

TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. CITY CLERK.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL<sup>2</sup>

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the city hall. (1983 Code, § 1-101, as amended by Ord. #575, May 1987, Ord. #626, Apr. 1992, and Ord. #838, May 2005)

1-102. Order of business. At each meeting of the governing body, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the city clerk.
- (3) Reading of minutes of the previous meeting by the city clerk and approval or correction.
- (4) Grievances from citizens.

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<sup>1</sup>Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter reference: art. II, § 2.03.

- (5) Communications from the mayor.
- (6) Reports from committees, members of the city council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1983 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1983 Code, § 1-103)

## CHAPTER 2

MAYOR

## SECTION

1-201. Authority and duties prescribed by the charter.

1-202. Proclamation of civil emergencies, imposition of curfews and issuance of other orders during civil emergencies.

1-201. Authority and duties prescribed by the charter. The authority and duties of the mayor are prescribed in the charter.<sup>1</sup> (1983 Code, § 1-201)

1-202. Proclamation of civil emergencies, imposition of curfews and issuance of other orders during civil emergencies. (1) The mayor is authorized to proclaim civil emergencies and to impose curfews during civil emergencies not to exceed fifteen (15) days and he is further authorized to make certain orders during civil emergencies and impose punishment for violation of such orders.

(2) Definitions.

(a) Civil emergency is defined to be: (i) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three or more persons acting together without authority of law.

(ii) Any natural disaster or man-made calamity including but not limited to flood, conflagration, cyclone, tornado, earthquake or explosion within the geographic limits of a municipality resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

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<sup>1</sup>Charter references

Administrative duties: art. III, § 3.02.

Budgetary duties: art. IV, §§ 4.02 and 4.06.

Compensation: art. II, § 2.03(b).

Election: art. II, § 2.01.

Judicial duties: art. III, § 3.05.

Presiding officer: art. II, § 2.04.

Prohibitions on interference with performance of duties and reducing authority: art. II, § 2.07 and art. III, § 3.01.

Vacancy in office: art. II, § 2.06.

Vice-Mayor: art. II, § 2.05.

(iii) The destruction of property, or the death or injury of persons brought about by the deliberate acts of one or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(b) Curfew is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the municipality except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter.

(3) When the mayor determines that a civil emergency as defined herein does exist, he shall forthwith proclaim in writing the existence of the same, a copy of which proclamation shall be filed with the city clerk.

(4) After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographical areas of the city as he deems advisable, and applicable during which hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor, but not to exceed 15 days.

(5) After proclamation of a civil emergency the mayor may at his discretion, in the interest of public safety and welfare:

(a) Order the closing of all retail liquor stores.

(b) Order the closing of all establishments wherein beer or alcoholic beverages are served.

(c) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.

(d) Order the discontinuance of the sale of beer.

(e) Order the discontinuance of selling, distributing, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(f) Order the closing of gasoline stations, and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(g) Order the discontinuance of selling, distributing, dispensing or giving away any fire-arms or ammunition of any character whatsoever.

(h) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of fire-arms and/or ammunition.

(i) Issue such other orders as are necessary for the protection of life and property.

(6) Any person violating the provisions of orders issued by the mayor pursuant to this ordinance during a proclaimed civil emergency shall be guilty

of a misdemeanor and be punished under the general penalty provision of this code.

(7) Any curfew as defined hereby shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the local chief of police or other law enforcement officer then in charge of municipal law enforcement which permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1983 Code, § 1-202)

CHAPTER 3

CITY CLERK

SECTION

1-301. Authority and duties prescribed by the charter.

1-301. Authority and duties prescribed by the charter. The authority and duties of the city clerk are prescribed by the charter.<sup>1</sup> (1983 Code, § 1-301)

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<sup>1</sup>Charter reference

Administrative duties: art III, § 3.03.

CHAPTER 4

CITY ATTORNEY

SECTION

1-401. Authority and duties prescribed by the charter.

1-401. Authority and duties prescribed by the charter. The authority and duties of the city attorney are prescribed by the charter.<sup>1</sup> (1983 Code, § 1-401)

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<sup>1</sup>Charter references

Appointment and duties: art. III, § 3.04.

Delinquent taxes: art. IV, § 4.16.

CHAPTER 5

CODE OF ETHICS<sup>1</sup>

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 non-voting 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.

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<sup>1</sup>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: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated, § 8-47-101 and the following sections.



1-501. Applicability. This chapter 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. (as added by Ord. #865, Oct. 2006)

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "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), step parent(s), grandparent(s), sibling(s), child(ren), or step child(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 chapter. (as added by Ord. #865, Oct. 2006)

1-503. 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 himself<sup>1</sup> from voting on the measure. (as added by Ord. #865, Oct. 2006)

1-504. Disclosure of personal interest in non-voting 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

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

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. (as added by Ord. #865, Oct. 2006)

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 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 municipal business. (as added by Ord. #865, Oct. 2006)

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. (as added by Ord. #865, Oct. 2006)

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, 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 city council to be in the best interests of the city. (as added by Ord. #865, Oct. 2006)

1-508. 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 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. (as added by Ord. #865, Oct. 2006)

1-509. 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's charter or any ordinance or policy. (as added by Ord. #865, Oct. 2006)

1-510. 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 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 the city council to 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 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 city council 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 as a violation of this code of ethics. (as added by Ord. #865, Oct. 2006)

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 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 city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #865, Oct. 2006)