

Subject Matter: Code of Ethics Ordinance
Date First Presented at Council Public Meeting: February 28, 2011
Date of Public Hearing Before Town Council: March 21, 2011
Date of Second Reading and Adoption: March 21, 2011

**TOWN OF SHARPSBURG
COUNTY OF COWETA
STATE OF GEORGIA**

ORDINANCE NUMBER

11-01

**TOWN OF SHARPSBURG, GEORGIA
PREAMBLE & FINDINGS**

WHEREAS, the Town of Sharpsburg (the "Town") desires to enact an ethics ordinance;

WHEREAS, the Town desires to establish an Ethics Board; and

WHEREFORE, the Town hereby adopts, ordains, and enacts the foregoing ethics ordinance as follows:

ARTICLE ONE

The Town hereby enacts and ordains the following ordinance establishing an ethics ordinance for the Town of Sharpsburg:

Sec. 2.1. Declaration of Policy.

The proper government and administration of the Town of Sharpsburg requires that its officials and employees be independent, impartial, and responsible; that governmental policies and decisions be made in the proper channels of the government structure; that public office and employment not be used for undue personal gain; and that the citizens of Sharpsburg have confidence in the integrity of their government.

Sec. 2.2. Definitions.

As used in this Chapter, the following terms shall have the respective meanings ascribed to them:

- (a) Agency: The Town Council, and all other Agencies, Authorities, Boards, Commissions, Committees, Departments, and Offices of Sharpsburg, without exception.
- (b) Business: A corporation, a partnership, a sole proprietor, or any other person or organization carrying on an enterprise for profit.
- (c) Business relationship: An agreement between parties designed to result in an enterprise for profit to those parties.
- (d) Censure: A public expression of severe criticism or reproach.
- (e) The Town: The Town of Sharpsburg.
- (f) The Code: The Code of Ethics of Sharpsburg, as provided at chapter 43 of the Town's Code of Ordinances.
- (g) Confidential information: Any information which by law or practice is not available to the general public.
- (h) Contract: Any lease, claim, account, or demand against or agreement with any person, whether express or implied, executed or executory, verbal or in writing.
- (i) Employee: Any person covered by the Sharpsburg Personnel Policy or under employment contract with the Town.
- (j) Employment: Any rendering of services on request, whether paid or unpaid.
- (k) Immediate family: Spouse and children.
- (l) Interest: Any direct or indirect pecuniary or material benefit accruing to a public officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or within the Town. This does not, however, include those contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

For the purposes of this Code, an official or employee shall be deemed to have an interest in the affairs of:

1. Any person in his or her immediate family.
2. Any person or business with whom a contractual relationship (either written or implied) exists, whereby he or she may receive a payment or other benefit, including an agreement for employment.

3. Any business in which he or she is an officer, director, employee, prospective employee, or substantial shareholder (owning or controlling in excess of five percent (5%) of the total stock or total legal and beneficial ownership).
- (m) Official: Any official, officer, or member of the government of Sharpsburg who is not an "employee" as defined herein, whether elected or appointed, whether paid or unpaid, whether permanent, temporary, or alternate.
 - (n) Official act or action: Any executive, legislative, administrative, appointive, or discretionary act of any official or employee of the Town or any agency thereof.
 - (o) Paid: The receipt of, or right to receive, a salary or commission, percentage, brokerage, or contingent fee.
 - (p) Participate: To take part in official acts, actions, or proceedings personally as an official or employee through approval, disapproval, decision, or the failure to act or perform a duty.
 - (q) Person: Any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid, including any official or employee.
 - (r) Property: Any property, whether real or personal, tangible or intangible, including currency and commercial paper.
 - (s) Transaction: The conduct of any activity that results in or may result in an official act or action of the Town.

Sec. 2.3. Impartiality.

No official or employee shall by his or her conduct give reasonable basis for the impression that any person improperly can influence such official or employee or unduly enjoy such officials or employee's favor in the performance of official acts or actions, or that such official or employee is affected unduly by kinship, rank, position, or association with any person.

Sec. 2.4. Gifts and Favors.

- (a) No official or employee shall directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for such officials or employee's self or another person. This section shall not apply in the case of:
 1. An occasional, nonpecuniary gift of insignificant value (less than \$200.00).
 2. An award publicly presented in recognition of public service.

3. A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this state to engage in the making of such a loan.
4. Group functions at which ten or more officials are invited to attend.
5. Merchant discounts generally provided to Town Employees with no expectation of favors or reciprocal benefits.
6. Customary gifts between family members.

(b) Nothing in this Code shall prohibit any official or employee from accepting a gift on behalf of the Town, provided that the person accepting the gift shall promptly report the receipt of such gift to the Town Council, which shall have the gift added to the inventory of the property of the Town.

Sec. 2.5. Campaign Contributions.

The provisions of this Code shall not apply to campaign contributions made to an official in compliance with the Georgia Campaign and Financial Disclosure Act.

Sec. 2.6. Confidential Information.

No official or employee shall disclose or otherwise use confidential information acquired by virtue of his or her position with the Town for his, her, or another's personal gain.

Sec. 2.7. Representation.

Except in the regular discharge of official duties, no official or employee shall appear on behalf of any person, other than himself and his or her immediate family, before any city agency. Neither shall any official or employee receive compensation for any services rendered on behalf of any person in relation to any case, proceeding or application before a city agency with respect to which such official or employee was directly concerned, or in which he or she has personally participated during the period of his or her service or employment, or which was under his or her active consideration or I with respect to which knowledge or information was made available to him or her during the period of said service or employment. However, a member of the Town Council may appear before city agencies on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.

Sec. 2.8. Incompatible Employment.

No official or employee shall engage in or accept employment with or render services for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

Sec. 2.9. Abstention.

An official or employee who has an interest that he or she has reason to believe may be affected by his or her official acts or actions or by the official acts or actions of the Town shall disclose that interest and shall abstain from participating in any such discussion, voting, or otherwise participating in any official acts or actions affected thereby. That interest shall be disclosed by such official or employee prior to there being taken any official act or actions.

Sec. 2.10. Public Contracts

No official or employee who, in his or her capacity as such official or employee, participates in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his part, shall enter into any contract with the Town unless the contract is awarded through a process of public notice and competitive bidding.

Sec. 2.11. Zoning.

All officials and employees are deemed subject to the provisions of the Official Code of Georgia Annotated and shall make the disclosures required therein, and shall be subject to the penalties therein stated. Any official required to make the disclosures set forth in Official Code of Georgia Annotated Section 36-67A-1 et seq. or as above shall be prohibited from participating in the zoning matter in which such official or employee has a direct or indirect interest. A violation of the aforesaid provisions of the Official Code of Georgia Annotated shall also constitute a violation of this chapter.

Sec. 2.12. Pre-acquisition of Interest

No official or employee with respect to any contract or transaction which is or may be the subject of an official act or action of the Town shall acquire an interest in such contract or transaction at a time when the official or employee has reason to believe that it will directly or indirectly be affected by an official act or action of the Town.

Sec. 2.13. Disclosure of Relationships.

- (a) Each party subject to this Code shall disclose to the Town Council, in writing within ten (10) days of the information being reasonably available to the party, the following information:
1. Any current business interests between or among any parties subject to this Code, with a description of said involvement.
 2. Any business interests between or among any parties subject to this Code which have been terminated within the past six (6) months, and
 3. Any business interests between or among any parties subject to this Code anticipated in the next six-month period.

- (b) Additionally, each party subject to this Code shall inform the Town Council, either orally or in writing, of any business relationship entered into with another party subject to this Code, within ten (10) days of such contractual or implied relationship.
- (c) Failure on the part of any party subject to this Code to comply with the provisions of this section shall be deemed to be a violation of this Code.

Sec. 2.14. Use of Town Property.

No official or employee shall use or permit the use of any city property, services, personnel, labor, or other thing of value for personal gain or for any purpose other than the official business of the Town. Any parties violating this provision shall be required to pay to the Town a sum equal to the value of the benefits received, and shall likewise be deemed to have violated the provisions of this chapter.

Sec. 2.15. Compliance with Applicable Laws

No official or employee shall engage in any activity or transaction that is prohibited by any law, now existing or subsequently enacted, which is applicable to him or her by virtue of his or her office.

Sec. 2.16. Ethics Board

(a) The Ethics Board shall consist of three (3) persons, one appointed by the Mayor, one appointed by a majority vote of the Town Council, and the presiding member appointed by the Mayor subject to approval by a majority of the Town Council. All members shall be residents of the Town of Sharpsburg and serve a two (2) year term.

(b) The presiding member shall be entitled to hire a licensed attorney (at Town expense upon approval of the Town), who has been a member of the State Bar of Georgia for at least five (5) years and does not reside or maintain an office in Coweta County or regularly represent Coweta County, Coweta County Board of Education, a municipal corporation located in Coweta County, or an agency or authority of the above governments, to assist the presiding member in the investigation of complaints and presenting evidence to the board.

Sec. 2.17. Complaints

(a) Any person who witnesses or becomes aware of a violation of this chapter may complain of that by filing a sworn written complaint with the presiding member of the Ethics Board. All written complaints to be considered by the Ethics Board shall contain the following if applicable:

- (1) The name and address of the person who filed the complaint (the "Complainant").
- (2) The sworn verification and signature of the Complainant.

- (3) The name and address of the party or parties against whom the complaint is filed, and if any such party is a candidate and the office being sought.
- (4) A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of the Code.
- (5) A general reference to the statutory provision(s) of the Code allegedly violated.
- (6) Any further information which might support the allegations in the complaint.

(b) Defective Complaint. Upon receipt of a complaint which does not conform to the applicable requirements of paragraph (a) of this section, the presiding member shall be letter acknowledge receipt of the complaint and advise the Complainant of the defect and that the complaint will not be considered by the ethics board unless the defect is corrected.

(c) Preliminary Action on Complaint. Upon receipt of a complaint, the presiding member shall send a copy of the complaint to the official or employee ("Respondent") who is the subject of the complaint affording an opportunity to respond to the complaint in writing within fourteen (14) days. Responses to the complaint or other documents submitted by the complainant after the fourteen day period may be disregarded by the presiding member during the preliminary investigation.

(d) Preliminary Investigation of Complaint. The presiding member, with the assistance of the Hearing Officer, shall conduct a preliminary investigation of any non-defective complaint and provide a written report to the ethics board discussing the findings and recommend to the ethics board whether there is probable cause for belief that there is a violation of the Code warranting a formal hearing.

(e) To discourage the filing of ethics complaints solely for political purposes, the board will not accept a complaint against a person seeking election as mayor or city council member, or against a sitting mayor or city council member whose position as mayor or council member is open to be filled in the next election, during the one hundred eighty (180) day period prior to the date of said next election.

Sec. 2.18. Hearings.

(a) Upon the finding of probable cause for a formal hearing, a hearing shall be held within sixty (60) days. The presiding member shall give notice to the Complainant and the Respondent to attend the hearing to determine whether or not there has been a violation of the Code of Ethics. Failure of the Respondent to appear and proceed in an efficient and orderly manner, without good cause, shall be deemed to constitute voluntary acceptance of the recommendation of the Board, which shall then be forwarded to the Town Council for final action, without further input from the Respondent. Failure of the Complainant to appear and proceed in an efficient and orderly manner, without good cause, shall cause the complaint to be dismissed.

(b) To assist the board in the conduct of a hearing, the presiding member may retain the service of a hearing officer (at Town expense upon approval of the Town), who meets the qualifications of Sec. 2.16.

(c) For use in proceedings under this Code, the Hearing Officer shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence, to the extent allowed by Georgia law or the Town Charter.

(d) The hearing shall not be conducted according to rules of evidence. Any relevant evidence, including hearsay, shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The Hearing Officer shall control the order of the hearing, the handling of witnesses, presentation of evidence and rule on any disputes involving the hearing.

(e) All hearings of the board pursuant to this section shall be as follows:

(1) All testimony shall be under oath, which shall be administered by the Hearing Officer.

(2) At the hearing, each party shall be limited to calling no more than five (5) witnesses for direct testimony in each party's case-in-chief.

(3) At the hearing, each party shall be allowed no more than fifteen (15) minutes for an opening statement to the ethics board.

(4) At the hearing, each party may make a verbal closing statement of no more than fifteen (15) minutes.

(5) The board's decision shall be governed by a preponderance of the evidence standard.

(6) At the conclusion of the hearing, the ethics board shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of the Code. If the ethics board finds that there is a violation of the Code, the ethics board may recommend that the Town Council censure or reprimand the official. The findings of the board concerning a violation and the record of the proceedings shall be made public by the board as soon as practicable after the determination has been made.

(7) The ethics board shall forward its recommendation to the Town Council within five (5) business days of its decision for the Town Council's action.

Sec. 2.19. Town Council Action

The Town Council shall meet within thirty (30) days of receipt of the Ethics Board's recommendation to decide whether to accept or reject the recommendation.

ARTICLE THREE

This Ordinance shall become immediately effective upon its second reading and adoption by the Town Council.

ARTICLE FOUR

The Preamble of this Ordinance shall be construed to be, and is hereby incorporated by reference as if fully set out herein.

ARTICLE FIVE

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, sentence, paragraph, or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such an illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

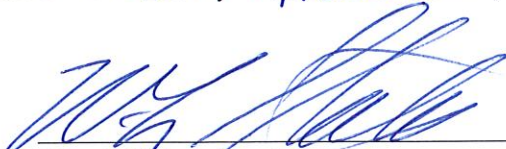
ARTICLE SIX

This Ordinance shall be codified at the previously reserved Chapter 2 of the Town of Sharpsburg's Code of Ordinances and shall be entitled "Ethics Code".


ARTICLE SEVEN

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

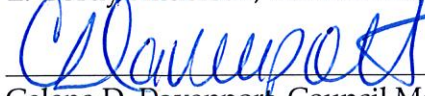
APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF SHARPSBURG,
at a regular meeting of the Mayor and Council on the 21st day of March, 2011, by the following voting for adoption:




Wendell L. Staley, Mayor



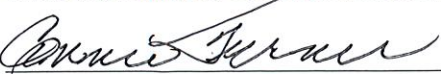
L. Gordy Anderson, Council Member



Celene D. Davenport, Council Member



D. Keith Rhodes, Council Member



Connie F. Turner, Council Member

Attest:


Donna M. Camp, Town Clerk