

ORDINANCE NO. _____

AN ORDINANCE to amend Title 1 and repeal Section 4-207 of the Burns Municipal Code and to adopt a Code of Ethics for the Town’s officers and employees.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BURNS, TENNESSEE:

SECTION 1. Title 1 of the Burns Municipal Code is amended by adding the following as Chapter 4:

CHAPTER 4

CODE OF ETHICS¹

1-401. Applicability. This chapter is the code of ethics for personnel of the Town of Burns. 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 Town. The words “municipal” and “Town” or “Town of Burns” include these separate entities.

1-402. Definition of “personal interest.” (1) For purposes of Sections 4-103 and 104, “personal interest” means:

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.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

(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.

1-403. 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 himself² from voting on the measure.

1-404. 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 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.

1-405. 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 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 municipal business.

1-406. 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.

² Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

1-407. 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 Commissioners to be in the best interests of the Town.

1-408. 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 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.

1-409. Outside employment. A full-time employee of the Town may not accept any outside employment without written authorization from the department head.

1-410. Ethics complaints. (1) The city 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 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 Board of Commissioners 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 Town's Board of Commissioners, the Board of Commissioners 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 determines 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 Commissioners.

(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.

1-411. 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 municipality's charter or other applicable law, and in addition is subject to censure by the Board of Commissioners. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

SECTION 2. Section 4-207 of the Burns Municipal Code is repealed.

SECTION 3. This ordinance takes effect from and after its final passage, the public welfare requiring it.

PASSED First Reading _____, 2006.

PASSED Second Reading _____, 2006.

MAYOR

RECORDER