

## TITLE 1

### GENERAL ADMINISTRATION

#### CHAPTER

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

#### CHAPTER 1

#### TOWN COUNCIL<sup>1</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Time and place of special meetings.
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- 1-104. Order of business.
- 1-105. Method for placing items on the agenda.
- 1-106. General rules of order.
- 1-107. Adoption of ordinances.
- 1-108. Salary of mayor and town council members.

1-101. **Time and place of regular meetings.** The town council shall, by resolution, fix the time and place at which the regular meetings of the town council shall be held. Unless otherwise provided by resolution, the town council shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at town hall. (Ord. #03-25, July 2003)

1-102. **Time and place of special meetings.** Whenever in the opinion of the mayor or any three (3) members of the town council, the welfare of the town demands it, the town manager shall call a special meeting of the town council. (Ord. #03-25, July 2003)

1-103. **Time and place of worksessions.** The town council shall, by resolution, fix the time and place at which worksessions of the town council shall be held. (Ord. #03-25, July 2003)

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<sup>1</sup>Charter reference  
Town council: art. V.

**1-104. Order of business.** (1) At each meeting of the town council the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (a) Call to order by the mayor;
- (b) Roll call by the town clerk;
- (c) Approval or correction of minutes of previous meetings;
- (d) Correspondence/communications;
- (e) Awards and recognitions;
- (f) Consent agenda;
- (g) Old business;
- (h) New business;
- (i) Status reports;
- (j) Announcements;
- (k) Adjournment.

(2) Consent agenda items will be those items determined by the town manager to be routine matters not necessitating discussion. All consent agenda items may be voted upon simultaneously pursuant to a single motion. There will be no separate discussion of these items unless a member of the town council requests that discussion be held, in which case the item will be removed from the consent agenda and considered separately. Following passage of the remaining consent agenda items, discussion of any items removed from the consent agenda shall be held and separate motions and votes shall be taken for each of the items removed.

(3) Public hearings which are related to matters on the agenda will be held at the time of consideration of the agenda item upon town council recess for such public hearing.

(4) Prior to the commencement of the regularly scheduled town council meeting, a citizens comments session shall be held beginning at 7:00 P.M. Such citizens comments session shall be open to the public and shall be held at the same location as the regularly scheduled town council meeting which follows. To be placed on the citizens comments speaker list, an individual must call the town manager's office before 4:30 P.M. on the Thursday before the council meeting and request to be added to the speaker's list, provide his or her name, address and telephone number, and state the purpose of addressing the council. Speakers are limited to three (3) minutes. Additional comments may be submitted in writing. The monthly citizens comments will be recorded separately and is not to be recorded on the official meeting audio or video tape of the council meeting. Minutes of the citizens comments session shall not be taken. The mayor and town council shall not be asked to comment on the topic presented, but will take all topics presented under advisement. (Ord. #05-34, Aug. 2005)

**1-105. Method for placing items on the agenda.** The town manager, or his or her designee, will prepare an agenda for each meeting of the town council.

Any member of the town council may have any additional items placed on the agenda for a meeting by notifying the town manager at least five (5) days prior to the meeting. No item may be added to the agenda after this deadline except by the affirmative vote of a majority of the members present at such meeting. (Ord. #03-25, July 2003)

**1-106. General rules of order.** The rules of order and parliamentary procedure contained in the current edition of Roberts Rules of Order Newly Revised shall govern the transaction of business by and before the town council at its meetings in all cases to which they are applicable and in which they are not inconsistent with the provisions of the charter or this code. (Ord. #03-25, July 2003)

**1-107. Adoption of ordinances.** All ordinances shall be drafted in accordance with the provisions of the charter (see particularly Section 5.10) and shall be passed at two (2) separate meetings on two (2) separate days. However, at least thirteen (13) days shall have lapsed between the first and final passage of any ordinance. Abstentions shall be counted neither as a "yes" nor a "no" vote. Ordinances, resolutions and other measures of the town council shall be passed by an affirmative vote of majority of the council members present and voting. All ordinances, resolutions and motions must be enacted by an affirmative vote of at least three council members. (Ord. #03-25, July 2003, modified)

**1-108. Salary of mayor and town council members.** Pursuant to the authority conferred by the Charter<sup>1</sup> of the Town of Smyrna, the Mayor of the Town of Smyrna shall receive a salary of six hundred dollars (\$600.00) per month and the remaining members of the town council shall each receive a salary of four hundred dollars (\$400.00) per month. (Ord. #03-25, July 2003)

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<sup>1</sup>Charter reference  
Salaries: § 5.04.

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

1-201. Mayoral responsibilities.

1-202. Election of vice-mayor.

**1-201. Mayoral responsibilities.**<sup>2</sup> The mayor shall preside at all meetings of the town council at which he is present and, in his absence, the vice-mayor shall preside, and in the absence of the mayor and vice-mayor, the town council shall designate one of their number to preside. The mayor shall be the ceremonial head of the town. The mayor shall have a vote, and shall have no veto power over all actions of the town council. The mayor shall sign the minutes of the meeting of the council, all ordinances on their final passage, and execute all deeds, bonds, contracts or legal instruments made in the name of the town.

**1-202. Election of vice-mayor.** The town council shall elect one of their number as vice-mayor to carry out the duties of mayor in his/her absence, for a term of two (2) years. If the office of mayor shall become vacant, the vice-mayor shall automatically become mayor for the remainder of the unexpired term; and in the latter event, the council shall elect another of its members to the office of vice-mayor to serve during the remainder of the unexpired term. The council shall fill the vacancy in the council created by the vice-mayor becoming mayor.<sup>3</sup>

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<sup>1</sup>Charter references

Qualifications: § 5.03.

Town council composition: § 5.01.

<sup>2</sup>Charter reference

Office of mayor: § 5.06.

<sup>3</sup>Charter references

Vacancies: § 5.07.

Vice mayor's qualifications: § 5.02.

**CHAPTER 3****TOWN MANAGER****SECTION**

1-301. Appointment.

1-302. Duties.

1-303. Residency requirement.

**1-301. Appointment.** The town council shall appoint and fix the salary of the town manager, who shall serve at the will of the town council. The town manager shall be appointed by virtue of experience and/or educational qualifications for this position. Neither the mayor nor any member of the town council shall be eligible for appointment as town manager until two (2) years have elapsed after such member shall have ceased to be mayor or a member of the town council.<sup>1</sup>

**1-302. Duties.** The town manager shall be the chief administrative officer of the town. The duties of the town manager are described in the town's charter.<sup>2</sup>

**1-303. Residency requirement.** The town manager must become (if not already) a resident of the town within ninety (90) days after reporting to work.<sup>3</sup>

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<sup>1</sup>Charter reference

Town manager appointment, salary, removal: § 6.01.

<sup>2</sup>Charter reference

Town manager powers and duties: § 6.04.

<sup>3</sup>Charter reference

Residency requirements: § 6.02.

**CHAPTER 4****TOWN CLERK**<sup>1</sup>**SECTION**

1-401. To be bonded.

1-402. Custodian of public records, bonds, etc.

1-403. To keep minutes.

1-404. To attest signed documents.

**1-401. To be bonded.** The town clerk shall be bonded in such sum as may be fixed by ordinance. (1991 Code, § 1-301, modified)

**1-402. Custodian of public records, bonds, etc.** The town clerk shall have custody of, and be responsible for maintaining all corporate bonds, records, and papers. (1991 Code, § 1-302, modified)

**1-403. To keep minutes.** The town clerk shall be present at all town council meetings and shall keep a full and accurate record of all its business. (1991 Code, § 1-303, modified)

**1-404. To attest signed documents.** The town clerk shall by signature and the town seal, attest all instruments signed in the name of the town. (1991 Code, § 1-304, modified)

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<sup>1</sup>Charter reference  
Town council: art. VII.

## 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 chapter 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. (Ord. #07-21, June 2007)

**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 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 chapter. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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. (Ord. #07-21, June 2007)

**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 chapter, the town 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 town attorney shall investigate any written and signed, 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 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 chapter 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. (Ord. #07-21, June 2007)

**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, 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 chapter is subject to disciplinary action, up to and including termination. (Ord. #07-21, June 2007)