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CITY OF WINCHESTER, TENNESSEE

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ORDINANCE NO. 865

ETHICS COMMISSION BY THE
TENNESSEE
AN ORDINANCE ADOPTING THE MODEL CODE OF ETHICS DEVELOPED BY THE
UNIVERSITY OF TENNESSEE MUNICIPAL TECHNICAL ADVISORY SERVICE

WHEREAS, the Tennessee General Assembly charged MTAS with the task of developing a model ethics policy for Tennessee cities; and

WHEREAS, the City of Winchester desires to adopt the model policy to ensure that ethical practices and procedures are adhered to in conducting the city's business; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Winchester, Tennessee as follows:

Section 1. Applicability. This ordinance constitutes the code of ethics for officials and employees of the City of Winchester. 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.

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 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.

Section 3. Disclosure of personal interest in nonvoting 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, the official may recuse himself 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 city:

- (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 city 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 city.

Section 8. 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 city. (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 city.

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 city position or conflicts with any provision of the city's 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 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 city 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. (c) When a complaint of a violation of any provision of this ordinance is lodged against a member of the city council, the city 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 city attorney or another individual or entity chosen by the city 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 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 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 ordinance is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this ordinance is subject to disciplinary action.

Section 12. This ordinance shall become effective immediately upon final approval and passage.

Passed First Reading: 09-12-06

Passed Second Reading: 09-29-06

Passed Third Reading: 10-10-06


Terry Harrell, Mayor
City of Winchester

Attest:


Beth J. Rhoton, City Administrator

Code of Ethics Ordinance #865

Date passed: October 10, 2006

