



815 North Jackson Street  
P.O. Box 849  
Athens, Tennessee 37371-0849  
www.cityofathensstn.com

423-744-2702  
Fax 423-744-8866  
mayor@cityofathensstn.com

## CITY OF ATHENS

Office of the Mayor

June 20, 2007

### CERTIFIED MAIL

Ms. Becky Bradley  
Tennessee Ethics Commission  
SunTrust Bank Bldg.  
201 4th Ave N., Suite 1820  
Nashville, TN 37243

Dear Ms. Bradley:

The Athens City Council, meeting in regular session on June 19, 2007, unanimously passed Ordinance No. 956 adopting a Code of Ethics as required by state law. A copy of that ordinance is attached for your review and future reference.

Should you have questions or comments that need to be addressed by this city government, please feel free to contact City Manager Mitchell Moore at 423-744-2702.

Sincerely,

CITY OF ATHENS

John M. Proffitt, Jr.  
Mayor

JMP/kb

ATTACHMENT

Copy: Athens City Council

RECEIVED  
2007 JUN 22 PM 2:53  
TENNESSEE ETHICS COMMISSION

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Athens, Tennessee 37371-0849  
www.cityofathensn.com

423-744-2701  
Fax 423-744-8866  
mmoore@cityofathensn.com



## CITY OF ATHENS

**Mitchell B. Moore**  
City Manager

### CERTIFICATION

I, Mitchell B. Moore, City Manager of the City of Athens, Tennessee, do hereby certify that I am the custodian of all of the official records and resolutions of the City of Athens, Tennessee, and that the attachment is a true and accurate copy of Ordinance No. 956 as adopted by the Athens City Council on June 19, 2007, and recorded in Ordinance Book No. 9 of the City of Athens.

*Witness my hand this the 21<sup>st</sup> day of June 2007.*

  
*Mitchell B. Moore*  
\_\_\_\_\_  
MITCHELL B. MOORE  
City Manager

ATTACHMENT

ETHICS COMMISSION  
TENNESSEE

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RECEIVED

ORDINANCE NO. 956

AN ORDINANCE TO ADD CHAPTER 5 TO TITLE 1 OF THE CITY OF ATHENS MUNICIPAL CODE TO ADOPT A CODE OF ETHICS FOR THE CITY'S OFFICERS AND EMPLOYEES.

BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE AS FOLLOWS:

SECTION 1. Chapter 5 is added to title 1 of the City of Athens municipal code to read as follows:

CHAPTER 5

Code of Ethics<sup>1</sup>

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. 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 municipality. The words "municipal" and "municipality" include these separate entities.

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 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.

1-503. 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>2</sup> from voting on the measure.

<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 – 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.

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

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 interest on a form provided by and filed with the City Manager. 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.

1-505. 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 municipality:

(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.

The following are not deemed to be a prohibition against accepting any money, gift, gratuity, or other consideration or favor of any kind:

(a) Any gift, excluding money, intended for all department heads, all members of city council, or all members of any committee or board appointed by city council at/or near a holiday given for a non-business purpose and motivated by the holiday season;

(b) Any unsolicited token or award of appreciation in recognition of public service in the form of a plaque, trophy, desk item, or other similar item provided that any such item shall not be in a form that can be readily converted to cash;

(c) Informational materials in the form of books, articles, periodicals, other written materials, audio tapes, video tapes or other forms of communication;

(d) Gifts that are given for a non-business purpose and motivated by a close personal friendship;

(e) Sample merchandise, promotional items, and appreciation tokens if such merchandise items and tokens are routinely given to customers, suppliers, or potential customers, or suppliers in the ordinary course of business, the value of which to the official or employee does not exceed \$50 per occasion or accumulative value of more than \$100 to the official or employee during a calendar year from the same person or business entity; and

(f) Food, refreshments, meals, or beverages, the value of which to the official or employee does not exceed \$50 per occasion or accumulative value of more than \$100 to the official or employee during a calendar year from the same person or business entity.

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.

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 governing body to be in the best interests of the municipality.

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 municipality.

(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 municipality.

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 municipality's charter or any ordinance or policy.

1-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. 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 governing body to 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 chapter is lodged against a member of the municipality's governing body, the governing body 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 governing body.

(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.

1-511. 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 municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

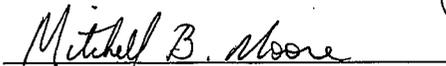
SECTION 2. Effective date. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

PASSED ON FIRST READING: May 15, 2007

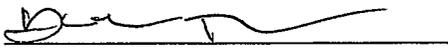
PASSED ON SECOND READING: June 19, 2007

DATE OF PUBLIC HEARING: June 19, 2007

  
JOHN M. PROFFITT, Mayor

  
MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

  
H. CHRIS TREW, City Attorney