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July 12, 2007

Bruce Androphy,  
Executive Director  
Tennessee Ethics Commission  
SunTrust Bank Bldg.  
201 4th Ave N., Suite 1820  
Nashville, TN 37243

RE: Adoption of Ethics Ordinance for the Town of Smyrna, TN

Dear Mr. Androphy:

Please find enclosed a certified copy of the Code of Ethics as adopted and enacted by The Town of Smyrna. I forward the ordinance to the Commission such that the same may be filed with the Commission in compliance with state law.

If there is anything further that you need from the Town of Smyrna in this regard, please do not hesitate to contact me.

Sincerely,

  
Michele Komorowski Elliott

Enc.

RECEIVED  
2007 JUL 17 AM 9:06  
TENNESSEE  
ETHICS COMMISSION

**TOWN OF SMYRNA, TENNESSEE**  
**ORDINANCE NO. 07- 21**

AN ORDINANCE relative to the adoption and enactment of Title 1 (General Administration), Chapter 5 "Code of Ethics".

**WHEREAS**, the general assembly of the State of Tennessee has enacted the Comprehensive Governmental Ethics Reform Act of 2006 ("Act") which mandated that all local governments adopt a code of ethics by ordinance by July 1, 2007; and

**WHEREAS**, the general assembly of the State of Tennessee has charged University of Tennessee MTAS with the task of developing a model ethics policy for Tennessee cities; and

**WHEREAS**, the Town Council of the Town of Smyrna desires to adopt an adaptation of the model policy to ensure that ethical practices and procedures are adhered to in conducting the town's business; and

**WHEREAS**, it is in the best interest of all citizens of the Town of Smyrna that elected and appointed officials and employees adhere to a code of ethics; and

**WHEREAS**, in accordance with the Charter of the Town of Smyrna, Tennessee, Article XIII, Section 13.01, the Town Council shall implement prohibitions related to conflicts of interest by ordinance, such regulations to include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by town official before other town agencies on behalf of private interests; and

**WHEREAS**, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(35), the Town Council shall have to power to exercise and have all other powers, functions, rights, privileges and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in the Charter of the Town of Smyrna, Tennessee.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SMYRNA:**

**Section 1.** That Title 1 (General Administration), Chapter 5 "Code of Ethics" as specified in Exhibit A attached hereto and incorporated herein by reference as if set forth at length verbatim, is hereby adopted and enacted, the health and welfare of the Town of Smyrna requiring it.

**I certify that this is a true and exact copy of**

Ord # 07-21 "Code of Ethics"

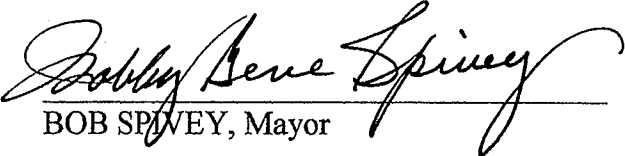
Dianne Walden Town Clerk

**Section 2.** This ordinance shall take effect immediately upon its adoption on second and final reading, the public health and welfare of the Town of Smyrna requiring it.

**PASSED** on first reading by the Town Council the 8<sup>th</sup> day of May, 2007.

**PASSED** on second reading by the Town Council the 14<sup>th</sup> day of June, 2007.

TOWN OF SMYRNA, TENNESSEE

  
BOB SPIVEY, Mayor

ATTEST:

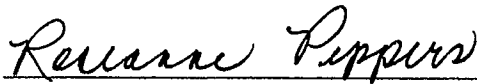
  
~~DIANNE WALDRON, Town Clerk~~  
ROSEANNE PEPPERS  
Acting Town Clerk

EXHIBIT A

TITLE 1

GENERAL ADMINISTRATION

CHAPTER

1. TOWN COUNCIL.
2. MAYOR.
3. TOWN MANAGER
4. TOWN CLERK.
5. CODE OF ETHICS.

CHAPTER 5

CODE OF ETHICS

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in nonvoting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.

**1-501. Applicability.** (1) This ordinance constitutes the code of ethics for officials and employees of the Town of Smyrna. 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 city. The words "municipal" and "municipality" include these separate entities.

(2) This Code of Ethics does not in any manner eliminate compliance with any other ethical provisions or prohibitions contained within the Charter of the Town of Smyrna, the Smyrna Municipal Code, the Town of Smyrna Employee Handbook, written policies of the Town of Smyrna, and state and federal law.

**1-502. Definition of "personal interest."** (1) For purposes of Sections 1-503 and 1-504, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a city board not otherwise regulated by state statutes on conflicts of interest; 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.

(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.

**1-503. Disclosure of personal interest in voting matters.** 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 or in the alternative, the official may recuse himself from voting on the measure.

**1-504. 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 town clerk. In addition or in the alternative, 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.

**1-505. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor, with the exception of incidentals as herein defined, of any kind from anyone other than the town:

(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 town business.

"Incidentals" are hereby defined as items, including marketing materials,

but specifically excluding cash, with a value of less than fifty dollars that are not obviously given with the intent to influence specific action by an official or employee as to a specific matter.

It is not a violation of this section if an official or employee receives a reward or benefit, regardless of value, which reward or benefit is not connected to or related in any manner to the official or employee's position with the Town of Smyrna.

**1-506. 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.

(3) It is not a violation of this section for an official or employee to use information for financial gain once the information is made open and discussed in a public meeting, as long as no steps toward financial gain were taken prior to the information being made open and discussed in a public meeting.

**1-507. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, personnel, 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, personnel, 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 town.

**1-508. Use of position or authority.** (1) An official or employee may not use or attempt to make private purchases, for cash or otherwise, in the name of the town.

(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 town.

**1-509. Outside employment.** An official or employee may not accept or continue any outside employment if the work conflicts with any provision of the town's charter or any ordinance or policy.

**1-510. Ethics complaints.** (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this ordinance, the town 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 town attorney shall investigate any written and signed, 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 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 town attorney may request that the town council hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interest in a particular matter. The town council may also on its own initiative obtain or appoint outside counsel to perform the duties of ethics officer as to a specific matter when the majority of the council determines such action is necessary or recommended under the circumstances.

(c) When a written and signed complaint of a violation of any provision of this ordinance is lodged against a member of the town council, the town 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 governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the town 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 code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel provisions rather than a violation of this code of ethics.

**1-511. 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 ordinance, as determined in accordance with the procedures herein, is subject to punishment as provided by the town's charter or other applicable law and in addition is subject to censure by the town council. An employee who violates any provision of this ordinance is subject to disciplinary action, up to and including termination.