

## TITLE 6

### LAW ENFORCEMENT<sup>1</sup>

#### CHAPTER

1. LAW ENFORCEMENT DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.
4. SPECIAL POLICE OFFICERS.

#### CHAPTER 1

### LAW ENFORCEMENT DEPARTMENT

#### SECTION

- 6-101. Office established; functions.
- 6-102. Administration.
- 6-103. Police officer subject to chief's order, etc.
- 6-104. Police officer to preserve law and order, etc.
- 6-105. Police department records.

**6-101. Office established; functions.** There is created and established a law enforcement department (Smyrna Police Department) which shall provide comprehensive law enforcement for the Town of Smyrna. (1991 Code, § 6-101)

**6-102. Administration.** The law enforcement department shall be supervised and administered by the chief of police, who shall report directly to the town manager. The chief of police shall be appointed for an indefinite term and may be removed at any time according to the provisions of the Town of Smyrna Employee Handbook. (1991 Code, § 6-102, modified)

**6-103. Police officer subject to chief's order, etc.** All police officers shall obey and comply with such orders and administrative rules and regulations (i.e. Standard Operating Procedures, SOP) as the police chief may officially issue. (1991 Code, § 6-103)

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<sup>1</sup>Municipal code references

Emergency vehicles: title 15, chapter 2

Motor vehicles, traffic and parking: title 15.

Municipal offenses: title 11.

Project assistance board: title 2, chapter 4.

**6-104. Police officer to preserve law and order, etc.** All police officers shall patrol the town and preserve law and order within the town, and serve legal process issued by the town court. (1991 Code, § 6-104, modified)

**6-105. Police department records.** The police department shall keep a comprehensive and detailed daily record, in permanent form, showing a minimum:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by a police officer.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department.

(4) Any other records required to be kept by the town council or by law. The police chief shall be responsible for insuring that the police department complies with this section. (1991 Code, § 6-105)

## CHAPTER 2

ARREST PROCEDURES

## SECTION

6-201. When police officer to make arrests.

6-202. Disposition of persons arrested.

**6-201. When police officer to make arrests.**<sup>1</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person may be made by a police officer in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or the person threatens a breach of the peace in the officer's presence.

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it. (1991 Code, § 6-201)

**6-202. Disposition of persons arrested.** (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, may be brought before the town court magistrate. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person may be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court, which has jurisdiction over the offender. (1991 Code, § 6-203, modified)

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<sup>1</sup>Municipal code reference

Deposit of driver's license in lieu of bail in traffic cases: § 15-706.

## CHAPTER 3

### CITATIONS, WARRANTS, AND SUMMONSES

#### SECTION

6-301. Citations in lieu of arrest in traffic cases.

6-302. Summonses in lieu of arrest.

**6-301. Citations in lieu of arrest in traffic cases.**<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the town manager appoints the fire chief in the fire department and the building official in the building codes department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The building official in the building department shall have the authority to issue citations in lieu of arrest for violations of the building utility and housing codes adopted in titles 11, 12, 13, 14, and 17 of this municipal code of ordinances. The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed may immediately arrest the offender and proceed in accordance with Tennessee Code Annotated, § 7-63-104. It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (1991 Code, § 6-301)

**6-302. Summonses in lieu of arrest.**<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the mayor and town council to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the council designates the building official in the building codes department and the animal warden in the police department to issue ordinance summonses in those areas (town has the right to enter into an inter-local governmental agreement with any governmental agency for this service). These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give a copy of

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<sup>1</sup>Municipal code reference

Deposit of driver's license in lieu of bail in traffic cases: § 15-706.

the summons to the offender. The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (1) Have a summons issued by the clerk of the town court, or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer that witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above. It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (1991 Code, § 6-302, modified)

## CHAPTER 4

### SPECIAL POLICE OFFICERS

#### SECTION

- 6-401. Definitions.
- 6-402. Authority to establish additional regulations.
- 6-403. Authorization required to carry weapon.
- 6-404. Application for commission.
- 6-405. Investigation of applicant for commission.
- 6-406. Prior commissions.
- 6-407. Conditions of commissions.
- 6-408. Bond.
- 6-409. Oath
- 6-410. Powers
- 6-411. Identification.
- 6-412. Report of use of weapon.
- 6-413. Conduct.

**6-401. Definitions.** When used in this chapter, the term "special police officer" means any person commissioned by the chief of police to enforce the non-traffic related codes and ordinances of the Town of Smyrna, or any portion thereof. (Ord. #04-41, Nov. 2004, modified)

**6-402. Authority to establish additional regulations.** The chief of police has the authority to establish and enforce reasonable rules and regulations for the operation of special police officers in the interest of public safety, morals and welfare, and to effectuate the general purpose of this chapter. (Ord. #04-41, Nov. 2004)

**6-403. Authorization required to carry weapon.** No special police officer may carry a firearm in the execution of his official duties unless such special police officer is also a certified police officer pursuant to Tennessee Code Annotated, § 38-8-107 who has been issued a written directive by the executive supervisor of the organization to which the person is or was attached or employed as contemplated in Tennessee Code Annotated, § 39-17-1315(a)(1), or such special police officer is in possession of a valid handgun carry permit under Tennessee Code Annotated, § 39-17-1351 and is so authorized by separate written directive of the chief of police. Any special police officer designated to carry firearms shall be required to undergo the same training in proper use of firearms as required of sworn, uniformed police officers of the Town of Smyrna, and shall not carry firearms in a manner or place which is prohibited by law. Special police officers may carry other weapons only as specifically authorized by the chief of police. No special police officer is authorized to carry a weapon

of any type if possession of such weapon is prohibited by the terms of 16 U.S.C. § 922. (Ord. #04-41, Nov. 2004, modified)

**6-404. Application for commission.** Applications for commissions under this chapter shall be made upon forms prepared and made available by the chief of police and shall state:

- (1) The full name, age, residence, and present and previous occupations of the applicant;
- (2) Whether the applicant is a legal resident of the United States;
- (3) A specific description of the location of the principal site of applicant's employment, or where the commission will be used;
- (4) The number of years of experience the applicant has had as a special police officer or in a related field;
- (5) The length of time the applicant has been a bona fide resident of the state immediately preceding the filing of the application;
- (6) The length of time the applicant has been a bona fide resident of the town immediately preceding the filing of the application;
- (7) A recent photograph of the applicant and a full set of fingerprints; and
- (8) Proof of the applicant's good character.

The application shall contain such other information as the chief of police shall find reasonably necessary to effectuate the general purpose of this chapter and to make a fair determination of whether the terms of this chapter have been complied with. (Ord. #04-41, Nov. 2004, modified)

**6-405. Investigation of applicant for commission.** After receipt of the information required by § 6-404 of this chapter, the chief of police shall cause an investigation to be made of the applicant to determine the applicant's good character and qualifications for the commission. (Ord. #04-41, Nov. 2004)

**6-406. Prior commissions.** Any commission as a special police officer issued by the chief of police prior to the effective date of this chapter shall expire as of December 31, 2004. Notwithstanding the foregoing, however, nothing in this chapter shall be construed as altering, amending or repealing the provisions of chapter 3 of this title. (Ord. #04-41, Nov. 2004)

**6-407. Conditions of commissions.** The following conditions shall apply to all commissions:

- (1) No special police officer appointed under this chapter shall perform duties as special police officer other than those for which he is appointed.
- (2) Commissions issued under this chapter are to be issued in the sole discretion of the chief of police, and shall be subject to revocation or suspension by the chief of police, in his or her discretion.

(3) The color and design of all uniforms shall be as approved by the chief of police and may be different from that of the regular town police. Authorization to wear clothing other than the designated uniform while serving the town shall be granted only by the chief of police and must be in writing. Unless specifically designated by the chief of police in writing, non-employees of the Town of Smyrna shall not wear any uniform or other indicia of employment or agency with the Town of Smyrna or the Smyrna Police Department.

(4) Commissions issued under this chapter shall not be transferrable.

(5) Any special police officer commission issued pursuant to an applicant's employment with the Town of Smyrna or any other governmental entity shall be revoked in the event such special police officer's employment with the Town of Smyrna or said other governmental entity ends.

(6) This chapter shall not create any additional due process rights for employees of the Town of Smyrna. (Ord. #04-41, Nov. 2004, modified)

**6-408. Bond.** All special police officers not employed by the Town of Smyrna shall be required to give the following bond in the penal sum of ten thousand dollars (\$10,000.00):

State of Tennessee  
County of Rutherford  
Town of Smyrna

Know all men by these presents: That we, \_\_\_\_\_, as principal, and \_\_\_\_\_ as his/her surety, are held and firmly bound unto the Town of Smyrna, Rutherford County, Tennessee in the penal sum of ten thousand and no/100 dollars (\$10,000.00), for the payment whereof well and truly to be made, we bind ourselves respectively and our respective heirs.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The condition of the above bond is such that whereas the above principal has been duly appointed by the chief of police of the Town of Smyrna to be a special police officer during pleasure of said chief of police.

Now if said principal shall well and duly and faithfully perform and fulfill, according to law, all and singular the duties of said office for the said term, then said bond is null and void; otherwise it is to remain in full force and effect.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety  
(Ord. #04-41, Nov. 2004)



**6-409. Oath.** All special officers shall be required to take the following oath:

State of Tennessee  
County of Rutherford  
Town of Smyrna

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Tennessee, and the laws and ordinances of the Town of Smyrna, Rutherford County and the State of Tennessee, and that I will faithfully demean myself while in the office of special police officer.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Ord. #04-41, Nov. 2004)

**6-410. Powers.** Special police officers appointed under the provisions of this chapter shall have the same power and authority to issue citations for violations of and otherwise enforce the codes and ordinances of the Town of Smyrna as regular police officers of the town, but not otherwise. In his or her discretion, the chief of police may limit the authority of any special police officer to enforcement of only certain sections of the codes and ordinances of the Town of Smyrna. No special police officer shall have the power or authority to make arrests except as may be authorized by Tennessee Code Annotated, § 40-7-109 or use force in the discharge of said special police officer's duties except as may be authorized by Tennessee Code Annotated, § 39-11-621. (Ord. #04-41, Nov. 2004)

**6-411. Identification.** Each special police officer appointed by the chief of police shall carry identification which clearly indicates that the appointee is a special police officer, include as a part thereof a picture which shall be no more than one (1) year old, indicate whether the appointee may carry a weapon and under what conditions, and indicate the restrictions of the commission, if any. (Ord. #04-41, Nov. 2004, modified)

**6-412. Report of use of weapon.** All special police officers shall make a full written report to the chief of police any time they use a weapon in the discharge of their duties, immediately after the incident. (Ord. #04-41, Nov. 2004)

**6-413. Conduct.** Special police officers shall conduct themselves at all times in such a manner as to reflect favorably the Town of Smyrna and the Smyrna Police Department. (Ord. #04-41, Nov. 2004)