

# CITY OF SWEETWATER

P.O. Box 267

SWEETWATER, TENNESSEE 37874

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May 8, 2007

Tennessee Ethics Commission

RE: Ethics policies adopted by the City of Sweetwater

Please find enclosed the City of Sweetwater's ethics policy, as passed by the City Board on Monday, May 7, 2007. The City chose to adopt the MTAS model. However, the Sweetwater Utility Board chose to adopt another policy, modeled after the recommendations of TVPPA.

Enclosed you will find the city's Resolution to authorize their separate policy, and a copy of their policy for your review. Please advised at your earliest convenience if either policy is not acceptable.

Sincerely,

Jessica Morgan  
City Recorder

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TENNESSEE  
ETHICS COMMISSION

ORDINANCE NO. 796

BEING AN ORDINANCE TO AMEND TITLE I OF THE SWEETWATER MUNICIPAL CODE BY ADDING A CHAPTER SIX ADOPTING A CODE OF ETHICS FOR THE CITY OF SWEETWATER.

WHEREAS, the Tennessee Legislature has mandated by statute the adoption of a code of ethics for local governments; and,

WHEREAS, the law allows local governments to adopt a "model code" as propounded by the Municipal Technical Advisory Service; and,

WHEREAS, the Mayor and Board of Commissioners has studied the "model code" and finds the same to be acceptable for applicability to the City of Sweetwater;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Commissioners of the City of Sweetwater, Tennessee, in regular meeting assembled, that the Sweetwater Municipal Code be amended to add a Chapter Six to Title I thereof as follows:

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ETHICS COMMISSION

CHAPTER SIX  
CODE OF ETHICS

SECTION

- 1 – 601. Applicability.
- 1 – 602. Definition of “personal interest”.
- 1 – 603. Disclosure of personal interest by official with vote.
- 1 – 604. Disclosure of personal interest in nonvoting matters.
- 1 – 605. Acceptance of gratuities, etc.
- 1 – 606. Use of information.
- 1 – 607. Use of municipal time, facilities, etc.
- 1 – 608. Use of position or authority.
- 1 – 609. Outside employment.
- 1 – 610. Ethics complaints.
- 1 – 611. Violations.

1 – 601. Applicability. This chapter is the code of ethics for personnel of the City of Sweetwater, excluding the Sweetwater Utilities Board and its employees. 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, excluding the Sweetwater Utilities Board and its employees. The words “municipal” and “municipality” include these separate entities. The Sweetwater Utilities Board and its employees are subject to a separate code of conduct previously adopted and applicable to SUB and its employees, which policy the Mayor and Board of Commissioners has reviewed and approved by separate resolution.

1 - 602. Definition of “personal interest”.

- (1) For purposes of Sections 603 and 604 below, “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), 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.

1 – 603. 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 from voting on the measure.

1 – 604. 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.

1 – 605. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity or other kind of 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.

1 – 606. 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 – 607. 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 – 608. 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 – 609. 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 – 610. 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 that the governing body 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 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 the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this code of ethics.

1 – 611. 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.

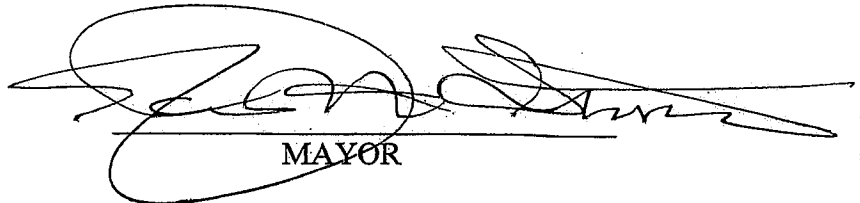
SECTION TWO: If any section, phrase, sentence or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION THREE: This ordinance shall take effect from and after its passage, the welfare of the City requiring it.

Passed first reading: September 5, 2006

Public hearing held: October 2, 2006

Passed second reading: May 7, 2007

  
MAYOR

Attest:

Jessica P. Morgan  
Recorder

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TENN. STATE  
ETHICS COMMISSION

RESOLUTION  
MAYOR AND BOARD OF COMMISSIONERS  
CITY OF SWEETWATER, TENNESSEE

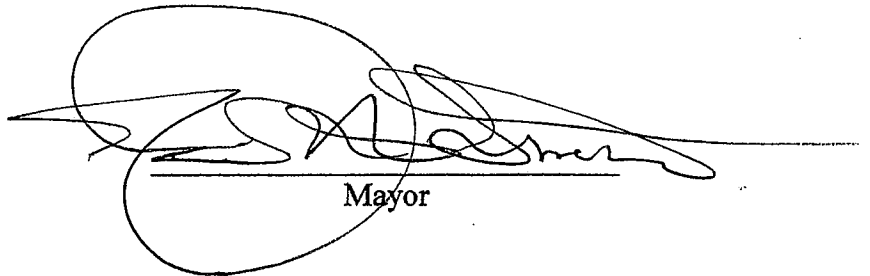
WHEREAS, State law requires the City to adopt a code of ethics for its employees, committee and commission members, and any other persons involved with the public service; and,

WHEREAS, the Mayor and Board of Commissioners has reviewed a code of conduct previously adopted by Sweetwater Utilities Board for applicability to the Board members and employees thereof; and,

WHEREAS, the Mayor and Board of Commissioners finds such code of conduct to be compatible with and comparable to the ethics ordinance otherwise adopted and applicable to the remaining agencies, boards, commissions and employees of the City of Sweetwater;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Commissioners that the attached code of conduct as previously adopted by Sweetwater Utilities Board is hereby approved and accepted as being compliant with the requirements of state law and shall be included in the documentation submitted on behalf of the City to the State Commission on behalf of the City.

Done in regular meeting this 7<sup>th</sup> day of May, 2007.



Mayor

Attest:

Jessica P. Morgan  
Recorder

**SWEETWATER UTILITIES BOARD**  
**ETHICS/CONFLICTS OF INTEREST POLICY**

**Subject:** Code of Ethics & Conflicts of Interest

**Objective:** The objective of this policy is to establish a standard of ethical conduct for all officers, all management staff, employees and members of the Board and to assist officers and employees in avoiding a real or perceived conflict of interest.

**Policy:**

**A. Application**

This policy applies to all employees of Sweetwater Utilities Board. Within the context of this policy, the term "employee" applies to all management staff, employees and members of the Board.

**B. Conflict of Interest - General**

Public service is a public trust. As public employees, each employee of Sweetwater Utilities Board are to place the best interests of its customers and the public trust above their own personal interest. Any effort by an employee to realize personal gain through their relationship with Sweetwater Utilities Board violates that trust. Conduct that reasonably may be perceived as creating an impression that this trust is being compromised is also considered a violation of the employee's trust.

**C. Definition of ethical behavior/conflict of interest**

A conflict of interest occurs when ever an employee:

1. Has a private interest or engages in an activity which could appear incompatible with the proper discharge of the employee's official duties/responsibilities.
2. Or which could impair the exercise of independent judgment or action.
3. Or an activity sufficient to appear to influence the objective exercise of his/her official duties.

A conflict of interest can occur when an employee believes that he/she can be fair and impartial.

- D.** Examples of conflicts of interest include but not limited to, having a financial or beneficial interest in a company action; receiving compensation, gifts, or anything of value from outside parties; acting on behalf of any person seeking business with Sweetwater Utilities Board; and using confidential information obtained by virtue of employment with Sweetwater Utilities Board for personal or business advantage. Conflicts of interest may also involve the business, employment, or financial interests of employee's immediate family member, where the family member is in a decision-making or ownership role.



- E. If an employee thinks he/she may have a real or perceived conflict of interest, the employee should disclose the interest to his/her direct superior, unless that person is involved in the potential conflict, in which case the employee should report it to a supervisor or manager who is not involved. The supervisor or manager will arrange for an alternative decision-maker to take over the employee's responsibilities in the area of possible conflict.

**F. Behavior prejudicial to organization**

1. Outside Employment
  - a. Employees cannot engage in outside work that conflicts with the best interest of Sweetwater Utilities Board.
  - b. No employee shall solicit or accept outside work resulting from their relationship with Sweetwater Utilities Board or resulting in payments from Sweetwater Utilities Board.
  - c. Conducting outside work on Sweetwater Utilities Board time is prohibited.
  - d. Unless specifically identified and available for use on a sign-out basis through the Manager, personal use of Sweetwater Utilities Board equipment or resources at any time is prohibited.
  - e. Any outside work that Sweetwater Utilities Board determines is contrary to the best interest of Sweetwater Utilities Board and its customers is prohibited.
  - f. Any outside employment must be disclosed by July 1 annually.
  
2. Elected or appointed public office

Any employee that wishes to accept or seek nomination, run for election, or appointment to public office at the federal, state, or local level, shall take an unpaid leave of absence from Sweetwater Utilities Board's employment, which shall not be unreasonably withheld. Upon election or appointment, the employee shall promptly resign from Sweetwater Utilities Board employment. Public office is defined as an elected government office or position or an office or position appointed by an elected official or by a governmental body. Employees may serve on appointed public boards if such service is in the best interest of Sweetwater Utilities Board and is approved in writing by the Manager prior to the appointment.
  
3. Political Activity

Employees are encouraged to exercise their rights as citizens to vote in local, state and federal elections. Because Sweetwater Utilities Board is a public entity, its employees must not allow their political activity to damage the efficiency or effectiveness of Sweetwater Utilities Board delivery of utility service to its ratepayers. The following guidance is provided to further these goals. Employees shall not:

  - a. Use their position to interfere with an election.
  - b. Promise Sweetwater Utilities Board benefits or threaten the deprivation of Sweetwater Utilities Board benefits in exchange for political support or opposition to a candidate or party in any election.

- d. Anything of nominal value shall be presumed not to constitute a gratuity under this policy provided that it is of a value of less than \$25 and that it is customary and routinely given by customers, suppliers or contractors and not exclusively to Sweetwater Utilities Board. The aggregate value of items of nominal value from a single individual or entity shall not exceed \$50 per calendar year. (For example, items with a nominal value and customarily given to multiple recipients may include marketing or promotional items such as a coffee mug, pen, calendar, notepad, or the like.) Meals shall not be considered to constitute a gratuity. Gifts of cash or cash equivalents, regardless of whether the cash or cash equivalents are of a value of less than \$25 in any one instance or less than \$50 in a calendar year are strictly prohibited.
- e. Any employee who is offered an inducement or compensation that, if accepted, would violate this policy shall immediately report the offer to the employee's supervisor, Human Resources Manager, or Utility Manager.
- f. When approached with a gift or gratuity, the employee should respond that Sweetwater Utilities Board does not accept gifts or gratuity. The receipt of any prohibited gratuity shall be reported immediately to the employee's supervisor or manager, or the Human Resources Manager for a determination as to compliance with this policy and as to the proper disposition of the prohibited gratuity.

7. **Confidential Information**

Employees shall not reveal, disclose, or use any confidential information, data, decisions, plans or any other information in any way that might be contrary to Sweetwater Utilities Board's best interest without prior authorization. This misuse, unauthorized access to, or mishandling of confidential information, particularly personnel or customer information, is strictly prohibited. Further, the misuse of confidential information for personal, personal financial, or personal business advantage is strictly prohibited. Employees should not discuss confidential business, customer, or vendor information unless there is a business need to do so. Employees who are aware that confidential information is being shared inappropriately shall immediately report the occurrence to their supervisor or manager.

G. **References - Tennessee Code Annotated**

Violations of this policy may also be a violation of local, state or federal laws and may subject the employee to criminal prosecution and forfeiture of retirement benefits.

Applicable statutes include, but are not limited to the following:

1. T.C.A. § 6-54-107 and § 12-4-101 generally prohibit any employee from having a direct or indirect interest in any entity that does business with Sweetwater Utilities Board.
2. T.C.A. § 8-35-124 provides that no state or local government employee shall receive a public retirement benefit if convicted of a felony arising out of the employee's employment, constituting a malfeasance (wrongdoing or misconduct) in office.

H. **Administration**

Administration of this policy is the responsibility of the Sweetwater Utilities Board. Any person with a question or concern about this policy or its interpretation shall seek guidance from his/her supervisor/manager or through the Human Resources Manager. Any person who knows of a potential violation shall report the information promptly to the Human Resources Manager. Reports of potential violations may be made through telephone, e-mail, or personal contact either directly or anonymously. When making an inquiry or report, sufficient detail should be provided to explain the nature of the inquiry or concern. Each allegation will be investigated to determine if a violation has occurred. The results of the investigation will be reported to the General Manager and Chairman of the Board.

I. **Discipline**


The penalties for violating this Policy shall include disciplinary action up to and including termination.

J. **Conclusion**

This policy does not cover, and is not intended to identify or delimit, all possible circumstances that could present a conflict of interest. Rather, it should be used as a guideline for employee behavior. Sweetwater Utilities Board expects its employees to exercise good judgment in their interactions with customers, vendors, suppliers or other parties doing business or seeking to do business with Sweetwater Utilities Board. Similarly, employees are expected to apply good judgment to any outside employment or activities that could or might reflect on Sweetwater Utilities Board. If questions or concerns arise, employees should discuss the matter with their supervisor, manager or Human Resources Manager.

Approved this 30<sup>th</sup> day of April, 2007.

  
Secretary of the Board

  
General Manager