETHICS

PREAMBLE

WHEREAS, The Memphis City Council adopted Ordinance No. 4709 on October 12, 1999, which provided for a Code of Ethics governing elected and appointed officials of the city; and

WHEREAS, the ethical standards adopted by the Council in 1999 are not mandatory but are aspirational in character and represent ethical standards which every city official and employee should strive to follow.

WHEREAS, the General Assembly passed the Comprehensive Governmental Ethics Reform Act of 2006 which required that all Tennessee municipalities adopt a mandatory ethics policy for all elected officials and employees, as well as any boards, commissions, authorities, corporations, or other instrumentalities appointed or created by the municipality, by June 30, 2007.

NOW, THEREFORE, BE IT ORDAINED: That the Memphis City Council does repeal its previous ethics policy, Ordinance No. 4709 and replaces it with a more comprehensive policy pursuant to requirements of the Comprehensive Governmental Ethics Reform Act of 2006.

BE IT FURTHER ORDAINED: That repeal of Ordinance 4709 is effective June 30, 2007 or at such time that the more comprehensive ethics policy is approved, ratified and signed.

THE FOREGOING ORDINANCE

5207 PASSED

1st Reading 4-10-07

2nd Reading 4-24-07

3rd Reading 6-5-07

Approved: [Signature]
Chairman of Council

Date Signed: 6/20/07

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 6/22/07

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snipes
Comptroller

Ordinance No. 5327

**AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE I,
SECTION 2-10 OF THE CODE OF ORDINANCES SO AS TO
AMEND THE MEMBERSHIP REQUIREMENTS OF THE BOARD OF ETHICS
OF THE CITY OF MEMPHIS**

WHEREAS, the Memphis City Council recognizes the importance of getting the City of Memphis Board of Ethics operating to assume the responsibilities now being handled by the City Attorney's office; and

WHEREAS, Council members have submitted potential appointees for the City of Memphis Board of Ethics, none of which have been a retired judicial officer which is required by the current ordinance; and

WHEREAS, it has been extremely difficult to identify a retired judicial officer willing to serve as a member of the City of Memphis Board of Ethics and the Memphis City Council believes it is in the best interest of the citizens of Memphis to amend the ethics ordinance to remove this requirement.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 2, Article I, Section 2-10-10, subsection A (1) is hereby amended by adding the following language

Sec. 2-10-10 Board of ethics of the city.

A. Creation, Organization, and Membership:

1. There is created the board of ethics of the city. The board of ethics shall consist of seven voting members. The members of the board of ethics shall have resided in the city of Memphis for five-years and be selected from each of the seven city council districts of Memphis, with one member being selected from each district. Each member shall be a resident of the district he or she represents.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 2, Article I, Section 2-10-10, subsection A (7) is hereby amended by deleting the current language and adding the following

7. The chair of the board of ethics shall be a retired judicial officer, who during his or her tenure presided over a Tennessee chancery, circuit, criminal, general sessions, juvenile, or probate court, or served as a federal judicial officer in a court with jurisdiction over the city, and who retired or left office in good standing. Said judicial officer shall not be a voting member of the board and shall

preside over all meetings of the board. In the event no judicial officer is appointed to the board, the Council may appoint by a majority vote of the Council a retired attorney in good standing with the Tennessee Bar Association or any other member deemed capable to serve as chair by the Board.

SECTION 3. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 4. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

BILL BOYD
Council Member

HAROLD COLLINS
Council Chairman

THE FOREGOING ORDINANCE
5327 PASSED

1st Reading 8-18-2009

2nd Reading 9-01-2009

3rd Reading 9-15-2009

Approved [Signature]
Chairman of Council

Date Signed: 10/06/2009

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 10/13/2009

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

[Signature]
Comptroller

Ordinance No. 5344

Whereas, on June 5, 2007, the Memphis City Council adopted a Code of Ethics Ordinance 5206 to replace Ordinance 4709 adopted on October 12, 1999.

Whereas, it is deemed necessary to modify Ordinance 5206 so as to provide more specific language regarding the acceptance of gifts by Council members.

NOW, THEREFORE,

SECTION 1, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 2.5, Article I, Section 2-10-5 (1) is hereby amended to delete the word "officer".

SECTION 2, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 2.5, Article I, Section 2-10-5 is amended by adding the following:

2. No Council member shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value from any person or entity that:

- a. Has or is seeking to obtain contractual or other business or financial relations with the city; or
- b. Conducts operations or activities that are regulated by the City; or
- c. Has interests that may be substantially affected by the performance or nonperformance of the City Councilman's official duties.

3. Exceptions.

The prohibition of accepting gifts does not apply to:

- d. A gift given by a member of the employee's immediate family, or by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship
- e. Informational materials, such as books, periodicals, audio or video, or sample merchandise helpful as a part of the Council member's duties in determining the appropriateness of the product for use as a part of City business
- f. Unsolicited tokens or awards of appreciation, honorary degrees or bona fide awards in recognition of public service, provided that any such item can not be readily converted to cash
- g. Food, refreshments, foodstuffs, entertainment or beverages provided as a part of a meal or other event in which the Council member is attending or is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization
- h. Loans from established financial institutions made in the ordinary course of business on usual and customary terms.
- i. Voluntary, legally disclosed political campaign contributions given in accordance with applicable federal and state statutes to an individual covered by the provisions of this Ordinance who has announced his or her intention to seek elected office.

Jim Strickland, Councilman

Harold Collins, Chairman

THE FOREGOING ORDINANCE
 # 5344 PASSED
 1st Reading 1-26-10
 2nd Reading 2-9-10
 3rd Reading 2-23-10

Approved: [Signature]
 Chairman of Council

Date Signed: 02/09/2010

Approved: [Signature]
 Mayor, City of Memphis

Date Signed: 3/15/2010

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

[Signature]
 Comptroller