

Agenda

Board of Commissioners of Spalding County Work Session October 19, 2020 3:00 PM

I. OPENING (CALL TO ORDER)

PLEASE SILENCE YOUR CELL PHONES AND ALL OTHER ELECTRONIC DEVICES.

II. INVOCATION

III. PLEDGE TO FLAG

IV. AGENDA ITEMS

1. Discuss changes to the current Ethics Ordinance.

V. ADJOURNMENT



SPALDING COUNTY BOARD OF COMMISSIONERS Ethics Ordinance

Requesting Agency

County Clerk

Requested Action

Discuss changes to the current Ethics Ordinance.

Requirement for Board Action

Is this Item Goal Related?

Summary and Background

Fiscal Impact / Funding Source

STAFF RECOMMENDATION**ATTACHMENTS:**

Description	Upload Date	Type
<input type="checkbox"/> Spalding County Code - Code of Ethics	10/12/2020	Backup Material
<input type="checkbox"/> 2020-8-25 Email from William Wilson	10/12/2020	Backup Material
<input type="checkbox"/> Baldwin County Ethics Ordinance	10/12/2020	Backup Material
<input type="checkbox"/> Barrow County Ethics Ordinance	10/12/2020	Backup Material
<input type="checkbox"/> Butts County Code of Conduct	10/12/2020	Backup Material
<input type="checkbox"/> Cobb County Code of Ethics	10/12/2020	Backup Material
<input type="checkbox"/> Columbia County Code of Ethics	10/12/2020	Backup Material
<input type="checkbox"/> Fayette County Ethical Standards	10/12/2020	Backup Material
<input type="checkbox"/> City of Odessa, TX Code of Ethics - Draft	10/12/2020	Backup Material
<input type="checkbox"/> Newton County Code of Ethics	10/12/2020	Backup Material
<input type="checkbox"/> Pike County - Code of Ethics	10/12/2020	Backup Material
<input type="checkbox"/> Stewart County Code of Ethics	10/12/2020	Backup Material

CHAPTER 12. - CODE OF ETHICS

*Footnotes:**--- (8) ---*

Editor's note— Ord. No. 2013-02, adopted Mar. 4, 2013, repealed former Ch. 12, which was inadvertently numbered as §§ 2-1201—2-1204, and enacted a new Ch. 12, which sections have been numbered to reflect the style of the Code. The former chapter pertained to similar subject matter and derived from Ord. No. 2010-04, 11-1-10.

Sec. 2-12001. - Purpose and intent.

The purpose of this Code of Ethics is to establish ethical standards of conduct for all covered officials of Spalding County by identifying acts or actions that are incompatible with the best interests of the community and the organization and by requiring disclosure by such covered officials of private financial, or other interests, in matters affecting the county.

Those covered officials are bound to observe in their official acts the highest standards of behavior and to faithfully discharge the duties and responsibilities of their office, regardless of personal considerations, recognizing that public interest must be their primary concern.

Covered officials shall not exceed their authority or breach the law or ask others to do so. They shall work in full cooperation with other public officials and unless prohibited from so doing by law or by the officially recognized confidentiality of their work.

(Ord. No. 2013-02, 3-4-13)

Sec. 2-12002. - Definitions.

The following words, terms and phrases, when used in the Code of Ethics of Spalding County, shall have the meanings ascribed to them in this section:

- (1) *Code of Ethics* means the Code of Ethics of Spalding County.
- (2) *County* means Spalding County, Georgia.
- (3) *Covered official* means any member of the Board of Commissioners of Spalding County and any person who has been appointed to a position by the Board of Commissioners of Spalding County including, but not limited to, the county manager, the county clerk, and any member of the planning commission, the zoning board of appeals, or any other appointed board. The county attorney is subject to the ethical considerations and disciplinary rules enacted by the State Bar of Georgia, and is also considered a covered official insofar as the application of this chapter. However, enforcement shall be through the procedures as established by the State Bar of Georgia.
- (4) *Gift* means the transfer of anything of economic value, regardless of form, without

adequate and lawful consideration. *Gift* also means a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred.

- (5) *Immediate family* means parents, spouse, siblings, children, stepchildren, mothers-in-law, fathers-in-law, sisters-in-law, brothers-in-law, grandparents and aunts or uncles by blood or marriage.
- (6) *Official acts* means acts taken in the course of a member of the board of commissioners capacity as an elected member of the Board of Commissioners of Spalding County. Any act taken in performance of the duties of such a commissioner shall be deemed an official act.
- (7) *Review board* means the five (5) citizens of Spalding County who are chosen to conduct a public hearing based upon the complaint of unethical conduct by a commissioner. Their purpose is to make a factual determination whether or not a violation of the ethics ordinance has occurred. A quorum for the review board shall consist of three (3) members.

(Ord. No. 2013-02, 3-4-13)

Sec. 2-12003. - Text of ethical considerations.

Notwithstanding any provisions of law to the contrary, each covered official of Spalding County shall:

- (1) Uphold the Constitution, laws and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, or allow any member of his/her immediate family to engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his/her governmental duties;
- (4) Never use any information coming to him/her confidentially in the performance of governmental duties as a means for making private profit;
- (5) Expose corruption wherever discovered;
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation for himself/herself, or any member of his/her immediate family, under circumstances from which it could reasonably be inferred that purpose of the donor is to influence the performance of the official's official duties. For gifts, loans, gratuities, discounts, favors, hospitality, or services solicited, accepted or agreed to accept under circumstances from which it

cannot be reasonably inferred that a purpose of the donor was to influence the performance of the official's official duties, the following rules shall apply: A covered official shall publically disclose, prior to discussing or taking any official action or any matter involving the donor, any gift or campaign contribution (cash or in kind) received by him/her, or any member of his/her immediate family, greater than one hundred dollars (\$100.00). (Receipt of gifts and campaign contributions valued at five hundred dollars (\$500.00) or more by a covered official, or member of his/her immediate family, will prohibit the covered official from participating in or taking official action on any matter involving the donor);

- (7) Never accept any economic opportunity for himself/herself, or any member of his/her immediate family, under circumstances where he/she knows or should know that there is a substantial possibility that the opportunity is being afforded with intent to influence his/her conduct in the performance of his/her official duties. All business relationships, regardless of the dollar amount involved, between a covered official, or a member of his/her immediate family, with anyone having business with the county shall be publicly disclosed prior to any discussion or official action being taken on the matter. Should the business relationship provide a covered official, or a member of his/her immediate family, with at least five hundred dollars (\$500.00) on an annual basis, such covered official shall be prohibited from participating or taking official action on any matter involving the person with whom such business relationship exists;
- (8) Shall promptly pay when due all ad valorem taxes due to the City of Griffin, Spalding County and the Griffin Spalding County School System; and
- (9) Shall promptly file any disclosure required by the State of Georgia for public officials as well as pay any fees or penalties which may be assessed by the State of Georgia within ninety (90) days of receiving official notice from the State of Georgia of such fees or penalties.
- (10) Each covered official shall take an oath of office and shall covenant and agree to adhere to the provisions of this ethics ordinance.

(Ord. No. 2013-02, 3-4-13)

Sec. 2-12004. - Procedure for alleged violations.

- (a) Any alleged violations of this Code of Ethics must be submitted by a written, sworn complaint to the Clerk of the Board of Commissioners of Spalding County. Consistent with the open meetings laws, the board of commissioners shall review all complaints against covered officials, except those complaints filed against a member of the board of commissioners. Three (3) members of the board of commissioners must agree that a sufficient basis has been given to warrant a public hearing.

The board of commissioners shall conduct the public hearing to determine whether, based upon clear and convincing evidence, the covered official has violated the Code of Ethics. Covered officials are subject to the following penalties and actions for violations of this Code of Ethics:

- (1) Written reprimand or public censure, which shall be printed in the Griffin Daily News and posted in the courthouse as well as the courthouse annex;
 - (2) In the event a covered official is not an elected official, then and in such event, such covered official may be removed from office for good cause shown. In the event the covered official desires to have a hearing on the matter, a hearing shall be afforded to the covered official, if requested, within ten (10) days of the board of commissioners giving the covered official notice of its intent to remove him from his/her position;
 - (3) In the event the covered official is a member of the board of commissioners, then he or she may be fined in an amount not to exceed one thousand dollars (\$1,000.00) in addition to a written reprimand and/or public censure as provided in paragraph (1) above;
- (b) If a complaint is received by the clerk of the board of commissioners which alleges a prima facie violation of the Code of Ethics by a member of the board of commissioners, then and in such event, the remaining commissioners shall review the allegations, and in the event that three (3) commissioners agree that a prima facie violation of the ethics ordinance is presented, then an independent review board shall be convened. The review board will be comprised of citizens of Spalding County who have been nominated by a county commissioner to serve on the review board. The procedure for establishing a review board shall be as follows:
- (1) Each commissioner, at the beginning of his/her term, shall appoint three (3) citizens who are Spalding County residents and are registered to vote in Spalding County to be placed in a pool of citizens to serve as a review board.
 - (2) In the event a review board needs to be convened, then and in such event, one (1) member of the review board shall be drawn from the three (3) citizens appointed by each commissioner. The first name chosen will be a member of the review board and a second citizen drawn from the remaining two (2) names shall serve as an alternate in the event that the first person chosen is unable or unwilling to serve. The county clerk shall draw such names and such drawing shall take place in open session. The five (5) people so chosen shall constitute the review board. Three (3) of those chosen shall constitute a quorum.
 - (3) The citizens so appointed shall serve during the term of the commissioner who appointed them. At the expiration of his/her term or at such time as he is no longer a commissioner, they shall cease to serve as that commissioner's appointees. The

appointing commissioner may discharge his/her appointees at any time and name other persons to serve in their place.

- (c) The review board will conduct a public hearing based upon the complaint. A majority vote of the review board members present shall determine whether or not a violation of the ethics ordinance has occurred. Upon reaching their decision, the review board shall submit to the county clerk their written findings whether or not a violation of this ordinance has occurred. Upon the filing of said report, the review board shall have completed its duties under this ordinance and shall be discharged from service.

Any person who is aggrieved by the findings of the review panel shall have the right to seek a writ of certiorari to the Superior Court of Spalding County, Georgia.

In the event a violation of the ethics ordinance is determined by the review board to have occurred, then and in such event, a majority of the board of commissioners shall set a penalty as set out above.

(Ord. No. 2013-02, 3-4-13)

From: [William Wilson Jr.](#)
To: [Bart Miller](#); [Don Hawbaker](#); [Gwen Flowers-taylor](#); [James Dutton](#); [Rita Johnson](#)
Cc: [Jim Fortune](#); ["Stephanie Winhdham"](#); [Michelle Irizarry](#); [Kathy Gibson](#); [William Wilson Jr.](#); [Miles Neville](#); [Rachel Conort](#); [Newton Galloway](#); [Jinna Garrison](#)
Subject: Sample Ethics Ordinances
Date: Tuesday, August 25, 2020 6:00:53 PM
Attachments: [Cobb County, GA Code of Ordinances - Ethics - Copy.pdf](#)
[ColumbiaCountyCode of Ethics - Copy.pdf](#)
[DRAFT #1 EthicsOrdinance-OdessaTX.pdf](#)
[FayetteCountyEthicsOrdinance.pdf](#)
[NewtonCounty - Revised March 17, 2017 - Copy.pdf](#)
[PikeCountyCode of Ethics.pdf](#)
[StewartCountyCodeofEthics.pdf](#)
[09-19 New Paulding Ethics Ordinance.pdf](#)
[BaldwinCounty - Copy.pdf](#)
[BarrowCounty - Copy.pdf](#)
[ButtsCountyCodeofEthics.pdf](#)
[Minutes 2018 10 15 Meeting\(280\).pdf](#)
[image001.png](#)

Commissioners,

The current ethics ordinance was first brought before the BOC at their October 1, 2018 meeting. Below is an excerpt from the October 1, 2018 Regular meeting concerning establishing a date for a work session to discuss possible changes for the Ethics Ordinance:

"12. Set a date for a work session to discuss possible changes to ethics ordinance and establish a methodology for the process.

Mr. Wilson advised that staff had sent out requests through the County Managers and County Clerks list serve. We have approximately 9 sample ordinances from other cities and counties in the State for you to review. There has been a lot of discussion on the process. Staff wanted to get clarification on how the Board would like to proceed on this. There are several commissioners who want to get the public involved, there are some who may have differences of opinion on that, but we have that information available. How would you like for us to proceed with preparing any changes to the Ethics Ordinance?

Chairman Ray advised that he and Commissioner Miller would like to have people that served on the last ethics board as part of this process because they had experience and saw some issues with the process they wanted to address. He would like to invite them back and get their input to make the process easy and functional for those who are hearing the case.

Commissioner Miller would like it to be put on the website with an avenue to get input from the public.

Commissioner Flowers-Taylor feels it is important to have the Board's input and as they have not discussed it, that is a problem. If we have areas of concern about the Ordinance, then those are the things that need to be addressed. There is no sense in us looking at somebody else's ordinance when we have an ordinance that needs stuff fixed in it. We created the ordinance based on somebody else's ordinance. There needs to be an opportunity for us as a board to be able to say I didn't like how this worked or I didn't think this was the appropriate person to do something or it should be plainly stated as to what is a violation.

Consensus of the Board is to hold a workshop on October 15th at 3:00 pm. to get input from the Board on their recommendations regarding the Ethics Ordinance.

Mr. Wilson will send the Board a clean copy of the existing ordinance and asked that they be ready discuss specific portions of that ordinance.”

The Board held a work session on October 15th and attached is a copy of the minutes from that meeting as well.

On October 30, 2018 the County Attorney drafted a totally new Chapter 12 CODE OF CONDUCT and it was distributed to the BOC for comments along with a memo from me detailing the cost of the ethics hearing that was requested by Commissioner Hawbaker.

On December 12, 2018 Chairman Ray asked Kathy to distribute a copy of a Code of Conduct from the City of Odessa Texas for review and comment. At this point there began a flurry of emails between the Commissioners and Chairman Ray and staff regarding the Odessa Ordinance. Amidst those flurry of emails a suggestion was made to discuss ethics ordinance changes at the 2019 retreat with the new Board member present.

I have reviewed the agenda for the January 26, 2019 Retreat and the subject of an ethics ordinance was not a part of the agenda or even a point of discussion. I also reviewed the agenda for the January 25, 2020 Retreat and the subject of an ethics ordinance was not a part of the agenda or a point of discussion at that meeting as well.

Please review all of the attached and advise of how you would like to proceed for the October 19th Special Called Meeting at 3:00 PM to discuss changes to our current ethics ordinance.

Please reply to all with any comments of concerns and as always should you have any questions staff is here to assist.

Thanks,

Wm

William P. Wilson, Jr.
County Manager
Spalding County, GA
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We often take for granted the very things that most deserve our gratitude.

ETHICS ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, COUNTY OF BALDWIN, GEORGIA TO PROVIDE A NEW CODE OF ETHICAL STANDARDS; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of Baldwin County, Georgia is authorized by the laws of the State of Georgia to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the duly elected governing authority of Baldwin County, Georgia is its Board of Commissioners; and

WHEREAS, the governing authority deems it essential to the proper operation of democratic government that the public officials be independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; and that public office not be used for personal gain; and

WHEREAS such measures are necessary to provide the public with confidence in the integrity of its government.

NOW THEREFORE it is the policy of the county government that its officials, employees, appointees, and volunteers conducting official county business:

- Serve others and not themselves;
- Be independent, impartial and responsible;
- Use resources with efficiency and economy;
- Treat all people fairly;
- Use the power of their position for the well being of their constituents; and

Create an environment of honesty, openness and integrity.

NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED:

That the Code of Ordinances of Baldwin County, Georgia is hereby amended by adding sections to be numbered 2-191 through 2-200, Code of Ethics, which said sections read as follows:

Section 2-191 PURPOSE

The purpose of this code of ethics is to:

- (a) Encourage high ethical standards in official conduct by county officials;
- (b) Establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the interest of the county;
- (c) Require disclosure by such officials of private financial or other interest in matters affecting the county; and
- (d) Serve as a basis for disciplining those who refuse to abide by its terms.

Section 2-192 SCOPE

The provisions of this code of ethics shall be applicable to all elected or appointed county officials.

Notwithstanding anything herein to the contrary, state law shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This ordinance shall be interpreted to supplement, and not replace, said provisions of state law.

Section 2-193 DEFINITIONS

Solely for the purpose of this code of ethics:

- (a) *County official* or *official*, unless otherwise expressly defined does not include county employees but does mean the members of the county commission, county manager, county clerk, county attorney, and all other persons holding positions designated by the county code of ordinances, as amended. The term “county official” also includes all individuals, including county employees, appointed by the board of commissioners as appropriate to county authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the board of commissioners.
- (b) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the board of commissioners, as well as the discussions or deliberations of the board of commissioners, which can or may lead to a vote or formal action by that body.
- (c) *Employee* means any person who is a full-time or part-time employee of the county.
- (d) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter of any county official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.
- (e) *Incidental interest* means an interest in a person, entity or property which is not a substantial interest as defined herein and which has insignificant value.
- (f) *Remote interest* means an interest of a person or entity, including a county

official, which would be affected in the same way as the general public. For example, the interest of an official in the property tax rate, general county fees, county utility charges or a comprehensive land use ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.

- (g) *Substantial interest* means an interest, either directly or through a member of the immediate family, in another person or entity, where:
- (1) the interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity; or
 - (2) the funds received by the person from the other person or entity during the previous 12 months either equal or exceed (a) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services, or (b) ten percent of the recipient's gross income during that period, whichever is less;
 - (3) the person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the board of commissioners; or
 - (4) the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

Section 2-194 PROHIBITIONS

- (a) No county official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the county.
- (b) No county official, in any matter before the commission or other county body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable.
- (c) No county official shall act as an agent or attorney for another in any matter before the board of commissioners or other county body.
- (d) No county official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
- (e) No county official shall enter into any contract with, or have any interest in,

either directly or indirectly, the county except as authorized by state law.

- (i) This prohibition shall not be applicable to the professional activities of the county attorney in his or her work as an independent contractor and legal advisor on behalf of the county.
 - (ii) This prohibition shall not be applicable to an otherwise valid employment contract between the county and a county official who is not elected (such as, by way of example, a county manager or county administrator).
 - (iii) Any official who has a proprietary interest in an agency doing business with the county shall make that interest known in writing to the board of commissioners and the county clerk.
- (f) All public funds shall be used for the general welfare of the people and not for personal economic gain.
 - (g) Public property shall be disposed of in accordance with state law.
 - (h) No county official shall solicit or accept other employment to be performed, or compensation to be received, while still a county official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of county duties.
 - (i) If a county official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the board of commissioners and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
 - (j) No county official shall use county facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
 - (k) No county official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
 - (l) A county official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.
 - (m) A county official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family,
-

or those with whom the official has business or financial ties amounting to a substantial interest.

- (n) A county official shall not order any goods and services for the county without prior official authorization for such an expenditure. No county official shall attempt to obligate the county nor give the impression of obligating the county without proper prior authorization.
- (o) No county official shall draw travel funds or per diem from the county for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the county therefore.
- (p) No county official shall attempt to unduly influence the outcome of a case before the Superior, State or Magistrate Court nor shall any county official engage in ex parte communication with a Superior, State or Magistrate Judge on any matter pending before said Court.
- (q) No county official shall violate any laws of the United States, the State of Georgia or Baldwin County, Georgia other than a traffic offense.

Section 2-195 CONFLICT OF INTEREST

- (a) A county official may not participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.
- (b) A county official who serves as a corporate officer or member of the board of directors of a nonprofit entity must disclose their interest in said entity to the board of commissioners prior to participating in a vote or decision regarding funding of the entity by or through the county.
- (c) Where the interest of a county official in the subject matter of a vote or decision is remote or incidental, the county official may participate in the vote or decision and need not disclose the interest.

Section 2-196 TRIER OF FACT

- (a) A Hearing Officer shall hear and render decisions on all properly verified complaints filed under this ordinance. The Hearing Officer shall be an individual selected by the Dean of Mercer Law School. The Hearing Officer shall be a person of high ethical and moral character and must be skilled in the conduct of hearings. Upon the receipt of a properly verified complaint, the Chair of the County Commission shall contact the Dean of Mercer Law School and request the appointment of a Hearing Officer by the Dean.
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Section 2-197 RECEIPT OF COMPLAINTS

- (a) All complaints against county officials shall be filed with the county clerk. Upon receipt of a complaint in proper form, the county court clerk shall forward a copy of the complaint to the county official or officials charged in the complaint within no more than seven (7) calendar days.
- (b) All complaints shall be submitted and signed under oath, shall be legibly drawn and shall clearly address matters within the scope of this ordinance.
- (c) Upon receipt of a complaint in proper form, the Hearing Officer shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the County. The Hearing Officer is empowered to dismiss in writing complaints that it determines are unjustified, frivolous, patently unfounded or fail to state facts sufficient to invoke the disciplinary jurisdiction of the County; provided, however, that a rejection of such complaint by the Hearing Officer shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the county official. For complaints that are not dismissed, the Hearing Officer is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigations to the file containing such complaint.
- (d) Upon completion of its investigation of a complaint, the Hearing Officer is empowered to dismiss in writing those complaints which it determines are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the County; provided, however, that a rejection of such complaint by the Hearing Officer shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the county official.
- (e) The Hearing Officer is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.
- (f) The Hearing Officer is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the board of commissioners has not prescribed such forms.

Section 2-198 SERVICE OF COMPLAINT

The county clerk shall cause the complaint to be served on the county official charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery. A hearing shall be held within sixty (60) calendar

days after filing of the complaint. The Hearing Officer shall conduct hearings in accordance with the procedures and regulations it establishes but, in all circumstances, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The decision of the Hearing Officer shall be rendered within seven (7) calendar days after completion of the final hearing. At any hearing held by the Hearing Officer, the county official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven (7) calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses and, to oppose or try to mitigate the allegations. The county official subject to the inquiry shall also have the right but not the obligation of submitting evidence and calling witnesses. Failure to comply with any of time deadlines in this section of the ordinance shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Hearing Officer to act upon any complaint.

Section 2-199 RIGHT TO APPEAL

- (a) Any county official or complainant adversely affected by the findings or recommendations of the Hearing Officer may obtain further judicial review of such decision as provided in this Section.
- (b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Baldwin County within thirty (30) days after the decision of the Hearing Officer. The filing of such application shall act as supersedeas.

Section 2-200 PENALTY

Any person violating any provision of this article is subject to:

- (a) Public reprimand or censure by the Hearing Officer; or
- (b) Request for resignation by the Hearing Officer."

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

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

The adoption date of this ordinance is March 17, 2015 and the effective date of this ordinance shall be March 17, 2015.

ARTICLE V. - CODE OF ETHICS

DIVISION 1. - GENERALLY

Sec. 2-711. - Short title.

This article shall be known as "The Barrow County Ethics Ordinance," and may be cited and referred to as such.

(Ord. of 6-13-2004, Art. 1, § 1)

Sec. 2-712. - Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meaning provided herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

Board means the Barrow County Board of Commissioners.

Board of ethics means the Barrow County Board of Ethics as formed and described herein.

Business entity means any business of whatever nature regardless of how designated or formed, whether a sole proprietorship, partnership, joint venture, association, trust, corporation, limited liability company, or any other type of business enterprise, and whether a person acting on behalf of, or as a representative or agent of, the business entity.

Confidential information means any information that, by law or practice, is not reasonably available to the public.

County official means the Barrow County Board of Commissioners, any member of a board, commission, or authority appointed by the board, the chief of operations or his/her equivalent, and any other elected or appointed officer or employee of Barrow County, including those employees who are exempt from the Barrow County Civil Service System, except to the extent prohibited by law.

Employee means all those persons employed on a regular or part-time basis by the county, as well as those persons whose services are retained under the terms of a contract with the county, including those employees who are exempt from the Barrow County Civil Service System, except to the extent prohibited by law.

Family means the spouse, parents, children, brothers and sisters, related by blood or marriage, of a county official or employee.

Interest means direct or indirect pecuniary or material benefit accruing to a county official 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 with the county, except for such 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. The term "interest" shall not include any remote interest. For purposes of this article, a county official or employee shall be deemed to have an interest in the affairs of:

- (1) His or her family;
- (2) Any business entity in which the county official or employee is a member, officer, director, employee, or prospective employee;
- (3) Any business entity as to which the stock, legal ownership, or beneficial ownership of a county official or employee is in excess of five percent of the total stock or total legal and beneficial

ownership, or which is controlled or owned directly or indirectly by the county official or employee.

Official act or official duties means any legislative, administrative, appointive, or discretionary act of any county official or employee of the county or any agency, board, authority, or commission thereof.

(Ord. of 6-13-2004, Art. 1, § 2)

Sec. 2-713. - Purpose.

This section is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-1, as it may be amended from time to time.

Any person in county service shall:

- (1) Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department.
- (2) Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.
- (3) Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.
- (4) Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- (5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- (6) Make no private promises of any kind binding upon the duties of office, since a government employee has no private word that can be binding on public duty.
- (7) Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
- (8) Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- (9) Expose corruption wherever discovered.
- (10) Uphold these principles, ever conscious that public office is a public trust.

(Ord. of 6-13-2004, Art. 2, §§ 1—10)

Sec. 2-714. - Enforcement.

This section is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-3, as it may be amended from time to time.

All county officials and department directors shall:

- (1) Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, the County of Barrow, and all governments therein and never be a party to their evasion.
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration.
- (3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

- (4) Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- (5) Expose corruption wherever discovered.
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties.
- (7) Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties.
- (8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.
- (9) Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

(Ord. of 6-13-2004, Art. 3, §§ 1—9)

Secs. 2-715—2-725. - Reserved.

DIVISION 2. - CONFLICT OF INTEREST TRANSACTIONS AND DISCLOSURES

Sec. 2-726. - Purpose.

The following provisions related to conflict of interest transactions and disclosures are intended to supplement and elaborate upon the code of ethics set forth in this article, and all such provisions shall be read and interpreted in accordance therewith.

(Ord. of 6-13-2004, Art. 4)

Sec. 2-727. - Compliance with applicable law.

No county official or employee shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office or employment. Other provisions of law or regulations shall apply when any provisions of this article shall conflict with the laws of the State of Georgia or the United States, except to the extent that this article permissibly sets forth a more stringent standard of conduct. The laws of the State of Georgia or the United States shall apply when this article is silent.

(Ord. of 6-13-2004, Art. 4, § 1)

Sec. 2-728. - Conflict of interest transactions.

- (a) No county official or employee shall acquire or maintain an interest in any contract or transaction if a reasonable basis exists that such an interest will be affected directly by his or her official act or action or by official acts or actions of the county, which the county official or employee has a reasonable opportunity to influence, except consistent with the disclosure and abstention provisions set forth herein.
- (b) Barrow County shall not enter into any contract involving services or property with a county official or employee or with a business entity in which the county official or an employee has an interest.

Provided that the disclosure and abstention provisions set forth herein are followed, this subsection shall not apply to the following:

- (1) The designation of a bank or trust company as a depository for county funds;
- (2) The borrowing of funds from any bank or lending institution which offers competitive rates for such loans;
- (3) Contracts entered into with a business which employs a consultant, provided that the consultant's employment with the business is not incompatible with this article;
- (4) Contracts for services entered into with a business which is the only available source for such goods or services; and
- (5) Contracts entered into under circumstances that constitute an emergency situation, provided that a record explaining the emergency is prepared by the board and submitted to the chief of operations (or his/her equivalent) to be kept on file.

(Ord. of 6-13-2004, Art. 4, § 2)

Sec. 2-729. - Financial disclosures.

Financial disclosures shall be governed by federal and state law as it may be amended from time to time, and this article shall not require any additional financial disclosure reports to be filed other than those required by federal and state law.

(Ord. of 6-13-2004, Art. 4, § 3)

Sec. 2-730. - Zoning application disclosures.

All disclosures with regard to zoning applications shall be governed in their entirety by the conflict of interest in zoning actions provisions contained in O.C.G.A. §§ 36-67A-1 et seq., as it may be amended from time to time.

(Ord. of 6-13-2004, Art. 4, § 4)

Sec. 2-731. - Disclosures related to submission of bids or proposals for county work or contract.

Persons submitting bids or proposals for county work who have contributed \$250.00 or more to a county official must disclose on their bid or proposal the name of the county official(s) to whom the contribution was made and the amount contributed. Such a disclosure must also be made prior to a request for any change order or extension of any contract awarded to the person who submitted the successful bid or proposal.

(Ord. of 6-13-2004, Art. 4, § 5)

Sec. 2-732. - Withholding of information.

No county official or employee shall knowingly withhold any information that would impair the proper decision making of the board or any of the county's boards, agencies, authorities, or departments.

(Ord. of 6-13-2004, Art. 4, § 6)

Sec. 2-733. - Incompatible service.

No county official or employee shall engage in or accept private or public employment or render service for any private or public entity, when such employment or service is 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, unless otherwise permitted by law and unless public disclosure is made.

(Ord. of 6-13-2004, Art. 4, § 7)

Sec. 2-734. - Unauthorized use of public property.

No county official or employee shall request or permit the unauthorized use of county-owned vehicles, and equipment, including but not limited to computers, pagers, and cellular telephones, materials or property for personal convenience or profit.

(Ord. of 6-13-2004, Art. 4, § 8)

Sec. 2-735. - Political recrimination and activity.

- (a) No county official or employee, whether elected or appointed, shall either cause the dismissal or threaten the dismissal from any county position as a reward or punishment for any political activity. No county official or employee shall direct any person employed by the county to undertake political activity on behalf of such county official or employee, any other county official or employee, or any other individual, political party, group, or business organization, during such time that the employee is required to conduct county business. This section does not prohibit incidental telephone calls made for the purpose of scheduling a county official's daily county business.
- (b) Employees of the county are encouraged to exercise their right to vote, but no employee shall make use of government time or equipment to aid a political candidate, party, or cause; or use a government position to influence, coerce, or intimidate any person in the interest of a political candidate, party, or cause. No employee shall be hired, promoted, favored, or discriminated against with respect to employment because of his or her political opinions or affiliations.
 - (1) *Seeking elective office.* A government employee seeking elective office within the county may, upon declaring candidacy, either resign or submit a request in writing to the chief of operations (or his/her equivalent) for a leave of absence without pay from the date of his or her announcement through the duration of the campaign or announcement of the election results. In the alternative, the government employee seeking elective office within the county may continue to work for the county, provided, however, that the employee shall not engage in election activities during his or her county working hours or with use of county equipment. If elected to office, the employee shall immediately, upon the date of election, be separated from employment with the county upon written request and approval of the chief of operations (or his/her equivalent).
 - (2) *Political campaign involvement.* A government employee may not be involved in any political activity which would constitute a conflict of interest, including participation in any aspect of any political campaign for any office in Barrow County government.
 - (3) *Solicitation of contributions.* A government employee may not knowingly solicit, accept, or receive political contributions from any person, to be used in support of or opposition to any candidate for office in the county.

(Ord. of 6-13-2004, Art. 4, § 9)

Sec. 2-736. - Appearance before county entities.

No county official or employee shall appear on behalf of any private person other than himself or herself, his or her spouse, or his or her minor children, before any county agency, authority or board. However, a member of the board of commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.

(Ord. of 6-13-2004, Art. 4, § 10)

Sec. 2-737. - Timely payment of debts to the county and fiscal responsibility.

All county officials and employees shall pay and settle, in a timely and prompt fashion, all accounts between them and Barrow County, including the prompt payment of all taxes and shall otherwise demonstrate personal fiscal responsibility.

(Ord. of 6-13-2004, Art. 4, § 11)

Sec. 2-738. - Solicitation or acceptance of gifts.

- (a) County officials and employees shall not accept gifts, gratuities, or loans from organizations, business concerns, or individuals with whom he or she has official relationships on business of the county government. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit employees from accepting social courtesies which promote good public relations, or to prohibit employees from obtaining loans from regular lending institutions. It is particularly important that inspectors, contracting officers, and enforcement officers guard against relationships which might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.
- (b) Consistent with the provisions set forth in sections 2-713 and 2-714 and subsection (a) above, there shall be no violation of this article in the following circumstances:
 - (1) Meals and beverages given in the usual course of entertaining associated with normal and customary business or social functions.
 - (2) An occasional gift from a single source of \$101.00 or less in any calendar year.
 - (3) Ceremonial gifts or awards.
 - (4) Gifts of advertising value only or promotional items generally distributed to public officials.
 - (5) Awards presented in recognition of public service.
 - (6) Reasonable expenses of food, travel, lodging and scheduled entertainment for a meeting that is given in return for participation in a panel or speaking engagement at the meeting.
 - (7) Courtesy tickets or free admission extended for an event as a courtesy or for ceremonial purposes, given on an occasional basis, and not to include season tickets of any nature.
 - (8) Gifts from relatives or members of the county official or employee's household.
 - (9) Honorariums or awards for professional achievement.
 - (10) Courtesy tickets or free admission to educational seminars, educational or information conventions, or other similar events.

(Ord. of 6-13-2004, Art. 4, § 12)

Sec. 2-739. - Disclosure of interest.

Any member of the board who has a financial or personal interest in any proposed legislation or action before the board shall immediately disclose publicly the nature and extent of such interest.

Any other county official or employee who has a financial or personal interest in any proposed legislation or action before the board and who participates in discussion with or gives an official opinion or recommendation to the board in connection with such proposed legislation or action shall disclose publicly the nature and extent of such interest.

(Ord. of 6-13-2004, Art. 4, § 13)

Sec. 2-740. - Abstention to avoid conflicts of interest.

- (a) Except as otherwise provided by law, no county official or employee shall participate in the discussion, debate, deliberation, vote, or otherwise take part in the decision-making process on any item before him in which the county official or employee has a conflict of interest as set forth above.
- (b) To avoid the appearance of impropriety, if any county official or employee has a conflict of interest or has an interest that he or she has reason to believe either violates this article or may affect his or her official acts or actions in any matter, the county official or employee shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the county official or employee may remain in the meeting room.
- (c) In the event of a conflict of interest, the county official or employee shall announce his or her intent to abstain prior to the beginning of the discussion, debate, deliberation, or vote on the item, shall not participate in any way, and shall abstain from casting a vote.

(Ord. of 6-13-2004, Art. 4, § 14)

Secs. 2-741—2-755. - Reserved.

DIVISION 3. - THE BOARD OF ETHICS

Sec. 2-756. - Creation and composition.

There is hereby created a five-member Barrow County Board of Ethics, which shall consist of the following members:

- (1) One appointee by the board of directors of the Barrow County Chamber of Commerce;
- (2) One appointee selected by a majority of the voting county elected officials (not including the members of the board of commissioners) who shall each have one vote for such appointee;
- (3) One appointee selected by a majority of the voting employees of Barrow County (not including the county elected officials or the members of the board of commissioners) who are in the employ of Barrow County on a full-time basis on the effective date of the vote, which vote shall be conducted by the director of human resources or his/her designee;
- (4) One appointee of the Barrow County Personnel Review Board; and
- (5) One appointee of the Barrow County Board of Commissioners, which appointee shall be selected by a majority vote of the board of commissioners.

(Ord. of 6-13-2004, Art. 5, § 1; Ord. of 1-25-2005)

Sec. 2-757. - Appointment procedures.

The initial appointments of the members of the board of ethics shall be accomplished as follows: Within five business days of the effective date of this article, the Barrow County Chief of Operations (or his/her equivalent), or his/her designee, shall notify the respective appointing body or individuals of the duty to appoint or vote upon a member for placement on the board of ethics. The body or individuals so notified shall have 30 days in which to conduct their appointment process and provide the chief of operations (or his/her equivalent) with the name of the appointment, or the name of the individual for whom he or she is voting as the appointee in the case of the elected officials. Within five business days of receipt of the appointment information, or calculation of the votes as the case may be, the chief of operations (or his/her equivalent) shall thereafter provide the names of the appointees to the board of commissioners. The board of commissioners shall appoint the five persons so identified at the next regular meeting of the board of commissioners following receipt of the names of the appointees from the chief of operations (or his/her equivalent).

All appointments following the expiration of the initial terms and all appointments made in the cases of vacancies created during a particular term shall be made by the applicable body or individuals as indicated in section 2-756. The chief of operations (or his/her equivalent), or his/her designee, shall notify the applicable body or individuals responsible for making an appointment at least 45 days prior to the expiration of the respective term or immediately upon knowledge of a vacancy created during a term. Upon such notification, the appointment process shall proceed as set forth above in this section.

(Ord. of 6-13-2004, Art. 5, § 2)

Sec. 2-758. - Qualifications of members of board of ethics.

A person is eligible to be appointed as a member of the board of ethics if the person, while serving:

- (1) Resides in the county and is a registered voter.
- (2) Is not an employee or county official and has not been an employee or county official during the three months immediately preceding his or her appointment, or be the spouse, parent, child or sibling of an employee or county official.
- (3) Is not an officer or employee of any political party.
- (4) Does not hold any elected or appointed office and is not a candidate for office of the United States, this state or the county, and has not held any elected or appointed office during the three months immediately preceding his or her appointment.

(Ord. of 6-13-2004, Art. 5, § 3)

Sec. 2-759. - Terms; vacancies.

Members of the board of ethics shall each serve a two-year term without compensation, and shall continue to serve until their successors are appointed and qualified. The board positions appointed pursuant to subsections (1), (2), and (3) of section 2-756 shall serve an initial full two-year term, and shall thereafter serve two-year terms upon appointment. The board positions appointed pursuant to subsections (4) and (5) of section 2-756 shall serve an initial one-year term, and shall thereafter serve two-year terms upon appointment. If any vacancy occurs during a term, the remaining members shall at that time choose an alternate member mutually agreed upon to temporarily serve until the position is filled by appointment as provided in sections 2-756 and 2-757 to fulfill the remainder of the then existing term.

(Ord. of 6-13-2004, Art. 5, § 4)

Sec. 2-760. - Removal of member.

The board of commissioners may remove a member of the board of ethics on the grounds of neglect of duty, misconduct in office, or engagement in political activity in violation of this article. Before initiating the removal of a member from the board of ethics, the board of commissioners shall give the member written notice of the reason for the intended action, and the member shall have the opportunity to reply. Thereafter, the board of commissioners shall afford such member an opportunity for a hearing before the board of commissioners.

(Ord. of 6-13-2004, Art. 5, § 5)

Sec. 2-761. - Organization and internal operating regulations.

- (a) Members of the board of ethics shall not be compensated.
- (b) The board of ethics shall elect one of its members to act as chairperson for a term of one year, or until a successor is duly elected. The board of ethics shall also elect one of its members to act as vice-chairperson for the same term and to act for the chairperson in his or her absence, because of disqualification, or vacancy.
- (c) There shall be no regularly scheduled monthly or bimonthly meetings of the board of ethics, however, the board of ethics shall meet at least once annually in January of each year for purposes of election of officers and such other business as the board of ethics deems proper and in accordance with this Ordinance. Meetings shall be called by majority vote or by call of the chairperson. Meetings of the board of ethics shall be conducted in the public hearing room utilized by the board of commissioners, shall be duly publicized, and shall be otherwise conducted in accordance with the open meetings requirements under state law.
- (d) Three members of the board of ethics shall constitute a quorum for the transaction of business. The chairperson shall be entitled to the same voting rights as the other members of the board of ethics.
- (e) No official action concerning complaints shall be taken by the board of ethics, except by the affirmative vote of at least four members of the board of ethics.

(Ord. of 6-13-2004, Art. 5, § 6; Ord. of 1-8-2008)

Sec. 2-762. - Duties and powers.

The board of ethics shall have the following duties and powers:

- (1) To establish any procedures, rules and regulations governing its internal organization and conduct of its affairs, provided that such procedures, rules and regulations do not conflict with any provision contained herein.
- (2) To receive and hear complaints of violations of standards required by this article.
- (3) To make investigations as it deems necessary to determine whether any person has violated this article, but only after at least four members of the board of ethics have voted affirmatively to conduct the investigation.
- (4) To take such action as provided in this article as deemed appropriate because of any violation of this article.
- (5) To perform any other function authorized by this article.
- (6) To issue advisory opinions as provided in this article.

(Ord. of 6-13-2004, Art. 5, § 7)

Sec. 2-763. - Staffing and expenses.

The board of ethics shall be provided sufficient meeting space and other reasonable supportive services to carry out its duties required under this article. The chief of operations (or his/her equivalent) shall designate an administration employee who shall serve as the filing clerk for the board of ethics and who shall be authorized to receive all filings before the board of ethics, to publish notices of all meetings upon request of the board of ethics' chairperson, and to serve as the recording clerk for the board of ethics.

(Ord. of 6-13-2004, Art. 5, § 8)

Sec. 2-764. - Counsel.

The board of ethics may petition the Barrow County Board of Commissioners for appointment of counsel on a case-by-case basis to assist it in carrying out its responsibilities or to act as a hearing officer. Any such appointed counsel shall be approved by the board of commissioners, shall perform services at an approved hourly rate, and shall serve at the joint pleasure of the board of ethics and the board of commissioners.

(Ord. of 6-13-2004, Art. 5, § 9)

Sec. 2-765. - Adherence to ethics ordinance.

The board of ethics shall be governed by and subject to this article, except as to any requirements related to financial disclosures. If a member of the board of ethics has a conflict of interest or must disqualify himself under this ethics code or by law, the remaining members shall at that time choose an alternate person mutually agreed upon to hear that matter.

(Ord. of 6-13-2004, Art. 5, § 10)

Sec. 2-766. - Prohibition against certain conflicting political activity.

(a) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Contribution: Any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.

Election: Includes a primary, special, and general election.

Member of the board of ethics: An individual who occupies the position of a member of the board of ethics or a prospective member of the board of ethics.

Nonpartisan election :

- a. An election at which none of the candidates is to be nominated or elected as representing a political party, any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and
- b. An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance, or any question or issue of similar character.

Partisan: When used as an adjective, refers to a political party.

Political fund: Any fund, organization, political action committee or other entity that, for purposes of influencing in any way the outcome of any partisan election, receives or expends money or anything of

value or transfers money or anything of value to any other fund, political party, candidate, organization, political action committee or other entity.

Political party: A national political party, a state political party, a political action committee, and/or any affiliated organization.

(b) *Permissible activities.* All members of the board of ethics are free to engage in political activity to the widest extent consistent with the restrictions imposed in this section, which restrictions are imposed for the sole purpose of ensuring neutrality and the appearance of neutrality of the board of ethics. Each member of the board of ethics retains the right to:

- (1) Register and vote in any election;
- (2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization or of a similar organization;
- (3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
- (4) Attend a political convention, rally, fundraising function, or other political gathering;
- (5) Sign a political petition as an individual;
- (6) Make a financial contribution to a political party or organization;
- (7) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;
- (8) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance or any other question or issue of a similar character;
- (9) Serve as an election judge or clerk or in a similar position to perform nonpartisan duties as prescribed by state or local law; and
- (10) Otherwise participate fully in public affairs in a manner which does not materially compromise his or her efficiency or integrity as a member of the board of ethics or the neutrality, efficiency or integrity of the board of ethics.

(c) *Prohibited activities.*

- (1) A member of the board of ethics may not take an active part in political management or in a political campaign, except as permitted by subsection (b) of this section.
- (2) A member of the board of ethics shall not take part in or be permitted to do any of the following activities:
 - a. Serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political club, or be a candidate for any of these positions;
 - b. Organize or reorganize a political party organization or political club;
 - c. Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions or other funds for a partisan political purpose;
 - d. Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate in a partisan election or of a political party or political club;
 - e. Take an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office;
 - f. Become a candidate for, or campaign for, an elective public office in a partisan election;
 - g. Solicit votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office;

- h. Act as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in a partisan election;
 - i. Drive voters to the polls on behalf of a political party or a candidate in a partisan election;
 - j. Endorse or oppose a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material;
 - k. Serve as a delegate, alternate or proxy to a political party convention;
 - l. Address a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office; or
 - m. Initiate or circulate a partisan nominating position.
- (3) Nothing contained in this section shall prohibit activity in political management or in a political campaign by any member of the board of ethics connected with a nonpartisan election or a nonpartisan issue of any type.

(Ord. of 6-13-2004, Art. 5, § 11)

Sec. 2-767. - Limitation of liability.

No member of the board of ethics, or any person acting on behalf of the board of ethics, shall be liable to any person for any damages arising out of the enforcement or operation of this ethics ordinance, except in the case of willful or wanton conduct. This limitation of liability shall apply to the county, the members of the board of ethics, the employees of the board of ethics, and any person acting under the direction of the board of ethics.

(Ord. of 6-13-2004, Art. 5, § 12)

Sec. 2-768. - Advisory opinion.

The board of ethics shall render an advisory opinion based on a real or hypothetical set of circumstances when requested to do so in writing by a county official or employee related to that county official's or employee's conduct or transaction of business. Such advisory opinions shall be rendered pursuant only to a written request, fully setting forth the circumstances to be reviewed by the ethics board. The proceedings of the ethics board pursuant to this section shall be held in public to the extent consistent with state law, and the opinions of the ethics board shall be made available to the public.

(Ord. of 6-13-2004, Art. 5, § 13)

Sec. 2-769. - Complaints.

The board of ethics shall be responsible for hearing and deciding any complaints filed regarding alleged violations of this article by any person. The following procedures shall be followed when filing a complaint:

- (1) Any person may file a complaint alleging a violation of any of the provisions of this article by submitting it to the chief of operations (or his/her equivalent), who shall immediately deliver such complaint to the chairman of the board of ethics or his or her designee. A copy of such complaint shall immediately be forwarded by registered mail to the county official or employee against whom the complaint was filed. The complaint must be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit(s) should be attached to the affidavit(s). The person filing

the complaint shall verify the complaint by his or her signature thereon. A complaint must be filed within six months of the date the alleged violation is said to have occurred, or in case of concealment or nondisclosure within six months of the date the alleged violation should have been discovered after due diligence. In the event the board of ethics makes an initial determination that a complaint is technically deficient, the board of ethics shall submit a list of deficiencies to the complainant and offer the complainant the opportunity to correct the deficiencies within seven days prior to the complaint being dismissed for technical deficiencies.

- (2) Upon receipt of a complaint alleging misconduct, the county official or employee against whom the complaint was filed may reply to the complaint within 30 days, unless such time for reply is extended by the board of ethics upon good cause shown. The response of the county official or employee must be supported by affidavits based on personal knowledge, must set forth such facts as would be admissible in evidence, and must show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit(s) should be attached to the affidavit(s).
- (3) Within 60 days of receipt of a complaint, the board of ethics shall conduct an investigatory review to determine whether specific substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this article. If after reviewing the complaint the board of ethics by vote determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this article or determines that no violation occurred, it may dismiss the complaint without further proceedings. In the event a complaint is dismissed based upon the merits of the complaint, the complaint may not be re-filed.
- (4) If the board of ethics determines that specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this article, certified written notice of a hearing, containing the time, date and place of such hearing, shall be given to each party by the board of ethics, and a formal public hearing shall be conducted and both parties afforded an opportunity to be heard. Any formal public hearing shall be conducted in accordance with the requirements of due process. The board of ethics is authorized to swear witnesses.
- (5) Any final determination resulting from the hearing shall include written findings of fact and conclusions of law. The board of ethics shall determine if clear and convincing evidence shows any violation of this article.
- (6) Nothing in this section shall be considered to limit or encumber the right of the board of ethics to initiate an investigation on its own cognizance as it deems necessary to fulfill its obligations under this article.

(Ord. of 6-13-2004, Art. 5, § 14)

Sec. 2-770. - Disciplinary action.

- (a) Upon a determination that an employee has violated this article, the board of ethics may recommend the following penalties and actions:
 - (1) Written warning or reprimand;
 - (2) Suspension without pay;
 - (3) Termination of employment; and
 - (4) Repayment to the county of any unjust enrichment.
- (b) Upon a determination that a county official has violated this article, the board of ethics may recommend the following penalties and actions:
 - (1) Written warning, censure, or reprimand;

- (2) Removal from office to the extent provided by Georgia law; and
- (3) Repayment to the county of any unjust enrichment.
- (c) Upon direction of the board of ethics, a petition may be filed for injunctive relief, or any other appropriate relief, in the county superior court, or in any other court having proper venue and jurisdiction, for the purpose of requiring compliance with the provisions of this article. In addition, the court may issue an order to cease and desist from the violation of the ordinance. The court also may void an official action that is the subject of the violation, provided that the legal action to void the matter was brought with 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public. The court, after hearing and considering all the circumstances in the case, may grant all or part of the relief sought. However, the court may not void any official action appropriating public funds, levying taxes or providing for the issuance of bonds, notes or other evidences of public obligation under this article.
- (d) In addition to any other remedy provided herein, upon determination of a violation of this article, the board of ethics may recommend to the board of commissioners in writing that any contract, bid, or change order that was the subject of the violation should be cancelled or rescinded. The board of commissioners, however, shall retain the discretion to determine whether such a cancellation or rescission would be in the best interest of the county and shall not be bound in any way by a recommendation of the board of ethics.
- (e) The ethics board may also forward its findings of fact and conclusions of law to the Barrow County District Attorney's Office and/or the office of the governor for appropriate action.

(Ord. of 6-13-2004, Art. 5, § 15)

Sec. 2-771. - Judicial review.

- (a) Any party against whom a decision of the board of ethics is rendered may obtain judicial review of the decision by writ of certiorari to the superior court of the county. The application for the writ must be filed within 30 days from the date of the written decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.
- (b) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.
- (c) The appellate rights afforded hereunder shall be in lieu of any right to appeal an adverse employment action under the Barrow County Civil Service System, to the extent the county official or employee may be subject to the civil service system.

(Ord. of 6-13-2004, Art. 5, § 16)

**AN ORDINANCE ESTABLISHING A CODE OF CONDUCT FOR
MEMBERS OF THE BUTTS COUNTY BOARD OF COMMISSIONERS**

The members of the Butts County Board of Commissioners recognize that, when acting as a body, they are the governing authority of Butts County, Georgia. As a Board they possess the full power of local government, both legislative, executive and quasi-judicial, within the parameters established by the Constitution and laws of the State of Georgia. As individual Commissioners, however, each member acknowledges that he has no legal power or authority, and that official action can exist only by majority vote of the Board. Accordingly, it is important and in the public interest to establish a code of conduct for County Commissioners that addresses conduct both during and outside of public meetings. This Ordinance is adopted in order to preserve the integrity of local government, to promote the efficiency with which local government services are provided, and to protect the County from exposure to liability due to conduct that is unauthorized, ultra vires, or in excess of a Commissioner's authority.

NOW THEREFORE, it is hereby **ORDAINED** by the Butts County Board of Commissioners that this Code of Conduct for County Commissioners is hereby adopted:

Sec. 2-66a. CONDUCT DURING MEETINGS.

During the public portions of Public Meetings and Public Hearings members of the Butts County Board of Commissioners shall not:

- (1) Speak without first being recognized by the Chair;
- (2) Interrupt anyone who has the floor;
- (3) Use profanity during the public portion of any meeting;
- (4) Refuse to yield the floor, or argue with the Chair, if he is ruled out of order by the Chair;
- (5) Make disparaging remarks about any person's character during the public portion of any meeting. By way of example, it would be permissible to say "I don't believe that" or "I cannot accept that," but it is improper to say "He's a liar," or "He can't be trusted." Remarks should be limited to the subject under discussion, and shall not address the character of the persons involved. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed session.
- (6) Confront anyone about a prior statement in an accusatory manner during the public portion of any meeting. By way of example, it would be permissible to ask someone if something different had been said on a prior occasion, and the

question should be phrased “Did you tell me _____?” or “Do you remember telling me _____?” It is impermissible to say “Didn’t you tell me _____,” or “Why did you tell me _____ before the meeting.” The purpose of the public portion of a Commissioner’s meeting is to allow each Commissioner, County representatives and members of the public to state their positions in an orderly fashion; it is not a trial where persons are to cross-examined, interrogated, belittled or held out for public ridicule or embarrassment. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed session.

- (7) State during the public portion of any meeting that a county employee has not done his or her job, or has not done his or her job properly. By way of example, it would be permissible to ask if a county employee did or did not do a specific task, but the question must be phrased in a such a way that a simple “yes” or “no” answer is all that is requested. It would also be permissible to state or comment that a job was not done, or that it was not done correctly, so long as the person responsible is not singled out for blame; remarks concerning the subject of job performance are proper, but negative references to the person responsible are not. It is not proper to accuse county employees of not doing their jobs, or doing them improperly, during the public portions of the meeting. County employees shall not be placed in the position of responding to accusations of wrongdoing by a Commissioner during the public portion of a meeting (unless the meeting has been called as a hearing for the express purpose of determining disciplinary action), nor shall their integrity or competency be challenged by a Commissioner during the public portion of any meeting. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed session.
- (8) Represent their personal position or beliefs as being the position or beliefs of the Board as a whole. By way of example, unless and until a majority vote has been obtained on a specific issue, a Commissioner shall not state that the Board will or will not do something, nor shall a Commissioner state what the Board’s vote will be on an issue. No single Commissioner can speak on behalf of the Board unless specifically authorized by majority vote to do so.
- (9) Refuse to recognize the validity of action approved by majority vote of the Board. By way of example, a Commissioner is free to state that he does not agree with the majority vote, or that he would like to see the majority reconsider it’s action and vote a different way. However, a Commissioner shall not refuse to sign any ordinance, resolution, contract or other legal document because he did not vote for the action taken. The minutes shall reflect his opposition to the majority’s decision, but he shall not be authorized to withhold his signature on the basis that he did not vote for the action taken.
- (10) Divulge the subject matter of any confidential information, legal advice, or strategy discussions revealed during an executive session called for the

purpose of discussing actual or potential litigation against the County or any county employee. There may be occasions when a Commissioner will be asked to make a specific commitment to this rule in connection with a particular case. If a Commissioner is unwilling to pledge his commitment to the other members of the Board, he shall be excluded from participating in that portion of the executive session.

Sec. 2-66b. CONDUCT OUTSIDE OF MEETINGS.

A member of the Butts County Board of Commissioners shall not:

- (1) Direct any department head or county employee to do a job or perform a task. All such requests shall be made to the County Administrator. Once such a request is made, the Commissioners shall follow-up with the County Administrator regarding the performance of the work, not with the department head or county employee whom the Commissioner expects to do the job. If the job is not performed to the Commissioner's satisfaction, this shall be taken up with the County Administrator first; if the Commissioner is still not satisfied, the matter shall next be discussed with all members of the Board of Commissioners in executive session, under the exemption to the Open Meetings Act for discussion of employee performance. There shall be no criticism or disparaging remarks made about any county employee in a public meeting unless and until all of these steps have been exhausted.
- (2) Publicly state that he intends to fire or discipline any county employee. No single Commissioner has the authority to hire or fire county personnel.
- (3) Reprimand any county employee. If a Commissioner believes a county employee should be reprimanded he shall so inform the County Administrator. If a Commissioner believes the County Administrator should be reprimanded he shall notify the other members of the Board of Commissioners. No single Commissioner has the authority to discipline county personnel.
- (4) Use profanity, insulting or demeaning words about a county employee in the presence of that employee, or in the presence of any other county employee.
- (5) Call into question the qualifications or competency of a county employee in the presence of that employee, or in the presence of any other county employee. Concerns of this nature shall be addressed in the stages outline in Section II, Rule 1, above.
- (6) Demand that the County Administrator or any department head stop what he or she is doing and immediately attend to the Commissioner's business. If the County Administrator or a department head requests that the Commissioner schedule a time to discuss a matter that is mutually convenient to all

concerned, the Commissioner shall honor that request.

- (7) Promise on behalf of the County or the Board of Commissioners to undertake any act, or to pass any ordinance, resolution, contract or agreement. A single Commissioner has no authority to bind the Board of Commissioners.
- (8) Agree to buy or sell anything of value on behalf of the County without advance approval by a majority vote of the Board of Commissioners.
- (9) Attempt to negotiate County business with any private party or any representative of another governmental unit without the advance approval of a majority of the Board of Commissioners. By way of example, it is permissible for any Commissioner to discuss county business in general terms with private parties and representatives of other governmental units (unless there is actual or threatened litigation against Butts County by the parties involved). However, a Commissioner shall not make any written offers, draft any agreements, edit or revise any proposed agreements or plans, or suggest or propose (whether orally or in writing) any specific terms concerning money or services to be provided or received by the County unless that Commissioner has received express authorization in advance by a majority vote of the Board of Commissioners. The fact that the subject matter involves property or persons in a Commissioner's district is of no consequence, as a Commissioner has no additionally legal authority over a matter simply because it is in his district.
- (10) Speak to any representative of the news media on behalf of the County or the Board of Commissioners without advance approval by majority vote of the Board of Commissioners. By way of example, a Commissioner is free to express his personal views or opinions to anyone. However, a Commissioner shall not make a statement in the name of the Board of Commissioners or in the name of Butts County unless he has been authorized in advance to do so by majority vote of the Board of Commissioners.

Sec. 2-66c. PENALTIES.

The Board of Commissioners shall have the responsibility to police itself and to enforce this Ordinance. Any Commissioner shall have the right to bring a suspected violation of this Ordinance to the attention of the full Board. Any such accusation may be deliberated upon in Executive Session, but a vote upon any penalty to be imposed must be taken in open, public session, with all members of the Board of Commissioners present. If the Board determines by majority vote that a violation of this Ordinance has occurred, the Board shall have the authority to impose one or more of the following penalties upon the offending Commissioner:

- (1) A verbal censure that shall be noted in the Minutes without further elaboration;

- (2) A written censure, to be made a part of the Minutes, specifically outlining the facts underlying the violation;
- (3) Removal of the Commissioner from membership on any committee, association or group in which the offending Commissioner is involved in his capacity as Butts County Commissioner; removal shall take place by the delivery of a letter, signed by the Board of Commissioners, to the head of such committee, association or group, stating that the offending Commissioner is no longer authorized to represent Butts County. This sanction shall last for a period of up to one year from the date of offense.
- (4) A fine, not to exceed \$500 per offense, which shall be paid by the offending Commissioner to the general fund of Butts County, Georgia within ten (10) days of the Board's vote establishing a violation; if the offending Commissioner fails to make this payment within the time specified herein, the amount of the penalty shall be withheld from the offending Commissioner's compensation as a Commissioner.

The decision of the Butts County Board of Commissioners on any question concerning a violation of this Ordinance, or the penalty imposed, shall be final, it being the express intent of all the Commissioners to govern themselves, and not to abdicate this responsibility to any other person or entity.

This Ordinance shall take effect immediately. It shall remain in effect for so long as the current membership of the Butts County Board of Commissioners remains unchanged. It is acknowledged that the enforceability of this Ordinance is authorized by and dependant upon the consent of the undersigned, who hereby agree to be bound by this Ordinance. Therefore, this Ordinance shall terminate upon the addition of any new person to the Butts County Board of Commissioners. This Ordinance may thereafter be re-adopted upon the consent and affirmative vote of the members of the Board of Commissioners as it is then constituted, subject to this termination and re-adoption provision for all future Boards.

SO ORDAINED, this 9th Day of January, 2017.

District 1 Commissioner

District 2 Commissioner

District 3 Commissioner

District 4 Commissioner

District 5 Commissioner

Attestation: County Clerk

ARTICLE II. - BOARD OF COMMISSIONERS^[2]

DIVISION 1. - GENERALLY

Secs. 2-26, 2-27. - Reserved.

Sec. 2-28. - Automobile reimbursement for district commissioners.

- (a) There is established by county policy a set monthly amount for reimbursement to district commissioners for travel associated with carrying out their official business of the county.
- (b) If a district commissioner elects to do so, he will be authorized to submit expense vouchers in lieu of the monthly travel allowance on a mileage basis. The mileage allowance is as established by county policy. The determination will be made at the beginning of each calendar year as to which option is to be used during the year.

(Mo. of 11-26-85; Code 1977, § 3-2-14)

Secs. 2-29—2-40. - Reserved.

DIVISION 2. - CODE OF ETHICS

Subdivision I. - In General

Sec. 2-41. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means any entity which the county ethics board determines is subject to the legislative authority of the county with respect to the ethics code.

Board of ethics or *ethics board* means the county ethics board established pursuant to this division.

Business or *business entity* means any entity, regardless of form, whether or not operated for profit, including but not limited to any corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institution, trust, person or foundation.

Censure means an expression of severe criticism or reproach.

Civil service code means the Cobb County Civil Service Act governing civil service.

Employee or public employee means any person, employed full-time or part-time by the county government, or any agency. The county manager, department heads and other employees exempt under the civil service code shall be considered public employees for the purposes of this division. The board of commissioners and appointed and elected officials shall not be considered employees but are defined in this section.

Employer means any person paying or agreeing to pay compensation to another person for services rendered.

Financial interest means:

- (1) Any source of income, direct or indirect, from which a person has received, within the past 12 months, or is presently receiving, more than \$500.00 per year;
- (2) Ownership, legal or equitable, of more than ten percent of a business entity; or
- (3) Ownership of any interest having a fair market value of more than \$20,000.00.

Gift means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. Such term does not include the solicitation, acceptance, receipt or regulation of political campaign contributions. A gift shall be further defined as a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred.

Immediate relatives means spouse, children, stepchildren, siblings, parents, grandparents, grandchildren, and spouses of such persons.

Interests means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly.

Person includes any individual, employee or entity.

Professional representative/client means persons with whom the officer currently has a professional relationship due to being represented by, or representing, such person as attorney, physician, cleric, accountant, and the like.

Public officer or officer or official means the members of the board of commissioners and their appointees to all boards, commissions and authorities, except the ethics board; provided, however, that only the members of the board of commissioners shall be subject to the financial disclosure and reporting requirements of subsection (b) of section 2-48 of the Ethics Code.

Reprimand means an expression of disapproval.

(Ord. of 11-14-89, § 103; Code 1977, § 3-20-33; Ord. of 2-22-00; Ord. of 2-27-07; Ord. of 7-28-09)

Cross reference— Definitions generally, § 1-2.

Sec. 2-42. - Declaration of policy.

- (a) In furtherance of its responsibility to protect the integrity of government and administration of the county and recognizing that its system of representative government is dependent upon the people maintaining the highest trust in their public officials, the board of commissioners finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials will be maintained. Public interest requires that the county protect against improper influence or the appearance of improper influence by establishing appropriate ethical standards with respect to the conduct of public officials. Officers by their conduct should avoid the appearance of impropriety.
- (b) It is essential to the efficient operation of government that those persons best qualified be encouraged to serve in positions of public trust. It is the intention of the board of commissioners that this division be construed to accomplish this purpose and interpreted and understood as not unreasonably to frustrate or impede the desire or inclination to seek and serve in public office by those persons best qualified to serve. To that end public officials should not, except as otherwise provided by law, be denied the opportunity available to all other citizens to acquire and maintain private, economic and other interests, except where a conflict of interest would necessarily result.
- (c) The policy and purpose of this ethics code, therefore, is to make clear those standards of ethical conduct that shall be applicable to public officials in the discharge of their official duties; to implement the objective of protecting the integrity of the county's government and to prescribe only such essential restrictions against conflict of interest as will not impose unnecessary barriers against public service.
- (d) The county attorney shall make a good-faith effort to review this ethics code with each officer within 30 days following such officer's swearing-in.

(Ord. of 11-14-89, § 102; Code 1977, § 3-20-32; Ord. of 2-22-00; Amd. of 7-28-15)

Sec. 2-43. - Construction.

This division shall be construed to effectuate its purposes and policies and to supplement such existing laws as may relate to the conduct of persons made subject to this division.

(Ord. of 11-14-89, § 104; Code 1977, § 3-20-34)

Sec. 2-44. - Disciplinary action.

- (a) In addition to any other remedy provided by law, a person who is subject to the provisions of this division and who is found by the board of ethics to have violated its provisions may, in the case of a public official, be subject to censure or reprimand.
- (b) Upon direction of the board of ethics, a petition may be filed for injunctive relief, or any other appropriate relief, in the county superior court, or in any other court having proper venue and jurisdiction, for the purpose of requiring compliance with the provisions of this division. In addition, the court may issue an order to cease and desist from the violation of this division. The court also may void an official action taken by any official which action was prohibited by this division, provided that the legal action to void the matter was brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public. The court, after hearing and considering all the circumstances in the case, may grant all or part of the relief sought. However, the court may not void any official action appropriating public funds, levying taxes or providing for the issuance of bonds, notes or other evidences of public obligation.

(Ord. of 11-14-89, § 117; Code 1977, § 3-20-47)

Sec. 2-45. - Compliance with applicable law.

No officer shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him by virtue of his office. Other provisions of law or regulations relating to this division shall apply when any provisions of this division shall conflict with the laws of the state or the United States. The laws of the state or the United States shall apply when this division is silent.

(Ord. of 11-14-89, § 105; Code 1977, § 3-20-35)

Sec. 2-46. - Impartiality.

- (a) Officers must not take part in any personal, business, or professional activity or receive or retain any direct or indirect financial interest that places them in a position of conflict between their private interest and public interest that relates to their responsibilities and duties as officers.
- (b) Officers must not use their positions to induce, coerce or influence a person or employee, including subordinates, in a way that would provide any benefits, financial or otherwise, to themselves or to other individuals or to any for-profit organization of which they are a member. Notwithstanding the above, an officer may not vote upon any matter involving any organization of which the officer is a member, except boards or authorities on which the officer serves by virtue of his or her elected office or by appointment of the board of commissioners or the governor or an agency of the state.
- (c) No officer shall:
 - (1) Use public office for private gain.
 - (2) Give preferential treatment to any person.

(3) Impede government efficiency and economy.

(d) Officers shall not allow any person to improperly influence them or unduly enjoy their favor in the performance of their official acts or duties.

(Ord. of 11-14-89, § 106; Code 1977, § 3-20-36; Ord. of 5-25-99; Ord. of 7-26-05; Amd. of 7-28-15)

Sec. 2-47. - Abstention to avoid conflicts of interest.

- (a) It shall be a violation of this code of ethics for any officer to participate, directly or indirectly, through decision, approval, disapproval, recommendation or in any other manner, upon the following, each of which is deemed to be a conflict of interest:
 - (1) Any proceeding, application, vote, request for ruling, claim, controversy, contract or any other matter involving an immediate relative or any interest of an immediate relative of the officer.
 - (2) Any matter in which the officer has a financial interest, a fiduciary interest, a corporate interest, or an employment interest.
 - (3) Any matter in which the requirements of impartiality, as contained in section 2-46, would be violated.
- (b) Except as otherwise provided by law, no officer shall, in such capacity, participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any item before him in which the officer has a conflict of interest as defined above.
- (c) To avoid the appearance of impropriety, if any officer has a conflict of interest or has an interest that he has reason to believe either violates this code of ethics or may affect his official acts or actions in any matter, the officer shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the officer may remain in the area of the room occupied by the general public. In the event of such conflict of interest, the officer shall leave his or her regular seat as a member of the board, and not return to it until deliberation and action on the matter is completed. Nothing herein shall require the officer to leave while action is taken for any item for which the officer has a conflict of interest which is contained on a "consent agenda" and upon which there is no deliberation provided the officer's conflict has been disclosed and the officer abstains from voting on the item on the "consent agenda."
- (d) It is hereby declared that it is not the intent of this ethics code to prohibit an immediate relative of an officer from being engaged in gainful employment in this county. The county shall not be prohibited from doing business with an entity which employs an immediate relative of an officer, provided that:
 - (1) Such business relationship does not violate this division;
 - (2) Such business relationship is fully disclosed in writing; and
 - (3) Where applicable, the affected business entity shall be required to use the bid system when conducting business with the county.

(Ord. of 11-14-89, § 107; Code 1977, § 3-20-37; Ord. of 2-22-00)

Sec. 2-48. - Financial disclosures.

- (a) Financial disclosures shall be governed by federal and state law, and this code of ethics shall not require any additional reports to be filed other than those required by federal and state law, except as provided in subsection (b) of this section.
- (b) The following requirements are hereby adopted as part of this code of ethics in addition to any other requirement of state or federal law. In addition to the filing requirements specified in O.C.G.A. § 21-5-50, financial disclosure statements, it is hereby made an additional requirement of this code that the definition of officer as contained in O.C.G.A. § 21-5-3, which requires that a financial disclosure statement be filed by every elected county official, shall require any officer and the additional following persons to file such statement no later than January 31 of the disclosure period, with such filing to be with the clerk of the board of commissioners, as follows:
 - (1) Any interest held by the spouse of the officer.
 - (2) Any interest held by a child of the officer, if such interest was at any time during the year for which the statement was filed directly or indirectly controlled by the officer or any interest known by the officer to be held by the child which could directly or materially affect any action, failure to act or decision of the officer acting within official capacity.
 - (3) Any interest in real property directly or indirectly held by a business entity in which the officer has an interest, with the exception of publicly traded corporations, where the elected county official's interest in the real property has a market value greater than \$20,000.00.
 - (4) Any interest held by a trust under which trust the officer held an income interest of more than \$500.00 or a reversionary interest of more than \$1,000.00 during the reporting period under which trust the officer was at any time during the reporting period a trustor in a revocable trust or a beneficiary.

The information required to be filed with the clerk of the board of commissioners under this section shall be the same information, and may be on the same form as is required by O.C.G.A. tit. 50, ch. 5, art. 3 (O.C.G.A. § 21-5-50 et seq.), as amended.

(Ord. of 11-14-89, § 108; Code 1977, § 3-20-38; Ord. of 2-22-00)

Sec. 2-49. - Zoning application disclosures.

All disclosures with regard to zoning applications shall be governed by federal and state law.

(Ord. of 11-14-89, § 109; Code 1977, § 3-20-39)

State enabling legislation reference— Disclosure of interest in rezoning, § 2-54.

State Law reference— Conflict of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.

Sec. 2-50. - Incompatible employment.

No officer shall engage in or accept employment with or render services for any private business or professional activity when such employment is adverse to and incompatible with the proper discharge of his official duties. The prohibition of this section shall not apply to:

- (1) An officer who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it; or
- (2) An officer whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest.

(Ord. of 11-14-89, § 110; Code 1977, § 3-20-40)

Sec. 2-51. - Interests and contracts involving officers.

- (a) During the officer's term, no officer shall acquire a property interest in any contract or transaction if a reasonable basis exists that such an interest will be affected directly by his official act or action or by official acts or actions of the county or otherwise constitute a violation of section 2-52.
- (b) The county shall not enter into any contract involving services or property with an officer or with a business in which the officer has an interest. Provided that such is disclosed to all parties involved, the prohibitions of this section shall not apply in the case of:
 - (1) The designation of a bank or trust company as a depository for county funds;
 - (2) The borrowing of funds from any bank or lending institution which offers competitive rates for such loans;
 - (3) Contracts entered into with a business which employs a consultant, provided that such employment is not incompatible with this division;
 - (4) Contracts for services entered into with a business which is the only available source for such goods or services; and
 - (5) Contracts entered into under circumstances which would constitute an emergency situation, provided that such emergency is documented and submitted to the board of ethics to be kept on file.
- (c) In the event that an officer shall be paid any remuneration under this section, it shall be a violation of this division to earn such remuneration during times when the officer is being remunerated by the county or an agency thereof.

(Ord. of 11-14-89, § 113; Code 1977, § 3-20-41; Ord. of 2-22-00)

Sec. 2-52. - Improper use of office; harassment; improper influence.

- (a) An officer shall not intentionally use the office or official title or position for the officer's own personal gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the improper use of office prohibited by this section.

- (b) No officer shall intimidate, threaten, coerce, discriminate against, or give the appearance of or attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice in the regular discharge of his official duties.
- (c) No officer shall improperly influence any public official to violate the standards of ethical conduct set forth in this ethics code.

(Ord. of 11-14-89, § 112; Code 1977, § 3-20-42; Ord. of 2-22-00)

Sec. 2-53. - Solicitation or acceptance of gifts.

- (a) Except as provided in this division, no official, either for himself or for any member of his immediate family, or for any other person, may knowingly solicit, receive benefit from, accept or agree to accept any gratuity, gift, loan, favor, promise or thing of value for himself, any other person or any member of the immediate family of such official. In addition, it shall also be a violation of this ethics code for any gift as defined in this division to be received by any such person as specified in this section if:
 - (1) It tends to influence him in the discharge of official duties or gives a reasonable basis for the impression of improper influence over him in the discharge of official duties; or
 - (2) The official has financial interest which may be substantially and materially affected, by performance or nonperformance of his official duties.
- (b) Unless impartiality and independence of judgment of the official would be compromised, this section shall not apply to the following:
 - (1) Meals and beverages given in the normal course of entertaining.
 - (2) An occasional, nonpecuniary gift from a single source of \$101.00 or less.
 - (3) Ceremonial gifts or awards.
 - (4) Gifts of advertising value only.
 - (5) Awards presented in recognition of public service.
 - (6) Reasonable expenses of food, travel, lodging and scheduled entertainment of the official for a meeting which is given in return for participation in a panel or speaking engagement at the meeting.
 - (7) Courtesy tickets or free admission extended to an elected official for an event as a courtesy or for ceremonial purposes.
 - (8) Gifts from relatives or members of his household.
 - (9) Honorariums or awards for professional achievement.
 - (10) Courtesy tickets or free admission to an elected official to educational seminars, educational or informational conventions or other similar events.
 - (11) Campaign contributions as allowed by state and federal law.

(Ord. of 11-14-89, § 113; Code 1977, § 3-20-43; Ord. of 5-25-99; Ord. of 7-28-09)

Sec. 2-54. - Disclosure of confidential information.

No officer shall use or disclose confidential information concerning the property, governing operations, policies or affairs of the county unless such information is generally available to the public; nor shall any officer use such information to advance the financial or personal interest of the officer or any other person.

(Ord. of 11-14-89, § 114; Code 1977, § 3-20-44)

Sec. 2-55. - Disclosure to avoid appearance of partiality.

If a matter should come before the board in which an officer or an immediate relative does not have a financial, fiduciary, corporate or employment interest such as requires abstention as provided by section 2-47, but in which the officer in good faith determines that his professional representative/client has such an interest and which the officer in good faith believes could create an impression of partiality, such professional relationship should be disclosed by the officer prior to the officer's participating in any discussion or official action with respect to the matter.

(Ord. of 2-22-00)

Editor's note— An ordinance of February 22, 2000, amended the Code by incorporating the provisions of former § 2-55 into § 2-47(c)(1), and adding a new § 2-55 to read as herein set out. Former § 2-55 pertained to abstention, and derived from an ordinance of November 14, 1989, § 115; and the Code of 1977, § 3-20-45.

Sec. 2-56. - Elections.

- (a) No officer shall direct any person employed by the county to undertake political activity on behalf of that officer, any other officer or any other individual or political party or group or business organization, during such time that the county employee is required to conduct county business. This section does not prohibit incidental telephone calls made for the purpose of scheduling an officer's daily county business.
- (b) No county officer shall place or cause to be placed a campaign sign on any piece of property that would create actual or apparent impropriety as contemplated under section 2-53(a)(1) and (2).

(Ord. of 5-25-99)

Secs. 2-57—2-64. - Reserved.

Subdivision II. - Board of Ethics

Sec. 2-65. - Created; composition.

There is hereby created a seven-member board of ethics, which shall consist of the following members:

- (1) One appointee of the Cobb County Bar Association.
- (2) One appointee of homeowners' associations from commissioner districts two and three of the county.
- (3) One appointee of homeowners' associations from commissioner districts one and four of the county.
- (4) One appointee of the county board of elections and registration.
- (5) One appointee of the board of commissioners.
- (6) One appointee of the county employees.
- (7) One appointee of the civil service board of the county.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(a); Ord. of 2-22-00)

Sec. 2-66. - Homeowners' association; procedure for appointment.

- (a) In order to participate in the appointment of the members of the board as set forth in section 2-65, a homeowners' association must be a legally constituted homeowners' association representing no fewer than 25 residential parcels or housing units, or an "umbrella" organization comprised of at least five member homeowners associations.
- (b) Prior to the expiration of the term or upon vacancy occurring in a position to be appointed by the homeowners' associations, public notice of the vacancy shall be provided by the filing clerk. A meeting shall be called and conducted by the chairman of the ethics board (or vice-chairman in the event the chairman's position is vacant or the chairman is an appointee of homeowners associations), or that person's designee. The notice shall be published once a week for three weeks in the legal organ; and said notice shall notify the public of a public meeting to be held for the purpose of selecting the homeowners' associations representative to the board of ethics. Each homeowners' association shall be authorized to appear at the meeting to nominate and vote for the appropriate representative to the board of ethics. Each homeowners' association shall have one vote and the representative shall be selected by a majority of the votes of the homeowners' associations present and voting.

(Ord. of 2-22-00; Amd. of 2-25-14)

Sec. 2-67. - Terms; vacancies.

Members of the board of ethics shall each serve a term of four years, without compensation, with a limit of two consecutive full terms per member, per position. Term limits shall become effective upon completion of the current term for each position. Additionally, those members having served two or more consecutive full terms shall not be eligible for reappointment to the Board of Ethics. If any vacancies occur, the remaining board members shall at that time choose an alternate member mutually agreed upon to temporarily serve until the position is permanently filled as provided in this division.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(b); Ord. of 2-22-00; Ord. of 8-10-10)

Sec. 2-68. - Qualifications of members.

A person is eligible to serve as a member of the board of ethics if the person, while serving:

- (1) Resides in the county and is a registered voter.
- (2) Is not an employee of the county government or of any political party.
- (3) Does not hold any elected or appointed office and is not a candidate for office of the United States, this state or this county.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(i))

Sec. 2-69. - Removal of member.

The board of commissioners may remove a member of the board of ethics on the grounds of neglect of duty, misconduct in office, a disability rendering the member unable to discharge the powers and duties of the office as specified in this division, or engagement in political activity in violation of section 2-74. Before initiating the removal of a member from the board of ethics, the board of commissioners shall give the member written notice of the reason for the intended action, and the member shall have an opportunity to reply. Thereafter, the board of commissioners shall afford such member an opportunity for a hearing.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(l))

Sec. 2-70. - Organization.

- (a) Members of the board of ethics shall not be compensated.
- (b) The ethics board shall elect one of its members to act as chairperson for a term of one year, or until a successor is duly elected. At the same time, the ethics board shall elect one of its members to act as vice-chairperson for the same term and to act for the chairperson in his absence because of disqualification or vacancy. If the office of chairperson or vice-chairperson is vacated in any manner before the expiration

of the term, the ethics board shall elect a temporary successor. It shall elect a permanent chairperson or vice-chairperson only after any vacancy on the ethics board is filled. Vacancies shall be filled by immediately requesting a nominee from the association or group that originally nominated the terminated board member.

- (c) There shall be no regularly scheduled monthly or bimonthly meetings of the ethics board. By majority vote, or by call of the chairman, the ethics board may call a special meeting, if necessary. The ethics board shall have semi-annual meetings in May and October in the public hearing room utilized by the board of commissioners. All meetings of the board of ethics shall be open to the public, duly publicized as required by state law, and televised by TV 23, including those portions of meetings devoted to deliberation.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(d); Ord. of 2-22-00; Ord. of 7-27-04)

Sec. 2-71. - Staffing and expense.

The board of ethics shall be provided sufficient meeting space, staff and other supportive services to carry out its duties required under this division. The clerk of the board of commissioners shall serve as the filing clerk for the board of ethics and shall be authorized to receive all filings before the board of ethics, and to publish notices of all ethics board meetings and elections upon request of the board of ethics chairman. The ethics board filing clerk shall not be required to serve as the recording clerk for the board of ethics.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(g); Ord. of 2-22-00)

Sec. 2-72. - Counsel.

The board of ethics shall be represented and assisted in carrying out its responsibilities by an attorney appointed by the board of ethics, such attorney to meet the same qualifications of members as set forth in section 2-68 and prohibitions against political activity as set forth in section 2-74. Such attorney shall serve at the pleasure of the board of ethics as needed at the hourly rate currently approved by the board of commissioners.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(h))

Sec. 2-73. - Adherence to ethics code; disqualification of member.

The board of ethics and its attorney shall be governed by and subject to this division, except as to any requirements related to financial disclosure. If a member of the board of ethics has a conflict of interest or must disqualify himself under this ethics code or by law, the remaining members shall at that time choose an alternate person mutually agreed upon to hear that matter.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 1-27-92; Ord. of 10-11-94; Code 1977, § 3-20-46(e))

Sec. 2-74. - Prohibition against political activity.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) *Member of the board of ethics* means an individual who occupies the position of a member of the board of ethics or a prospective member of the board of ethics.
 - (2) *Political party* means a national political party, a state political party, a political action committee and/or any affiliated organization.
 - (3) *Election* includes a primary, special and general election.
 - (4) *Nonpartisan election* means:
 - a. An election at which none of the candidates is to be nominated or elected as representing a political party, any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and
 - b. An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance, or any question or issue of a similar character.
 - (5) *Partisan*, when used as an adjective, refers to a political party.
 - (6) *Political fund* means any fund, organization, political action committee or other entity that, for purposes of influencing in any way the outcome of any partisan election, receives or expends money or anything of value or transfers money or anything of value to any other fund, political party, candidate, organization, political action committee or other entity.
 - (7) *Contribution* means any gift, subscription, loan, advance, deposit of money, allotment of money or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.
- (b) *Permissible activities.* All members of the board of ethics are free to engage in political activity to the widest extent consistent with the restrictions imposed in this division. Each member of the board of ethics retains the right to:
- (1) Register and vote in any election;
 - (2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization or of a similar organization;
 - (3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
 - (4) Attend a political convention, rally, fundraising function or other political gathering;
 - (5) Sign a political petition as an individual;
 - (6) Make a financial contribution to a political party or organization or candidate other than a public officer as defined in section 2-41;
 - (7) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;
 - (8) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional

amendment, referendum, approval of a governmental ordinance or any other question or issue of a similar character;

- (9) Serve as an election judge or clerk or in a similar position to perform nonpartisan duties as prescribed by state or local law; and
- (10) Otherwise participate fully in public affairs in a manner which does not materially compromise his efficiency or integrity as a member of the board of ethics or the neutrality, efficiency or integrity of the board of ethics.

(c) *Prohibited activities.*

- (1) A member of the board of ethics may not take an active part in political management or in a political campaign, except as permitted by subsection (b) of this section.
- (2) A member of the board of ethics shall not take part in or be permitted to do any of the following activities:
 - a. Serve as an officer of a political party, a member of a national, state or local committee of a political party, an officer or member of a committee of a partisan political club, or be a candidate for any of these positions;
 - b. Organize or reorganize a political party organization or political club;
 - c. Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a partisan political purpose;
 - d. Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate in a partisan election or of a political party or political club;
 - e. Take an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office;
 - f. Become a candidate for, or campaign for, an elective public office in a partisan election;
 - g. Solicit votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office;
 - h. Act as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in a partisan election;
 - i. Drive voters to the polls on behalf of a political party or a candidate in a partisan election;
 - j. Endorse or oppose a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material;
 - k. Serve as a delegate, alternate or proxy to a political party convention;
 - l. Address a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office;
 - m. Initiate or circulate a partisan nominating petition.
- (3) Nothing contained in this section shall prohibit activity in political management or in a political campaign by any member of the board of

ethics connected with a nonpartisan election or a nonpartisan issue of any type.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(j); Ord. of 7-28-09)

Sec. 2-75. - Limitation of liability.

No member of the board of ethics, or any person acting on behalf of the board of ethics, shall be liable to any person for any damages arising out of the enforcement or operation of this ethics code except in the case of willful or wanton conduct. This limitation of liability shall apply to the county, the members of the board of ethics, the employees of the board of ethics, and any person acting under the direction of the board of ethics.

(Ord. of 11-14-89, § 120; Code 1977, § 3-20-50)

Sec. 2-76. - Duties and powers.

The board of ethics shall have the following duties and powers:

- (1) To establish any procedures, rules and regulations governing its internal organization and conduct of its affairs, including, but not limited to, scheduling meetings as needed.
- (2) To receive and hear complaints of violations of standards required by this ethics code.
- (3) To make investigations as it deems necessary to determine whether any person has violated this ethics code, but only after the affirmative vote of at least four members of the ethics board have voted to conduct the investigation.
- (4) To take such action as provided in this ethics code as deemed appropriate because of any violation of this ethics code.
- (5) To make proposals or recommendations to the board of commissioners for the adoption of any revisions or amendments to this ethics code.
- (6) To perform any other function authorized by this ethics code.
- (7) To issue advisory opinions as provided in this division.
- (8) To cause subpoenas to be served upon any person or persons, whether resident or nonresident of the county, requiring the attendance of such person or persons before the ethics board to offer testimony, documentary or other evidence for an investigation, investigatory review, or hearing. The board shall have the power to require the production of such evidence as may be necessary to enable the board to carry out its duties. The board shall also have the right to provide for discovery in the same manner as courts of record of this state have the right to require discovery. When a subpoena is issued and served, such subpoena may be enforced pursuant to the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-13, as amended. Such subpoena power shall be limited to the board and its legal counsel and is not subject to the request of any party.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(c); Amd. of 7-28-15)

Sec. 2-77. - Advisory opinions.

The board of ethics shall render an advisory opinion based on a real or hypothetical set of circumstances when requested in writing by any officer subject to the provisions of this division, and it shall be a responsibility of the board of ethics for the interpretation of this division. Such advisory opinion shall be rendered pursuant only to a written request, fully setting forth the circumstances to be reviewed by the ethics board. The proceedings of the ethics board pursuant to this section shall be held in public, as provided by Sec. 2-70(c) and Ga. law, and the opinions of the ethics board shall be made available to the public to examine and for the press to publish.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 10-11-94; Code 1977, § 3-20-46(k); Ord. of 2-22-00)

Sec. 2-78. - Complaints.

The board of ethics shall be responsible for hearing and deciding any complaints filed regarding alleged violation of this division by any person. The following procedure shall be followed when filing a complaint:

- (1) Any person may file a complaint alleging violation of any of the provisions of this division by filing it with the clerk of the board of commissioners, who shall immediately deliver such complaint to the chairman of the board of ethics or his designee. A copy of such complaint shall immediately be forwarded by registered mail to the commissioner against whom the complaint was filed. The complaint must be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit(s) should be attached to the affidavit(s). The person filing the complaint shall verify at the time of filing that he or she is qualified, pursuant to section 2-41, to file a complaint. A complaint must be filed within six months of the date the alleged violation is said to have occurred, or in case of concealment or nondisclosure within six months of the date the alleged violation should have been discovered after due diligence. In the event the ethics board makes an initial determination that a complaint is technically deficient, the board shall submit a list of deficiencies to the complainant and offer the complainant the opportunity to correct the deficiencies within seven days prior to the ethics board's investigatory review of the complaint.
- (2) Upon receipt of a complaint alleging misconduct, the commissioner against whom the complaint was filed may reply to the complaint within 30 days, unless such time for reply is shortened or extended by the ethics board. The commissioner's response must be supported by affidavits based on personal knowledge, must set forth such facts as would be admissible in evidence, and must show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit(s) should be attached to the affidavit(s).

- (3) Within 60 days of receipt of a complaint, the ethics board shall conduct an investigatory review to determine whether specific substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this division. If after reviewing the complaint the majority vote determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this division or determines that no violation occurred, it may dismiss the complaint. In the event a complaint is dismissed on the basis of a deficiency in the form of the complaint, rather than upon the merits of the complaint, the complaint may be re-filed within 15 days of said dismissal. If a deficiency in the form and pleading has been cured.
- (4) If the ethics board determines that specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this division, certified written notice of a hearing, containing the time, date and place of such hearing, shall be given to each party by the ethics board, and a formal public hearing shall be conducted and both parties afforded an opportunity to be heard. Any formal public hearing shall be conducted in accordance with the requirements of due process. The board of ethics is authorized to swear witnesses. Any final determination resulting from the hearing shall include findings of fact and conclusions of law. The board shall determine if clear and convincing evidence shows any violation of this Code.
- (5) Nothing in this division shall be construed to limit or encumber the right of the board of ethics to initiate an investigation on its own cognizance as it deems necessary to fulfill its obligations under this division.

(Ord. of 11-14-89, § 116; Ord. of 7-23-91; Ord. of 1-27-92; Ord. of 10-11-94; Code 1977, § 3-20-46(f); Ord. of 5-25-99; Ord. of 2-22-00)

Sec. 2-79. - Judicial review.

- (a) Any party against whom a decision of the board of ethics is rendered may obtain judicial review of the decision by writ of certiorari to the superior court of the county. The application for the writ must be filed within 30 days from the date of the decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.
- (b) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.

(Ord. of 11-14-89, § 119; Code 1977, § 3-20-49; Ord. of 5-25-99; Ord. of 2-22-00)

Secs. 2-80—2-100. - Reserved.

ARTICLE V. - CODE OF ETHICS

Sec. 2-291. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appointed official means the county administrator, the county attorney, the county clerk and the county physician.

Business means a corporation, partnership, sole proprietorship or any other person operating an enterprise, whether or not for profit.

Confidential information means any information which, by law or practice, is not available to the public.

Contract means any lease, claim, account or demand against or agreement with any person or business, whether express or implied, executed or executory, oral or written.

Department head means any agent or employee of the county who is charged with the duty to oversee the operation of a department, agency, county board of commissioners and any other person with the authority of the board of commissioners to participate in an official act or take official action on behalf of the county, whether such person is elected, appointed or employed.

Employment means any rendering of services on request, whether paid or unpaid.

Immediate family means an official, appointed official or department head and his spouse, mother, father, brother, sister, son or daughter.

Interest means any direct or indirect pecuniary or material benefit held by or accruing to an official, appointed official or department head as a result of a contract or transaction which is or may be the subject of a contract or transaction which is or may be the subject of an official act or action by the county. Unless otherwise provided, the term "interest" does not include any remote interest. For the purpose of this chapter, an official, appointed official or department head is deemed to have an interest in transactions involving or affecting any:

- (1) Person in his immediate family;
- (2) Person with whom a contract exists;
- (3)

Business in which he is an employee or prospective employee, or in which the official, appointed official or department head, or a member of his immediate family, is a director or officer;

- (4) Business in which an official, appointed official or department head, or his immediate family, owns a whole or part interest, except publicly traded shares of a corporation; and
- (5) Corporation in which an official, appointed official or department head, and/or his immediate family, owns five percent or more of the number of outstanding publicly traded shares of such corporation.

Official means each member of the county board of commissioners then in office.

Official act or action means any executive, legislative, administrative, appointive or discretionary act of the county board of commissioners taken pursuant to a regular or special meeting of the board of commissioners or of an appointed official or department head in the discharge of his official duties.

Paid means the receipt of or right to receive a salary, wages, commission, percentage, brokerage fee, contingent fee or other compensation for services rendered.

Participate means to take part in official acts or actions, or proceedings personally as an official, appointed official or department head through an approval, disapproval, decision or failure to act or perform a duty.

Person means any individual, business, labor organization, representative, fiduciary, trust or association, whether paid or unpaid, and includes any official, appointed official or department head.

Property means any property interest, whether real or personal, tangible or intangible, and includes currency and commercial paper.

Transaction means the conduct of any activity that results in or may result in an official act or action of the county.

(Code 1979, § 2-5.1-1)

Cross reference— Definitions generally, § 1-2.

Sec. 2-292. - Appearance of improper or undue influence.

No official, appointed official or department head shall, by his conduct, give reasonable basis for the impression that any person can improperly influence him or enjoy undue favor in the performance of official acts or actions, or that he is affected unduly by the kinship, rank, position of or association with any person.

(Code 1979, § 2-5.1-2)

Sec. 2-293. - Acceptance of gifts.

- (a) No official, appointed official or department head shall directly or indirectly request, accept or agree to accept a gift, loan, favor, promise or thing of value for himself or another person if:
 - (1) It tends to influence him in the discharge of his official duties; or
 - (2) He recently has been, is now or in the near future will be involved in any official action or action indirectly affecting the donor or lender.
- (b) This section shall not apply in case of:
 - (1) An occasional nonpecuniary gift of insignificant value;
 - (2) An award publicly presented in recognition of public service; and
 - (3) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the making of such a loan.

(Code 1979, § 2-5.1-3)

Sec. 2-294. - Campaign contributions; disclosure of campaign contributions; when required.

- (a) The provisions of this article do not apply with respect to campaign contributions made to an official or department head in compliance with O.C.G.A. tit. 21, ch. 5, commonly known as the Georgia Campaign and Financial Disclosure Act.
- (b) An official, appointed official or department head who has received a campaign contribution aggregating \$251.00 or more from any person or business appearing before the commission shall file a disclosure report with the county board of commissioners showing:
 - (1) The date the campaign contribution or gift was made; and
 - (2) The dollar amount of each campaign contribution made by the person appearing before the commission.

The disclosure required in this section shall be made within ten days of the official, appointed official or department head learning that such person or business entity has a matter involving the county.

(Code 1979, § 2-5.1-4)

Sec. 2-295. - Disclosure of confidential information.

No official, appointed official or department head shall disclose or otherwise use confidential information acquired by virtue of his position with the county for his or another person's private gain.

(Code 1979, § 2-5.1-5)

Sec. 2-296. - Withholding information or intentionally providing misleading information.

No official, appointed official or department head shall provide intentionally misleading information to any person, nor withhold necessary information from officials, appointed officials or department heads. All officials, appointed officials and department heads shall have equal access to necessary information with no secret communication of necessary information between officials, appointed officials and department heads.

(Code 1979, § 2-5.1-6)

Sec. 2-297. - Appearance for the benefit of self or others.

No official, appointed official or department head shall appear on his own behalf, without making such disclosures and/or abstaining as required in section 2-299, nor under any circumstances represent or appear on behalf of any person, whether paid or unpaid, before any court or before any legislative, administrative or quasijudicial board, agency, commission or committee appointed by the board of commissioners, or an official or department head concerning any contract or transaction which is or may be the subject of any official act or action of the county, except in the regular discharge of their official duties, or otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

(Code 1979, § 2-5.1-7)

Sec. 2-298. - Employment, business or professional activities adverse to interest of county.

No official, appointed official or department head shall engage in employment with or render services for any private business or professional activity when it is adverse to and incompatible with the proper discharge of his official duties.

(Code 1979, § 2-5.1-8)

Sec. 2-299. - Conflict of interest.

- (a) An official, appointed official or department head who has an interest, as defined in section 2-291, that he has reason to believe may be affected by or may affect his official acts or actions, or the official acts or actions of the county, shall immediately disclose the nature and extent of such interest in writing to the board of commissioners for the public record, and shall abstain from participating in such official acts or actions affecting or affected by such interest.
- (b) An official, appointed official or department head who has an interest, other than provided for in this article, that he has reason to believe may be affected by or may affect his official acts or actions, or the official acts or actions of the county, shall disclose such interest where failure to disclose such interest would create the impression of impropriety. The official, appointed official or department head disclosing such interest shall abstain from participating in official acts or actions affected by or affecting such interest at the discretion of the board of commissioners.

(Code 1979, § 2-5.1-9)

Sec. 2-300. - Violation of state or federal laws or county ordinances.

No official, appointed official or department head shall engage in any activity or transaction that is prohibited by state or federal law or county ordinance which is applicable to him by virtue of his office.

(Code 1979, § 2-5.1-10)

Sec. 2-301. - Misleading public as to facts and law.

- (a) An official, appointed official or department head shall not knowingly mislead the public as to the existence of a fact when such fact is known to such individual or should have been known by the reasonable exercise of diligence.

- (b) An official, appointed official or department head shall not knowingly mislead the public as to a matter of law when such matter of law is known to such individual or should have been known by the reasonable exercise of diligence.

(Code 1979, §§ 2-5.1-11, 2-5.1-12)

Sec. 2-302. - Upholding Code of Ordinances, policy and procedure, rules and regulations.

An official, appointed official or department head shall uphold and comply with the county Code of Ordinances, the various policy and procedure manuals of the county and the rules and regulations of the county.

(Code 1979, § 2-5.1-13)

Sec. 2-303. - Dealing with departments through department heads.

An official, appointed official or department head shall conduct all business with a particular department through the properly designated head of such department, except when specifically otherwise authorized by a department head or a majority of the board of commissioners.

(Code 1979, § 2-5.1-14)

Sec. 2-304. - Enforcement.

If any member of the county board of commissioners, appointed official or department head intentionally fails to follow the requirements of this article, it shall be the duty of the other parties covered by this article to report such failure to comply to the county board of commissioners and for the county board of commissioners, after proper investigation, with due process being afforded to the alleged offender, to take whatever action is deemed necessary and appropriate.

(Code 1979, § 2-5.1-15)

Secs. 2-305—2-335. - Reserved.

STATE OF GEORGIA
COUNTY OF FAYETTE

ORDINANCE NO. 2010-10

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FAYETTE COUNTY, GEORGIA CHAPTER 2, ADMINISTRATION; TO PROVIDE FOR ETHICAL STANDARDS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the ethical standards of county officials as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. That Article VIII of Chapter 2 Administration of the Code of Ordinances, Fayette County, Georgia is hereby deleted in its entirety and replaced to read as follows:

Sec. 2-207. Purpose.

The proper operation of local government requires that the public officials be independent, impartial and responsible to the people; that the government decisions and policy be made through proper channels of the governmental structure; that public office not be used for personal gain; that the public officials be free from the appearance of impropriety; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county officials is adopted. The purpose of this policy is to establish ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interests of the county and by directing disclosure by such officials of private financial or other interests in matters affecting the county.

Sec. 2-208. Definitions.

Business entity means any business, proprietorship, firm, partnership, person in either a representative or a fiduciary capacity, association, venture, trust, or corporation.

Confidential information means any information which, by law or practice, is not available to the public.

County official or official shall mean the county board of commissioners, county administrator, county attorney and his assistants, and any county employee who has been appointed to the position by the board of commissioners.

Immediate family means an official and the spouse of an official, their parents, children, brothers and sisters related by blood or marriage.

Interest means direct or indirect pecuniary or material benefit accruing to a public officer or official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county except for such 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 purposes of this policy, a county official shall be deemed to have an interest in the affairs of:

- (1) his or her immediate family;
- (2) any business entity in which the county official is an officer, director, or member having a financial interest in, or employed by it; or
- (3) any business entity as to which the stock, legal ownership, or beneficial ownership of a county official is in excess of five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the county official.

Official act or action means any legislative, administrative, appointive or discretionary act of any official of the county or any agency, board, committee, authority or commission thereof.

Reprimand means an expression of disapproval.

Sec. 2-209. Standards.

(a) Interest in contract or transaction. No county official having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the county shall:

- (1) have or thereafter acquire an interest in such contract or transaction, or
- (2) have an interest in any business entity involved in such contract or transactions, or
- (3) have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction, or
- (4) have solicited or accepted a present or future gift, favor, service, or thing of value from a person involved in such contract or transaction, except as provided in section 2-210, below.

(b) Pre-acquisition of interest. No county official shall acquire an interest in a contract or transaction which is or may be the subject of an official act or action of the county at a time when the county official believes or has reason to believe that such contract or transaction will be directly or indirectly affected by an official act or action of the county.

(c) Disclosure of information. No county official shall without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the county, or use such information to advance the financial or other private interest of himself or others.

(d) No county official shall waive the attorney-client privilege or disclose any documents protected by the attorney-client privilege without the consent of the majority of the board of commissioners.

(e) No county official shall disclose to others matters discussed in executive session of any board or commission without the consent of the majority of the board of commissioners or until after the minutes of the meeting is required to be released as a matter of law.

(f) Incompatible service. No county official shall engage in or accept private employment or render service for any private entity, when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided in this policy.

(g) Appearance. No county official shall appear on behalf of any private person other than himself, his spouse or minor children, before any county agency, authority or board. However, a member of the board of commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.

(h) Public property. No county official shall request or permit the unauthorized use of county-owned vehicles, equipment, materials or property for personal convenience or profit.

(i) Special treatment. No county official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in the same or similar circumstances.

(j) Later case interest. No county official shall, after the termination of service or employment with the county, accept remuneration of any kind for any appearance before any board, commission, committee, agency or authority of the county on behalf of any adverse party in relation to any case, proceeding, or application in which he personally participated during the period of his service or employment, which was under his active consideration during the period of his service or employment, or as to which he could have acquired knowledge or information during the period of his service or employment.

(k) Political recrimination. No county official, whether elected or appointed, shall promise an appointment or threaten the dismissal from any county position as a reward or punishment for any political activity.

(l) Withholding of information. No county official shall knowingly withhold any information which would impair the proper decision making of any of the county board, authorities, agency or commissions.

(m) Payment of debts. All county officials shall settle all accounts between them and the county, including the payment of taxes, in a timely fashion.

(n) Organizational integrity. County commissioners, as policy makers, shall refrain from interfering in the daily administrative affairs of department directors. Commissioners shall not, acting alone, make suggestions to the department directors or their employees regarding the performance of their duties, nor give instructions to department directors or other employees. Commissioners shall not make recommendations regarding the hiring, firing or disciplining of department directors and other county employees.

Sec. 2-210. Exceptions.

(a) It shall not be deemed a violation of the standards of this policy if the interest of a county official in a person or business entity is a contractual obligation of less than \$500.00 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under any obligation to make or incur.

(b) The following shall not be deemed a violation of the standards of this policy:

- (1) Legitimate salary, benefits, fees, commissions, or expenses associated with an official's non-public business;
- (2) An award, plaque, certificate, memento, or similar item given in recognition of the official's civic, charitable, political, professional, or public service;
- (3) Food, beverages, and registration at group events to which all similarly situated officials are invited;
- (4) Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to an official so that he or she may participate or speak at the meeting;
- (5) A commercially reasonable loan made in the ordinary course of business;
- (6) Any gift with a total value less than \$100.00 in any calendar year;
- (7) Promotional items generally distributed to public officials generally;
- (8) A gift from a member of the public official's immediate family; or
- (9) Food, beverage, or expenses afforded public officials, and members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

(c) It shall not be deemed a violation of the standards of this policy if a county official, in his capacity as such official, participates in the making of a contract even if such official has a private pecuniary interest or performs in regard to that contract some function requiring the exercise of discretion on his part, if;

- (1) The contract is awarded through a process of public notice and competitive bidding, or
- (2) The board of commissioners at regular meeting, after determining that it is in the best interest of the county to do so, authorizes the participation.

Sec. 2-211. Disclosure of interest in legislative action.

(a) Any member of the Board of Commissioners of Fayette County, Georgia who has financial or personal interest in any proposed legislation before the commission shall immediately disclose on the record the nature and extent of such interest.

(b) Any other official who has a financial or personal interest in any proposed legislative action of the board of commissioners, and who participates in discussion with or gives an official opinion or recommendation to the commission, shall disclose on the record the nature and extent of such interest.

Sec. 2-212. Abstentions.

A county official who has an interest that he has reason to believe may be affected by an official act or action shall abstain from any participation in the same.

Sec. 2-213. Enforcement and administration.

(a) Constituting the board; chairman.

(1) The board of ethics of the county is hereby created and authorized by the board of commissioners.

(2) The board of ethics of the county shall be composed of three (3) residents of the county to be appointed as provided herein. Each member of the board of ethics shall have been a resident of the county for at least one year immediately preceding the date of taking office and shall remain a resident of the county while serving as a member of the board of ethics. No person shall serve as a member of the board of ethics if the person has, or has had within the preceding one year period, any interest in any contract, transaction, or official action of the county.

(3) The members of the board of commissioners may nominate persons to serve on the board of ethics, who shall be appointed by a majority vote of the board of commissioners. These individuals must agree to undergo a criminal background check conducted by the County Marshal prior to designation, and/or redesignation, the results of which will be forwarded to the board of commissioners. These individuals should be available to be called upon for their term of office. At the end of each term, the board of commissioners shall appoint eligible residents to fill the board. Current members can be reappointed and there shall be no term limits for the members. If a member of the board of ethics does not finish their term, the remainder of the term shall be filled through an appointment by the board of commissioners.

(4) Alternates. In addition to the members of the board, the board of commissioners shall appoint two alternate members. These alternates shall be appointed in the same manner as members of the board of ethics.

(5) If any member of the board of ethics has a conflict of interest in any matter before the board, the remaining two members of the board of ethics shall select an alternate to serve for that matter from the two alternative members appointed by the board of commissioners.

(6) The board shall select a chairman at the beginning of each matter to be heard.

(7) Term of Office. The term of office for each member of the board of ethics and alternates shall be for three (3) years; however, in the appointment of the first board, one (1) member and one (1) alternate shall be appointed for three (3) years; one (1) member and one (1) alternate for two (2) years and one (1) member for one (1) year. It is the intent of this section that their terms be staggered. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

(b) Duties of board. The board of ethics shall have the following duties and powers:

(1) To administer the ethics ordinance;

(2) To receive, review, process, make determinations on, and hear complaints of violations of standards required by this chapter. The board is not designed to be an oversight board or to perform investigations;

(3) To make such response to a complaint as it deems necessary to determine whether any person has violated any provisions of this chapter;

(4) To hold such hearings and make such inquiries as deemed necessary to investigate and rule upon complaints; and

(5) To report its findings and actions to the board of commissioners.

(c) Administration.

(1) Complaints.

a. All complaints of ethical violations must be filed with the county clerk, in writing, signed by the complainant, no later than 90 days after the alleged act occurred unless the complainant, by exercising reasonable diligence, failed to discover the alleged ethical violation within such 90 day period. In such a case, the complainant must file a written complaint with the county clerk no later than 90 days after the complainant discovered the alleged violation. In all such cases brought after 90 days from the date of the alleged ethical violation, the complainant bears the burden of convincing the board of the true date complainant learned of the alleged violation.

b. In no event, shall an ethical charge be filed with the county clerk more than two years from the date of the alleged ethical violation.

c. The complainant may withdraw the complaint at any time in writing.

(2) Pay and staff support.

a. The members of the board of ethics shall serve without compensation. The governing authority of the county shall provide meeting space for the board of ethics. Subject to budgetary procedures and requirements of the county, the county shall provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.

b. The county clerk shall serve as the recording secretary to the board and shall provide such administrative services to the board as may be necessary.

c. Subject to budgetary procedures and requirements of the county, the county shall provide the board of ethics with such legal staffing as may be reasonably necessary for it to perform its duties and responsibilities by an attorney who does not serve at the County Attorney.

(3) Action by the board. Within 30 days of receipt of a complaint from the county clerk, the board may perform one or more of the following:

a. Upon receipt of a complaint in proper form, review the complaint to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary jurisdiction. The board of ethics shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigation to the file containing such complaint;

b. Upon completion of its review and/or investigation of a complaint, the board at a public meeting may dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke disciplinary jurisdiction. Provided, however, that a rejection of such complaint by the board of ethics shall not deprive the complaining party of any action he/she might otherwise have at law or in equity against the respondent. A rejection shall prevent refiling of a complaint regarding the same subject(s) and alleged perpetrator(s) for the same offense;

- c. Admonish, formally reprimand, publicly censure, any complaining party that files an unjustified, frivolous, patently unfounded or factually insufficient complaint;
- d. Forward an order to the board of commissioners; or
- e. Hold a public hearing within 60 days after the complaint was received.

(4) Parties rights. At any hearing held by the board of ethics, the official who is the subject of a complaint shall have the right to written notice of the allegations at least ten business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation according to the procedures contained in subparagraph (6).

(5) Advisory opinions. When any official has a doubt regarding the applicability of any provision of this chapter to a particular situation, or regarding the definition of its terms, he may apply in writing or verbally during a public meeting to the county attorney for an advisory opinion. The advisory opinion shall be written unless it is given verbally during a public meeting, and may be provided directly to the requestor of such opinion. Nothing in this chapter shall be construed to prohibit a request for an informal opinion by any public official from the county attorney regarding a potential conflict of interest. Neither a request for an informal opinion, nor the making of a statement concerning a potential conflict of interest made by a member of the governing body in the course of abstaining from voting shall create a presumption or inference that a public servant actually has a personal interest in the matter about which the opinion was requested.

(6) Hearing procedures.

- a. At the hearing the conduct of the parties shall be dignified both on and off the record.
- b. Misconduct before the board may be grounds for summary exclusion from the hearing. The hearing is intended to receive evidence either to refute or to substantiate specific charges. It shall not be a forum for discussion of extraneous or irrelevant matters having no bearing on the charges, and the alleged misconduct of others who may have escaped discipline in the past shall serve as no defense. All parties at action and witnesses shall be given ample time and opportunity to develop points, subject to the discretion of the board.
- c. It should be recognized that the board will be composed of private citizens. Accordingly, the board may not follow established legal procedures as might be expected in a court of law. However, in taking testimony and in considering the evidence, the board shall follow accepted legal procedure insofar as is practicable but shall not be bound by the technical rules of evidence observed in courts of law. The board may decline to listen to numerous character witnesses or numbers of witnesses testifying to identical facts.
- d. The chairman of the board of ethics shall conduct the hearing.
- e. The hearing shall be recorded and the county clerk shall prepare a written summary of the hearing. The complainant and/or respondent may provide a court reporter at their expense for a verbatim transcript of the hearing, if so desired. The county clerk, or their designee shall take minutes of the hearing, specifically including the name of the board members who make any motions, the board members who second any such motions, and the names of the individuals on the board and how each voted. This written report shall be presented to the board of commissioners at the conclusion of the board's proceedings.

f. Three members of the constituted board shall be required to conduct the hearing. The ethics board may, before the hearing and upon ten days notice to all parties, approve regulations governing conduct of ethics board hearings so long as such regulations do not conflict with this Article.

g. The person who filed the complaint ("complainant") shall present his case to the board first.

h. All documentary evidence which is anticipated to be submitted to the board at the hearing by either the respondent or the complainant, and the names, with telephone numbers, of all individuals expected to present testimony to the board on behalf of either the respondent or complainant, must be given to the county clerk and the opposing party at least ten days in advance of the hearing. This requirement shall not apply to evidence used solely for purposes of cross-examination or rebuttal. The failure of a party to adhere to this rule shall preclude such party from tendering such evidence or individual's testimony at the hearing through any form. The respondent, complainant, and the public shall be entitled to see all such lists which are placed on file with the county clerk.

i. The board may compel the production of any document in the possession of the county and subject to the Open Records Act and the testimony of any county employee. Where the board compels any such document or testimony after a hearing has commenced a continuation shall be provided so that such order can be complied with.

j. Neither party shall have the right to require depositions of any individual, including the opposite party.

k. The complainant's evidence must prove that respondent is guilty of the offense charged by the evidentiary standard commonly referred to as "preponderance of the evidence."

l. Each witness presented by the complainant, and including the complainant, shall be subject to cross-examination by the individual accused of the ethical violation ("respondent") or such person's representative.

m. At the conclusion of the complainant's case, the respondent shall be entitled to move for dismissal based on insufficient evidence on the part of complainant's case. If respondent makes such a motion and the board, by majority vote, agrees to dismiss the complaint, the hearing shall be terminated at this point. If either the respondent fails to make such a motion, or, if the board decides by majority vote to overrule respondent's motion, the hearing shall continue. The board may also direct a decision in favor of the respondent upon the board's own initiative.

n. Respondent shall then be entitled to present his evidence to the board.

o. Respondent is not required to testify. The absence of respondent's testimony shall not be viewed by the board as an admission of any sort.

p. If respondent testifies, then respondent shall be subject to cross-examination by complainant. All other witnesses who testify in the respondent's case shall be subject to cross-examination by complainant.

q. All persons who testify before the board, shall be placed under oath, by either the chairman or a person designated by the chairman.

r. At the conclusion of respondent's case, the complainant may offer rebuttal evidence only to those items presented in respondent's case. At the conclusion of complainant's rebuttal, respondent shall be entitled to offer rebuttal evidence only to those matters presented in complainant's rebuttal case.

s. During the course of testimony and at the conclusion of all the testimony and closure of all of the evidence, the board members may ask questions of any of the individuals who testified before the board.

t. At the conclusion of all questions by parties and board members, the chairman shall end the hearing and permit the board to deliberate in public. If the board decides by majority vote that additional evidence is needed to make a decision, the board shall have the authority to require either the complainant or respondent to submit additional evidence at a continuation of the hearing which must be held no later than 45 days after the date of the initial hearing. The board has no authority to continue the hearing past this 45-day deadline.

u. Following the conclusion of any additional evidence received at the continued hearing, the board shall continue to deliberate. When deliberations are concluded, the chairman shall call for a vote. The board may vote immediately after deliberations are concluded or they may continue the meeting for up to two weeks when a public vote must be taken. The board's first vote must be whether the respondent violated the ethics code as charged by the complainant. If, by majority vote, the board rules that the respondent did not violate the ethics code as charged by the complainant, then the matter is concluded. If the board, by majority vote, concludes that the respondent did violate the ethics code as charged by the complainant, then the board must make a second decision by majority vote. The second decision involves the form of penalty. The board shall have six options of penalty which include:

i. No admonishment and no further action;

ii. A public reprimand and admonishment not to violate the ethics code in the future;

iii. Formal reprimand;

iv. Public censure;

v. Recommendation for termination, resignation, or recall; or

vi. Recommendation of prosecution in the State Court of Fayette County.

v. The complainant may withdraw his or her complaint at any time without the approval of the board.

w. An order will be generated by the board and submitted to the board of commissioners for inclusion in the minutes within fifteen (15) days of the completed hearing.

(d) Judicial review of decisions.

(1) Any public official adversely affected by any final decision of the board of ethics under subsection (f) of this section may obtain judicial review of such decision as provided in this subsection.

(2) An action for judicial review may be commenced in the Superior Court of Fayette County within 30 days after the decision of the board of ethics becomes final.

(3) The effective date of the final decision of the board of ethics shall be postponed pending judicial review as provided for in this subsection.

(4) The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, testimony, evidence, exhibits, and other papers presented to or considered by the board of ethics and the findings and decisions of the board of ethics. As to alleged procedural irregularities, evidence may be taken independently by the court.

(5) If the court finds no error, it shall affirm the decision of the board of ethics. The court shall hold unlawful and set aside the decision of the board of ethics if it finds that such action was:

- i. Arbitrary or capricious;
- ii. A denial of a statutory right;
- iii. Contrary to constitutional right, power, privilege, or immunity;
- iv. In excess of statutory jurisdiction, authority, purposes, or limitation;
- v. Not in accord with the procedures or procedural limitations of this section or as otherwise required by law;
- vi. An abuse of discretion, unsupported by substantial evidence when the record is considered as a whole; or
- vii. Otherwise contrary to law.

(6) The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.

Sec. 2-214. Penalties.

County officials are subject to the following penalties and action for breach of ethics:

- (1) Written warning or reprimand;
- (2) Cancellation of the contract or rejection of the bid or offer;
- (3) Recovery of the value transferred or received; and/or
- (4) Debarment or suspension from award of county contract for a period of up to three years.

Sec. 2-215. Compliance with applicable laws.

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

Secs. 2-216—2-220. - Reserved.

Section 2. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

IT IS SO ORDAINED THIS 18th DAY OF NOVEMBER, 2010.

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA



ATTEST:

Carol Chandler

Carol Chandler, County Clerk

Jack R. Smith

Jack R. Smith, Chairman

CITY OF ODESSA

CITY COUNCIL AGENDA ITEM

Meeting Date:		Item Type:
Contact:	Gary Landers	<input type="checkbox"/> Consent: <input type="checkbox"/> Regular:
Department:	City Attorney's Office	<input type="checkbox"/> Ordinance: <input type="checkbox"/> Resolution: <input type="checkbox"/> Presentation
		<input type="checkbox"/> Bid Award: <input type="checkbox"/> Hearing: <input type="checkbox"/> Other:

CAPTION

Consider amending Chapter 1 of the City of Odessa Code of Ordinances, Entitled "General Provisions", Article 1-4 "City Council" by adding Division 3 "Code of Conduct", sections 1-15-1 through 1-50-11. (Ordinance)

SUMMARY OF ITEM

This item amends Chapter 1, by adding a written "Code of Ethics for Elected and Appointed Officials" to the City of Odessa Code of Ordinances. The City Charter provides information on the roles and responsibilities of members of the Odessa City Council, the Mayor Pro Tem, and the Mayor. The City's Code of Conduct provides guidance on ethical issues and questions of right and wrong.

This Code of Conduct is designed to describe the manner in which Council members and board and commission members should treat one another, City staff, citizens and others they meet in representing the City of Odessa.

The constant and consistent theme through all of the conduct guidelines is "respect." Councilmembers experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials ("Officials") are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.

FISCAL IMPACT:

Fiscal Yr.	Available Funds	Budget	Est./Actual	Difference
Fund:	Total Project/Account			\$0
Cost:	Less Other Planned			\$0
Revenue:	This Agenda Item	\$0	\$0	\$0

Fiscal Note

ACTION NEEDED TO AMEND THE BUDGET

<input type="checkbox"/> Yes	<input type="checkbox"/> No	Appropriation Amount:		Transfer Amount	
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Appropriation By: ☐ Reserves ☐ Grant ☐ Additional Reserves

Comments:

Supporting Documents:	Other Departments, Boards, Commissions or Agencies:

DRAFT

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Division 3 “Code of Conduct”

Sec. 1-50-1 Code of Ethics for Elected and Appointed Officials

(a) **Authority.** Article V. OFFICERS AND ELECTIONS, Section 59.(a) of the CHARTER of the CITY OF ODESSA, TEXAS, provides that “the city council shall determine its own rules of procedure.” Furthermore, Article V. OFFICERS AND ELECTIONS, Section 56.(a) states that “the city council shall have all powers necessary and incident to the proper discharge of the duties imposed upon it and is hereby invested with all power necessary to carry out the terms and provisions of this Charter; it being intended that the city council and mayor shall have and exercise all powers enumerated in this Charter or implied thereby and all powers that are or hereafter may be granted to municipalities by the Constitution or laws of the State of Texas.” Therefore, in order to provide the framework for the execution of these powers and authority, the following set of rules shall be in effect upon their adoption by the city council and until they are amended or new rules adopted in the manner provided for by these rules.

(b) **Policy Purpose.** The Odessa City Council adopts this Code of Ethics to guarantee that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the City of Odessa’s government.

(c) **Ethics.** The citizens of Odessa are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Uphold the Constitution of the United States and of the State of Texas, and carry out all applicable laws according of the City, including the provisions of the Ordinances of the City of Odessa on a fair and impartial basis;
- Regard his/her official acts to the highest standards of morality and to discharge faithfully the duties of the office regardless of personal considerations, recognize that the public interest must be their primary concern;
- Be independent, impartial and responsible to the citizens, and not use the public office for personal gain;
- Conduct themselves in both official and private affairs above reproach;
- Represent loyalty to the interest of the citizens of the entire City. This accountability supersedes any conflicting loyalty, advocacy or special interest group, or any individual, or membership of (or affiliation with) any company or other private or public organization; and
- Conduct public deliberations and processes openly, except for specific exceptions as provided by the Open Meetings Act, in an atmosphere of respect and civility.

Therefore, members of the City Council, and all Boards and Commissions shall conduct themselves in accordance with the following ethical standards:

- (1) Act in the Public Interest. Recognizing that stewardship of the community must be their primary concern, members will work for the common good of the citizens of Odessa and not for any private or personal interest, and they

will assure fair and equal treatment of all persons, claims and transactions coming before them.

(2) Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of Texas and the City of Odessa in the performance of their public duties. These laws include, but are not limited to the United States Constitution; State laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City Charter, ordinances and policies.

(3) Conduct of Members. The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards and Commissions, the staff or public. This includes but is not limited to sighing, making facial expressions (disbelief, anger or boredom), eye rolling, smirking, loud, disruptive and/or boisterous behavior.

(4) Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

(5) Conduct at Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the matters at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; attempting to monopolize the discussion; or otherwise interfering with the orderly conduct of meetings.

(6) Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

(7) Communication. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body, which they may have received from sources outside of the public decision-making process.

(8) Conflict of Interest. Chapter 171 of the Texas Local Government Code regulates local public officials' conflicts of interest. Members are prohibited from voting or participating on a matter involving a business entity or real property in which the official has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public, or in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.

A member who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with the city's official record keeper, stating the nature and extent of the interest. In addition, a member is required to abstain from further participation in the matter. However, a public official that is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a

substantial interest and are required to file and do file affidavits of similar interests on the same official matter.

(9) Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits, which might compromise their independence of judgment or action or give the appearance of being compromised. (reference gift policy)

(10) Confidential Information. Members must maintain the confidentiality of all written materials and verbal information provided to members, which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

(11) Use of Public Resources. Members shall not use public resources, which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

(12) Representation of Private Interests. In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Commission or proceeding of the City, nor shall members of Boards and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies, nor voluntarily participate on behalf of others in any litigation to which the City is, or might be, an adverse party.

(13) Advocacy. Members shall represent the official policies or positions of the City Council, Board or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Odessa, nor will they allow the inference that they do.

(14) Policy Role of Members. Members shall respect and adhere to the council-manager structure of Odessa City government as outlined in the City of Odessa Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

(15) Independence of Boards and Commissions. Because of the value of the independent advice of Boards and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board and Commission proceedings.

(16) Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special

role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

(d) Sanctions for Elected and Appointed Officials Violation of the Code of Ethics.

The Code of Ethics expresses standards of ethical conduct expected for members of the Odessa City Council and boards and commissions, members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appears to be in violation of the Code of Ethics and Conduct are brought to their attention.

Members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, be removed from committee assignments (both within the City of Odessa or with inter - governmental agencies) by the Council.

Members should point out to the offending member infractions of the Ethics Policy. If the offenses continue, then the matter should be placed on a council agenda in closed session under the provisions of Section 551. 074 of the Texas Government Code.

The affected member may request that the complaint be considered in a public meeting. The affected member shall be provided with a copy of the complaint in writing. At the City Council meeting, the nature of the complaint and the possible violations of this Code of Ethics and Conduct shall be presented in detail.

The affected member shall have the right to a full and complete hearing before the City Council with the opportunity to call witnesses and present evidence in such person's behalf.

The City Council may reject the complaint and take no action or take action to formally reprimand or censure the offending member.

Sec. 1-50-2 Overview of Councilmember's Roles and Responsibilities

Mayor

- Acts as the official head of the City for all ceremonial purposes.
- Chairs Council meetings.
- Leads the Council into an effective, cohesive working team.
- Signs documents on behalf of the City.
- Reviews mail addressed to Mayor.
- Other duties as set forth in other laws, ordinances, or the City Charter.

Mayor Pro Tem

- Performs the duties of the Mayor if the Mayor is absent or disabled.
- Chairs Council meetings at the request of the Mayor.
- Signs documents on behalf of the City, in absence of the Mayor.
- All duties as assigned by the Mayor.

All Councilmembers

All members of the City Council, including those serving as Mayor and Mayor Pro Tern, have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect. Therefore, no ranking or pecking order shall be established for predetermining the order of roll call votes or public introductions, except that the Mayor and Mayor Pro Tern shall be introduced first at public meetings and events. All Councilmembers should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of Council meetings and be familiar with issues on the agenda.
- Represent the City at ceremonial functions at the request of the Mayor.
- Be respectful of other people's time. Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in Odessa government.
- Provide contact information with the City Secretary in case an emergency or urgent situation arises while the Councilmember is out of town.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities to increase team effectiveness and review Council procedures, such as this Code of Conduct.

Meeting Chair

The Mayor will chair official meetings of the City Council, unless the Mayor Pro Tem or another Councilmember is designated as chair of a specific meeting.

- Maintains order, decorum, and the fair and equitable treatment of all speakers.
- Keeps discussion and questions focused on specific agenda item under consideration.
- Makes parliamentary rulings with advice, if requested, from the City Secretary who acts as advisory parliamentarian, and in her absence, the City Attorney shall act as advisory parliamentarian.

OPERATIONAL PROTOCOLS

FOR ODESSA CITY COUNCIL AND COUNCIL APPOINTEES

It is the overriding objective of the Council and its appointees that the interests of the City be served faithfully and effectively at all times. To that end, the Council, individual Councilmembers, and the Council's appointees will work together to foster a working environment that is characterized by mutual respect and professional courtesy, free of harassment and unnecessary interpersonal conflict, compliant with all applicable laws, guided at all times by the Charter, and consistently focused on a commitment to service. This protocol governs interactions among the Council and its members and the Council's appointees and establishes the standards of behavior that all have agreed are best suited to achieving the

appropriate working environment. These rules of engagement are not intended to take the place of any ethical guidelines, Charter directives, or other policies but, rather, supplement those guidelines, directives, and policies by facilitating the type of productive day-to-day interactions that are necessary for accomplishing the duties and responsibilities assigned to each individual or group.

Council's first duties are to:

- 1) create a strategic plan with concise goals;
- 2) implement a system to measure goal achievement on a quarterly basis;
- 3) speak with one voice once a majority decision has been rendered; and
- 4) view responsibilities to the entire City as stakeholders and not to certain sections of the community.

The Council and individual Councilmembers shall at all times:

- Operate within the scope of authority provided for in the Charter and in accordance with all applicable laws.
 - Observe the requirements regarding properly noticed open meetings and refrain from meeting in numbers less than a quorum with the intent of avoiding open meetings requirements.
 - Appoint a duly authorized delegate or subcommittee to attend to matters within the Council's scope of authority that the Council does not pursue as a body, requiring that delegate or subcommittee to report to the Council to allow for an informed decision by the Council as a whole.
 - Designate the Mayor as spokesperson on policy decisions collectively reached at properly noticed meetings, and, once decisions are made, avoid the appearance that the Council does not agree with regard to the direction taken.
 - Follow the rules of debate as set forth in the Council's recognized parliamentary authority during Council meetings.
 - Respect the delegation of authority and responsibility to appointees as provided for in the Charter.
 - Avoid at all times inappropriately providing direction on administrative matters or other matters not within the scope of their authority.
 - Direct all requests for information from City personnel to the appropriate appointee or City Manager direct report employee in order to avoid the appearance of any impropriety or undermining of the appointee's position and authority; and, when at all possible, contact the appointee, City Manager or a direct report of the Manger with questions about upcoming Council agenda items in order to provide the City Manager the opportunity to gather need information and have appropriate staff present at the meeting to adequately address the questions.
 - Seek clarification from the City Attorney, as necessary, regarding the scope of the Council's authority or responsibility, proper process, or other legal issues.
- Treat citizens, appointees and City employees in a courteous and fair manner at all times and avoid placing appointees in a position that could reasonably be perceived to create undue influence by any individual Councilmembers.

Situations involving a Councilmember who is not following the Council's operational protocols shall be addressed through the following incremental steps: 1) the concerned Councilmember shall have a one-on-one conversation with the non-complying Councilmember; 2) the Mayor shall discuss the situation with said Councilmember; and 3) the Mayor shall appoint an ad hoc committee of the Council to address the situation.

Council appointees shall:

- Report to and take direction from the Council as a whole and not from individual Councilmembers, keeping the entire Council informed of all matters that are appropriately within the Council's scope of authority and ensuring that individual Councilmembers are equally informed.
- Remain free from influence by individual Councilmembers and third parties, ensuring objectivity in their actions and decision-making.
- Respond to requests for information from individual Councilmembers as appropriate, but, when responding, provide the entire Council and the other appointees both the requested information and a brief statement of the request, when made, and by whom.
- Keep other Council appointees informed on a timely basis regarding issues within that other Council appointee's area of responsibilities and avoid the appearance that one Council appointee has ambushed or undermined another.
- Except in extraordinary circumstances or where there is an affirmative duty to report to the Council, escalate matters involving another Council appointee or a matter within another Council appointee's area of responsibility to the Council only after discussing the matter fully with the other Council appointee in question, only after making all reasonable efforts under the circumstances to resolve the matter without Council involvement, and only as necessary to protect the City's interests.
- Respect the authority of and decisions made by other Council appointees, and express disagreement in an appropriate fashion and forum.
- Exercise sound professional judgment untainted by personal animosity or hidden agendas.
- Be open, honest, and forthright in their dealings with one another, with the Council, and with individual Councilmembers.
- Treat one another, citizens, other City employees, the Council, and individual Councilmembers with courtesy and respect at all times.
- Council appointees may accomplish their responsibilities in any manner that is not imprudent, unethical or in violation of applicable codes of professional ethics and conduct.
- Council appointees shall support the Vision Statement, Mission Statement and Values as developed by the City of Odessa.

The Council will appoint an appropriate party, either a delegate or a subcommittee, to which conflicts between or personnel issues involving Council appointees (other than those for which there is an affirmative duty to report to the full Council) may be addressed. That delegate or subcommittee shall be responsible for informing the Council of any good faith belief that there has been misconduct on the part of an appointee and for conducting any investigation directed by the Council. Only the entire Council may authorize such investigations, and no investigation shall be conducted except as authorized by the entire Council. The Council, observing all required process, shall make a determination as to whether any action should be taken as a result of the findings or report.

The Council considers this protocol critical to the success of the organization and, accordingly, failure to adhere to the rules of engagement set forth above will result in appropriate action, which, for appointees, may include removal from his or her position. Councilmembers and appointees shall have an affirmative duty to report to the full Council and to the other appointees any situation, which they believe, in good faith, constitutes a violation of this protocol, whether intentional or unintentional.

The Council will revisit this protocol semi-annually to ensure that it is achieving the goals it was intended to achieve and to determine if any amendment or other action is necessary to establish and maintain effective professional relationships among the Council and its appointees.

1-50-3 General Policies and Protocol

Ceremonial Events. Requests for a City representative at ceremonial events will be handled by the City Secretary's Office. The Mayor will serve as the designated City representative. If the Mayor is unavailable, then City staff will determine if event organizers would like another representative from the Council. Invitations received at City Hall are presumed to be for official City representation. Invitations addressed to Councilmembers shall be shared with the City Secretary's Office in order to assure posting for compliance with the Texas Open Meetings Act, if applicable.

Travel expenses. The policies and procedures related to the reimbursement of travel expenses for official City business by Councilmembers are outlined in the city's administrative procedure. All Council travel in which the Councilmember expects to officially represent the City and/or be reimbursed by the City for travel costs, must be approved in advance. The travel policy and budget for Council should be reviewed at each annual budget cycle.

Rules of Order for Meetings. Unless otherwise expressly provided, the general rules of parliamentary procedure will be observed. If a rule is not followed and there is no objection, the rule will be considered as waived.

Non-agenda Items (Citizens Comments). During a designated period of the agenda, referred to as "citizen's comments," citizens may bring forth issues or questions that are not on the meeting's agenda. Each citizen will be limited to three minutes. All remarks shall be addressed to the council as a body and not to individual members thereof.

State law does not require the City Council to have an agenda item for "citizen's comments." Citizen's comments may not be used as a forum to make personal attacks against individual citizens, city employees or Councilmembers. Such remarks will result in the speaker being asked to step back from the podium and a forfeiture of the remaining time to speak.

Public hearings. Councilmembers (Council meetings) and board/commission members (board/commission meetings) will not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by Officials are not appropriate until after the close of the public hearing. Officials should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view.

Sec. 1-50-4 Officials Conduct with One Another

Officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. All have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" contentious issues.

(a) In Public Meetings

Use formal titles. Officials should refer to one another formally during public meetings, such as Mayor, Mayor Pro Tem, Chair, Commissioner or Councilmember followed by the individual's last name.

Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

Honor the role of the Chair in maintaining order. It is the responsibility of the Chair to keep the comments of Officials on track during public meetings. Officials should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other Officials. If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a point of personal privilege that challenges the other member to justify or apologize for the language used. The Chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches. Officials have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In public, however, all Officials shall represent the official policies or positions of their board or commission. Only the chair or his/her designee shall speak during a Council public hearing on any item that has been addressed by the board or commission, and for which detailed minutes have been provided to the Council. The chair shall represent the majority view of the board or commission, but shall report on any minority views as well. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission. If new information is brought to light during a public hearing that was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may refer the issue back to the board or commission for further study prior to taking other action itself.

Board and commission members regarding items that have not come before the particular

board/commission to which they belong may express individual opinions and positions. When presenting their individual opinions and positions, Councilmembers and board/committee/commission members shall explicitly state they do not represent their body or the City of Odessa, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner' contrary to the established policy adopted by the Council.

(b) In Private Encounters

Continue respectful behavior in private. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail. Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were played on a speakerphone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence. Elected and appointed officials are always on display - their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eaves-dropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted and may be subject to the Open Meetings Act.

Sec. 1-50-5 Conduct with City Staff

(a) Governance of a City relies on the cooperative efforts of elected officials, who set policy; appointed officials who advise the elected, and City staff, who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

(1) *Treat all staff as professionals.* Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

(2) *Do not disrupt City Staff from their jobs.* Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staffs ability to do their job objectively.

(3) *Never publicly criticize an individual employee.* Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the city manager or council appointee through private correspondence or conversation.

(4) ***Do not get involved in administrative functions.*** Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, the payment of claims against the City or granting of City licenses and permits.

(5) ***Check with City staff on correspondence before taking action.*** Before sending correspondence, Council members should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers.

(6) ***Limit requests for staff support.*** Routine secretarial support will be provided to all Councilmembers. The City Secretary (or designee) opens mail addressed to Mayor and other Councilmembers and forwards information as appropriate, unless a Councilmember requests other arrangements.

(7) ***Requests for additional staff support.*** Even in high priority or emergencies, request should be made to the City Manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

(8) ***Do not solicit political support from staff.*** Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done away from the workplace. The use of the City's email system for political purposes or communications is not allowed.

(b) Member questions/inquiries to City staff.

(1) **General.** Member communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.

(2) **Routine Requests for Information and Inquiries.** Officials may contact staff directly for information made readily available to the public on a regular basis (e.g., "What are the library's hours of operation?" Alternatively "How does one reserve a tee time at the golf course?"). Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The City Manager does not need to be advised of such contacts.

(3) **Non-Routine Requests for Readily Available Information.** Officials may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half-mast?")

(4) **Non-Routine Requests Requiring Special Effort.** Any member request or

inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the City Manager, or to the City Attorney, as appropriate (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along El Camino Real?"). The City Manager (or council appointee as appropriate) shall be responsible for distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the City Manager, the City Attorney as appropriate and affected department directors.

(5) **Meeting Requests.** Any member request for a meeting with staff must be directed to the City Manager or council appointee, as appropriate.

Sec. 1-50-6 Conduct with the Public

(a) In Public Meetings

(1) Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Officials toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

(2) ***Be welcoming to speakers and treat them with care and gentleness.***

(3) ***Be fair and equitable in allocating public hearing time to individual speakers.*** The Mayor or Chair will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed time as allocated by the Mayor. If many speakers are anticipated, the Mayor or Chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. If there is a group, a person can be designated to speak on behalf of the group and that speaker can be provided additional time subject to the Speaker's Guidelines.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the Mayor or Chair requests additional clarification later in the process.

(4) ***Give the appearance of active listening.*** It is disconcerting to speakers to have Officials not look at them when they are speaking. Be aware of facial expressions, especially those that could be interpreted as smirking, disbelief, anger or boredom.

(5) ***Ask for clarification, but avoid debate and argument with the public.*** Only the chair- not individual Officials -can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off topic of exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the

meeting. Questions by Officials to the public should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Officials' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

(6) ***No personal attacks of any kind, under any circumstance.*** Officials should be aware that their body language and tone of voice, as well as the words they use, could appear to be intimidating or aggressive.

(7) ***Follow parliamentary procedure in conducting public meetings.*** Unless otherwise expressly provided, the general rules of parliamentary procedure will be observed. If a rule is not followed and there is no objection, the rule will be considered as waived. The city attorney may serve as the advisory parliamentarian for the Council and City and is available to answer questions or interpret situations according to parliamentary procedures.

(b) In Unofficial Settings

(1) ***Make no promises on behalf of the Council, board/commission or City.*** Officials will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

(2) ***Make no personal comments about other Officials.*** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Officials, and their opinions and actions.

(3) ***Remember that Odessa is a small town at heart.*** The community is constantly observing Officials every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Odessa. Honesty and respect for the dignity of each individual should reflect in every word and action taken by Officials, twenty-four hours a day, seven days a week. It is a serious and continuous responsibility.

Sec. 1-50-7 Council Conduct with Other Public Agencies

(a) ***Be clear about representing the City or personal interests.*** When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose and with staff's knowledge.

When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

(b) ***Be equally clear in correspondence about representation.*** City letterhead may be

used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the City Secretary to be filed in the Council Office as part of the permanent public record.

City letterhead should not be used for non-City business or for correspondence representing a dissenting point of view from an official Council position.

Sec. 1-50-8 Council Conduct with Boards and Commissions

(a) The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

(b) ***If attending a board or commission meeting, be careful about personal opinions.*** Councilmembers may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation, especially if it is on behalf of an individual, business or developer, could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a board or commission meeting should be clearly made as individual opinion and not as a representation of the feelings of the entire City Council.

(c) ***Limit contact with board and commission members to questions of clarification.*** It is inappropriate for a Councilmember to contact a board or commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact board or commission members in order to clarify a position taken by the board or commission.

(d) ***Remember that boards and commissions serve the community, not individual Councilmembers.*** The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council; but board and commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten board and commission members with removal if they disagree about an issue. Appointment and re-appointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

(e) ***Be respectful of diverse opinions.*** A primary role of boards and commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on boards and commissions but must be fair and respectful of all citizens serving on boards and commissions.

(f) ***Keep political support away from public forums.*** Board and commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support board and commission members who are running for office but not in an official forum in their capacity as a Councilmember.

Sec. 1-50-9 Conduct with the Media

(a) Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

(b) ***The best advice for dealing with the media is to never go "off the record."*** Most members of the media represent the highest levels of journalistic integrity and ethics and can be trusted to keep their word. However, one bad experience can be catastrophic. Words that are not said cannot be quoted.

(c) ***The Mayor is the official spokesperson for the City on City positions.*** The Mayor is the designated representative of the Council to present and speak on the official City position. If the media contacts an individual Councilmember, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

(d) ***Choose words carefully and cautiously.*** Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

Sec. 1-50-10 SANCTIONS

(a) ***Public Disruption.*** Members of the public who do not follow proper conduct after a warning in a public meeting may be barred from further testimony at that meeting or removed from the Council Chambers.

(b) ***Inappropriate Staff Behavior.*** Councilmembers should refer to the city manager any City staff or to the council appointee any appointee's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such action; if it is determined such action did occur. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

(c) ***Councilmembers Behavior and Conduct.*** Compliance and Enforcement. The Code of Conduct expresses standards of ethical conduct expected for members of the Odessa City Council, boards and commissions. Officials themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of Officials that appear to be in violation of the Code of Conduct are brought to their attention.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, be removed from committee assignments (both within the City of Odessa and with inter-governmental agencies) by the Council.

Councilmembers should point out to the offending Councilmember infractions. If the offenses continue, then the matter should be placed on a council agenda in closed session under the provisions of Section 551.074 of the Texas Government Code.

The affected Councilmember may request that the complaint be considered in a public meeting. A copy of the complaint in writing shall be provided to the affected Councilmember.

At such meeting, the City Attorney shall present in detail to the City Council the nature of the complaint and the City Attorney's findings and conclusions as to a possible violation of this Code of Conduct.

The affected Councilmember shall have the right to a full and complete hearing before the City Council with the opportunity to call witnesses and present evidence in such person's behalf. The non-implicated City Councilmembers in attendance shall conduct a hearing in open session and review the complaint. The City Council may reject the complaint and take no action or take action to formally reprimand or censure the offending Councilmember.

(d) ***Board and Commission Members Behavior and Conduct.*** Board and commission chairs (or their designee) may administer counseling and verbal reprimands to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. The Mayor may administer verbal or written reprimands at the direction of the Council. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the respective board or commission member, the board or commission chairperson, the City Secretary, the City Manager, and the City Council. Written reprimands administered by the Mayor shall not be publicized except as required under the Public Information Act.

The City Council may impose sanctions on board and commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Information Act.

When deemed warranted, the Council may call for an investigation of board or commission member conduct. Should the City Manager and/or the City Attorney, believe an investigation is warranted, they shall confer with the Council. The Council shall ask for an investigation of the allegation and a report of the findings.

The results of any investigation conducted by the City Manager and/or the City Attorney shall be reported to the full Council in a closed session. It may be reported in a verbal or written report. Any written report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Information Act. The affected Member may request that the complaint be considered in a public meeting. The Member shall be provided a copy of the complaint in writing. At such meeting, the City Attorney shall present a report to the City Council describing in detail the nature of the complaint and the City Attorney's findings and conclusions as to a possible violation of this Code of Conduct. The affected member shall have the right to a full and complete hearing before the City Council with the opportunity to call witnesses and present evidence in such person's behalf. The non-implicated City Councilmembers in attendance shall conduct a hearing and review the complaint. The City Council may reject the complaint or take action.

It shall be the Council's responsibility to determine the next appropriate action. Any such

action taken by Council (with the exception of "take no further action") shall be conducted at a noticed meeting. These actions include, but are not limited to discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider

sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

A violation of this Code of Conduct, alone, shall not constitute a basis for challenging the validity of a Council, board or commission decision.

Sec. 1-50-11 GLOSSARY OF TERMS

Confidential information means any information to which an official has access in such person's official capacity, which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. Confidential information includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

Gift means anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions, which are regulated by federal, state, and/or local laws or ordinance.

Relative means any person related to an officer within the second degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law, grandparents, grandchildren, sisters and brothers of the officer.

Substantial interest means (i) the ownership of ten (10) percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten (10) percent or more, or fifteen thousand dollars (\$15,000.00) or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten (10) percent of the personal gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than fifteen thousand dollars (\$15,000.00) does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of two thousand five hundred dollars (\$2,500.00) or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.) A Member is considered to have a substantial interest under this policy if a person related to the Member in the second degree of consanguinity or affinity has a substantial interest under this Code of Conduct.

Sec. 1-50-12 IMPLEMENTATION

As an expression of the standards of conduct for Officials expected by the City, the Code of

Conduct is intended to be self-enforcing. It therefore becomes most effective when Officials are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected and appointed officials. Officials entering office shall sign a statement affirming they read and understood the City of Odessa Code of Conduct. In addition, the City Council, boards and commissions shall annually review the Code of Conduct, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

DRAFT

CODE OF ETHICS
NEWTON COUNTY, GEORGIA

Approved March 21, 2017

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**CODE OF ETHICS
NEWTON COUNTY, GEORGIA**

**ARTICLE 1
“IN GENERAL”**

SECTION 1-101. FINDINGS.

- (a) The Constitution of the State of Georgia, approved by the voters of the state in November 1982 and effective July 1, 1983, provides in article IX, section II, paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations.
- (b) O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County.
- (c) The Board of Commissioners desires to exercise its authority in adopting this article.
- (d) It is essential to the proper operation of democratic government that public officials be independent and impartial, that governmental decisions and policy be made in the proper channels of the governmental structure, that public office not be used for private gain other than the remuneration provided by law, and that there be public confidence in the integrity of government.
- (e) The attainment of one or more of these ends is impaired whenever there exists a conflict between the private interests of an elected official or a governmental employee and his duties.
- (f) The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of elected officials and government employees in situations where conflicts exist.
- (g) It is also essential to the proper operation of government that those best qualified be encouraged to serve the government. Accordingly, legal safeguards against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are best qualified to serve it.
- (h) An essential principle underlying the staffing of our government structure is that its elected officials and employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of such elected officials and employees to the public cannot be avoided.

- (i) In recognition of these goals and principles, it is the policy of the Board of Commissioners to institute, establish, promote, and enforce standards of ethical conduct for all of the County's officers and employees.
- (j) It is a further policy of the Board of Commissioners that the proper administration of the County's government and the promotion and enforcement of standards of ethical conduct for the County's officers and employees would be best served by the creation of a County Ethics Panel for the investigation of complaints related to ethical standards.

SECTION 1-102. DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means any organization carrying on an enterprise for profit, regardless of how designated or formed, including, but not limited to, sole proprietorships, partnerships, joint ventures, associations, trusts, corporations, limited liability companies, and any other type of business enterprise.
- (b) "Confidential information" means any information that, by law or practice, is not reasonably available to the public.
- (c) "County official" and "official" mean the members of the Board of Commissioners, the Chairman of the Board, any member of a Board or authority appointed by the Board of Commissioners, the County Manager, the County Attorney and any of their assistant County Attorneys, and any other elected or appointed officer or employee of the County, excluding constitutional officers and those employees who are exempt from the County civil service system, except to the extent prohibited by law.
- (d) "Employee" means all those persons employed on a regular or part-time basis by the County, as well as those persons whose services are retained under the terms of a contract with the County, excluding those employees who are exempt from the County civil service system, except to the extent prohibited by law.
- (e) "Ethics Panel" means any County Ethics Panel as formed and described in this Code of Ethics.
- (f) "Family" means the spouse, parents, children, brothers and sisters, whether related by blood or marriage, of a County official or employee.
- (g) "Interest" means direct or indirect pecuniary or material benefit accruing to a County official 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 with the County, except for such contracts or transaction 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. The term "interest" shall not include any remote interest. For purposes

of the Code of Ethics, a County official or employee shall be deemed to have an interest in the affairs of:

- (1) Their family;
 - (2) Any business entity in which the County official or employee is currently or will, in the reasonably foreseeable future, receive compensation for their services as a member, officer, director, consultant, agent, representative, or employee;
 - (3) Any business entity in which the stock, legal ownership, or beneficial ownership held by the County official, employee, or their family is in excess of five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the County official or employee.
- (h) “Official act” and “official duties” mean any legislative, administrative, appointive, or discretionary act of any official or employee of the County or any agency, Board, committee, authority, or commission thereof.
- (i) “Remote interest” means the interest of:
- (1) A nonsalaried director, officer, or employee of a nonprofit corporation;
 - (2) A holder of less than five percent of the legal or beneficial ownership of the total shares of the business;
 - (3) Any person in a purely representative capacity, such as a receiver, trustee, or administrator; or
 - (4) Any person who has been determined by the Ethics Panel to have such an interest.

SECTION 1-103. CODE OF ETHICS FOR COUNTY SERVICE GENERALLY AND FOR EMPLOYEES

This section is intended to adopt and incorporate in this section for local enforcement the ethical standards of O.C.G.A. § 45-10-1, as it may be amended from time to time.

- (a) Any employee shall:
- (1) Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department;
 - (2) Uphold the Constitution, laws, and legal regulations of the United States and the state and of all governments therein and never be a party to their evasion;
 - (3) Give a full day’s labor for a full day’s pay and give to the performance of their duties their earnest effort and best thought;

- (4) Seek to find and employ more efficient and economical ways of getting tasks accomplished;
- (5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for themselves or their family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of their governmental duties;
- (6) Make no private promises of any kind binding upon the duties of office, since a government employee has no private word that can be binding on public duty;
- (7) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of their governmental duties;
- (8) Never use or disclose any information coming to them confidentially in the performance of governmental duties as a means for making private profit;
- (9) Expose corruption wherever discovered; and
- (10) Uphold these principles, ever conscious that public office is a public trust.

SECTION 1-104. CODE OF ETHICS FOR MEMBERS OF BOARDS, COMMISSIONS, AUTHORITIES, ELECTED OFFICIALS AND COUNTY DEPARTMENT HEADS.

This section is intended to adopt and incorporate in this section for local enforcement the ethical standards of O.C.G.A. § 45-10-3, as it may be amended from time to time.

(a) Any County official and County department head shall:

- (1) Uphold the Constitution, laws, and regulations of the United States, the state, the County, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties;
- (4) Never use or disclose any information coming to them confidentially in the performance of governmental duties as a means for making private profit;
- (5) Expose corruption wherever discovered;
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association or business under circumstances

from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;

- (7) Never solicit, accept, or agree to accept gifts, loans, gratuities, contributions, discounts, favors, hospitality, or services from a business or the representative or agent of a business that provides services to the County, or is known to be seeking, bidding on or otherwise pursuing County business or contracts;
- (8) Never accept any economic opportunity under circumstances where they know or should know that there is a substantial possibility that the opportunity is being afforded them with intent to influence their conduct in the performance of their official duties;
- (9) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
- (10) Never take any official action under circumstances in which they know or should know that they have a direct or indirect interest in the outcome of such official action.

SECTION 1-105. SOLICITATION OR ACCEPTANCE OF GIFTS

- (a) Consistent with the provisions set forth in Sections 1-103 and 1-104, there shall be no violation of this article in the following circumstances:
 - (1) Meals and beverages given in the usual course of entertaining associated with normal and customary business or social functions.
 - (2) An occasional gift from a single source of \$101.00 or less in any calendar year.
 - (3) Ceremonial gifts or awards.
 - (4) Gifts of advertising value only or promotional items generally distributed to public officials.
 - (5) Awards presented in recognition of public service.
 - (6) Reasonable expenses of food, travel, lodging and scheduled entertainment for a meeting that is given in return for participation in a panel or speaking engagement at the meeting.
 - (7) Courtesy tickets or free admission extended for an event as a courtesy or for ceremonial purposes, given on an occasional basis, and not to include season tickets of any nature.
 - (8) Gifts from relatives or members of the official or employee's household.

(9) Honorariums or awards for professional achievement.

(10) Courtesy tickets or free admission to educational seminars, educational or information conventions, or other similar events.

ARTICLE 2

“CONFLICT OF INTEREST TRANSACTIONS AND DISCLOSURES”

SECTION 2-101. APPLICATION OF DIVISION

- (a) The following provisions of this division related to conflict of interest transactions and disclosures are intended to supplement and elaborate upon the Code of Ethics set forth in Article 1, and all such provisions shall be read and interpreted in accordance therewith.

SECTION 2-102. COMPLIANCE WITH APPLICABLE LAW

- (a) No official or employee shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to them by virtue of their office or employment. Other provisions of law or regulations shall apply when any provisions of this article shall conflict with the laws of the state or the United States, except to the extent that this article permissibly sets forth a more stringent standard of conduct. The laws of the State or the United States shall apply when this article is silent.

SECTION 2-103. CONFLICT OF INTEREST TRANSACTIONS

- (a) No official or employee shall acquire or maintain an interest in any business or property, nor shall any official or employee maintain, acquire or enter into any contract for the sale of property, goods or services with the County if a reasonable basis exists that such an interest will be affected directly by their official act or action, except consistent with the disclosure and abstention provisions set forth in this article.
- (b) No candidate for election or appointment to any elective office shall enter into any prior agreement or understanding with any person or business as to the award of contracts, the purchase of goods, or subsequent employment or appointment within the County.
- (c) No official or employee shall acquire or maintain an interest in any business that is engaged in the sale of property, goods or services to the County, nor shall any official or employee maintain, acquire or enter into any contract for the sale of property, goods or services with the County, regardless of whether the official or employee abstains from taking an official act with respect to the interest, where such official or employee is obligated or authorized to take part in any official act or duty related to the awarding or approving of such contract or sale.

(d) Provided that the official or employee is not obligated or authorized to take part in any official act or duty related to the awarding or approving a contract or sale, and subject to the abstention and disclosure requirements contained herein, an official or employee may maintain or enter into a contract for the sale of property, goods or services with the County or acquire or maintain an interest in a business doing the same under the following limited circumstances so long as (i) the contract is or was awarded by way of a competitive procurement process, (ii) the employee or official discloses to procurement personnel his or her affiliation with the County, (iii) the employee or official affirms in writing to procurement personnel that he or she has neither solicited nor received any advantage, favor or influence with respect to the contract due to affiliation with the County, and (iv) the contract is not otherwise prohibited by law. Such limited circumstances include and are limited to the following:

- (1) Contracts for goods or services entered into with a business which is the only available source for such goods or services; and
- (2) Contracts entered into under circumstances that constitute an emergency situation, provided that a record explaining the emergency is prepared by the Board and submitted to the County Manager to be kept on file.

(e) No official or employee shall acquire or maintain an interest in any business that is engaged in the sale of property, goods or services to the County, nor shall any official or employee maintain, acquire or enter into any contract for the sale of property, goods or services with the County where such official or employee has received confidential information with respect to the business, property or contract by virtue of their position, regardless of whether such official or employee is authorized to take part in any official action with respect to the interest or contract.

SECTION 2-104. CONFLICT OF INTEREST EMPLOYMENT OR APPOINTMENT

- (a) No official or employee shall appoint or hire any member of their family to fill an office, position, employment, or duty when the salary, wages, pay, or compensation is to be paid out of public funds.
- (b) No official or employee shall appoint or recommend themselves or a member of their family to a county board, commission, or authority unless such appointment is expressly permitted by the enabling legislation of the board, commission or authority.

SECTION 2-105. FINANCIAL DISCLOSURES

- (a) Financial disclosures shall be governed by federal and state law as it may be amended from time to time, and this article shall not require any additional reports to be filed other than those required by federal and state law.

SECTION 2-106. ZONING APPLICATION DISCLOSURES

- (a) All disclosures with regard to zoning applications shall be governed in their entirety by the conflict of interest in zoning actions provisions contained in O.C.G.A. § 36-67A-1 et seq., as it may be amended from time to time.

SECTION 2-107. DISCLOSURES RELATED TO SUBMISSION OF BIDS OR PROPOSALS FOR COUNTY WORK OR CONTRACT

- (a) Persons submitting bids or proposals for County work who have contributed \$250.00 or more to a County official must disclose on their bid or proposal the name of the County official to whom the contribution was made and the amount contributed. Such a disclosure must also be made prior to a request for any change order or extension of any contract awarded to the person who submitted the successful bid or proposal.

SECTION 2-108. WITHHOLDING OF INFORMATION

- (a) No official or employee shall knowingly withhold any information or otherwise impair the proper decision making of the Ethics Panel, Board of Commissioners, or any of the County's Boards, agencies, authorities, or departments.

SECTION 2-109. INCOMPATIBLE SERVICE

- (a) No official or employee shall engage in or accept private or public employment or render service for any private or public entity, when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of their official duties, unless otherwise permitted by law and unless public disclosure is made.

SECTION 2-110. UNAUTHORIZED USE OF PUBLIC PROPERTY

- (a) No official or employee shall request or permit the unauthorized use of County services or County owned property, including but not limited to, vehicles, equipment, materials, computers, and cellular telephones, for personal convenience or profit.

SECTION 2-111. POLITICAL RECRIMINATION AND ACTIVITY

- (a) No official or employee, whether elected or appointed, shall either cause the dismissal or threaten the dismissal from any County position as a reward or punishment for any political activity. No official or employee shall direct any person employed by the County to undertake political activity on behalf of such official or employee, any other official or employee, or any other individual, political party, group, or business entity during such time that the employee is required to conduct County business. This section does not prohibit incidental telephone calls made for the purpose of scheduling an official's daily County business.

SECTION 2-112. APPEARANCE BEFORE COUNTY ENTITIES

- (a) No official or employee shall appear on behalf of any private person, other than themselves, their spouse, or their minor children, before any County agency, authority or Board. However, a member of the Board of Commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.
- (b) No official or employee shall, after the termination of service or employment with the County, accept remuneration of any kind for any appearance before any board, commission, committee, agency or authority of the County on behalf of any adverse party in relation to any case, proceeding, or application in which they personally participated during the period of his service or employment, which was under their active consideration during the period of their service or employment, or as to which they could have acquired knowledge or information during the period of their service or employment.

SECTION 2-113. TIMELY PAYMENT OF DEBTS TO THE COUNTY

- (a) All officials and employees shall pay and settle, in a timely and prompt fashion, all accounts between them and the County, including the prompt payment of all taxes.

SECTION 2-114. DISCLOSURE OF INTEREST

- (a) The Chairman and each member of the Board shall immediately disclose publicly the nature and extent of any financial or personal interest in any proposed legislation or action before the Board.
- (b) Any other official or employee who has a financial or personal interest in any proposed legislation or action before the Board and who participates in discussion with or gives an official opinion or recommendation to the Board in connection with such proposed legislation or action shall disclose publicly the nature and extent of such interest.

SECTION 2-115. ABSTENTION TO AVOID CONFLICTS OF INTEREST

- (a) Except as otherwise provided by law, no official or employee shall participate in the discussion, debate, deliberation, vote, or otherwise take part in the decision-making process on any item before them in which the official or employee has a conflict of interest as set forth in this article.
- (b) To avoid the appearance of impropriety, if any official or employee has a conflict of interest or has an interest that they have reason to believe either violates this article or may affect their official acts or actions in any matter, the official or employee shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the official or employee may remain in the meeting room.

- (c) In the event of a conflict of interest, the official or employee shall announce their intent to abstain prior to the beginning of the discussion, debate, deliberation, or vote on the item, shall not participate in any way, and shall abstain from casting a vote.

ARTICLE 3

“ETHICS PANEL”

SECTION 3-101. ETHICS PANEL

- (a) An Ethics Panel shall be assembled on a case-by-case basis for the sole purpose of considering a single ethics complaint.

SECTION 3-102. APPOINTMENT AND PANEL SELECTION PROCEDURES

- (a) The Ethics Panel Clerk shall be an individual designated by the Newton County Manager to serve in that capacity.
- (b) Each Ethics Panel shall consist of three randomly selected members from a list maintained by the Ethics Panel Clerk.
- (c) The Clerk shall maintain a list of not less than nine nor more than fifteen qualified individuals from which to draw members of the Ethics Panels. The Clerk shall confirm the qualifications and willingness of each such individual to serve on an Ethics Panel not less than once per year.
- (d) Individuals shall be deemed qualified to serve on an Ethics Panel for so long as they:
 - (1) Are attorneys at law in good standing with the State Bar of Georgia;
 - (2) Have at least five years experience in the practice of law, with no less than three of those years dedicated to general civil litigation practice;
 - (3) Do not reside or maintain an office within Newton County, Georgia;
 - (4) Are not, and have never been, a County employee or County official, and no member of their family is an existing or former County employee or County official; and
 - (5) Have no, and the members of their family have no, business or contractual relationship with Newton County, Georgia, have not provided monetary or in-kind campaign contributions or support to sitting members of the Board of Commissioners, Constitutional Officers or any other Newton County elected official; and
 - (6) Have no other conflict of interest in providing service on the Ethics Panel.

- (e) Upon the Clerk determining that an ethics complaint meets the facial requirements of section 3-110 of this Chapter, the Clerk shall conduct a blind drawing of three names from the list of members and contact each member to determine their availability to serve on the Ethics Panel. The drawing of names by the Clerk shall be witnessed by either the County Manager and/or the County Attorney to ensure the integrity of the selection process. Upon selection of three qualified members who are available to serve on the Ethics Panel, the Clerk shall prepare a document identifying panel membership and both the Clerk and the County Manager and/or County Attorney that witnessed the selection process shall attest on that document as to the legitimacy of the selection process.
- (f) No member shall be qualified to serve on more than one Ethics Panel at any given time unless all other qualified members are either serving on an Ethics Panel or have expressed their unavailability to so serve. Service on an Ethics Panel shall be deemed to have terminated upon the entry of the written dismissal or decision of the Ethics Panel after the conclusion of an ethics hearing.
- (g) An individual Ethics Panel member shall cease to be qualified to serve immediately upon the third consecutive refusal (whether by choice or unavailability) to serve on an Ethics Panel after being randomly drawn from the list and contacted by the Clerk to serve.

SECTION 3-103. VACANCIES

- (a) If any vacancy occurs on an Ethics Panel reducing its membership below three, the Clerk shall at that time choose an alternate member using the same methodology as provided in section 3-102.

SECTION 3-104. REMOVAL OF MEMBER

- (a) The Board of Commissioners, upon receipt of a written complaint from two members of any Ethics Panel, may remove a member of any Ethics Panel on the grounds of nonfeasance or malfeasance during the member's term of service. Before initiating the removal of a member, the Board of Commissioners shall give the member written notice of the reason for the intended action, and the member shall have the opportunity to reply. Thereafter, the Board of Commissioners shall afford such member an opportunity for a hearing before the Board of Commissioners.

SECTION 3-105. ORGANIZATION AND INTERNAL OPERATING REGULATIONS

- (a) Members of Ethics Panels shall be paid a per diem for each meeting or hearing they are required to attend. If a hearing lasts multiple days, then the Ethics Panel member shall receive a separate per diem for each day of hearing attendance. The per diem shall be the same for each Ethics Panel member and shall be approved by the Board of Commissioners.
- (b) Each Ethics Panel shall elect one of its members to act as chair to serve during the pendency of that Ethics Panel.

- (c) All meetings of Ethics Panels shall be conducted in a room supplied by the Board of Commissioners, shall be duly publicized, and shall be otherwise conducted in accordance with open meeting requirements under state law.
- (d) No official action concerning complaints shall be taken by an Ethics Panel, except by the affirmative vote of at least two members of the Ethics Panel.

SECTION 3-106. DUTIES AND POWERS

- (a) Each Ethics Panel shall have the following duties and powers:
 - (1) Receive and hear complaints of violations of standards required by this Chapter.
 - (2) Take such action as provided in this Chapter as deemed appropriate.
 - (3) Perform any other function authorized by this Chapter.
 - (4) Issue advisory opinions as provided in this Chapter.

SECTION 3-107. STAFFING AND EXPENSES

- (a) The Ethics Panels shall be provided sufficient meeting space and other reasonable supportive services to carry out their duties required under this Chapter. The County Manager shall designate an administrative employee who shall serve as the filing Clerk for the Ethics Panels and who shall be authorized to receive all filings before the Ethics Panels, to publish notices of all meetings upon request of an Ethics Panel chair, and to serve as the recording Clerk for the Ethics Panels.

SECTION 3-108. LIMITATION OF LIABILITY

- (a) No member of an Ethics Panel, or any person acting on behalf of an Ethics Panel, shall be liable to any person for any damages arising out of the enforcement or operation of this Chapter, except in the case of willful or wanton conduct. This limitation of liability shall apply to the County, the members of the Ethics Panels, and employees of the Ethics Panels, and any person acting under the direction of an Ethics Panel.

SECTION 3-109. ADVISORY OPINION

- (a) An Ethics Panel shall be assembled, using the same assembly process as set forth in section 3-102, to render an advisory opinion based on a real or hypothetical set of circumstances when requested to do so in writing by a County official or employee related to that County official's or employee's conduct or transaction of business. Such advisory opinions shall be rendered pursuant only to a written request, fully setting forth the circumstances to be reviewed by the Ethics Panel. The proceedings of the Ethics

Panel pursuant to this section shall be held in public to the extent consistent with state law, and the opinions of the Ethics Panel shall be made available to the public.

SECTION 3-110. COMPLAINTS

- (a) Ethics Panels shall be responsible for hearing and deciding any complaints filed regarding alleged violations of this Chapter by any person. The following procedures shall be followed when filing a complaint:
- (b) Any person may file a complaint alleging a violation of any of the provisions of this Chapter by submitting it to the Ethics Panel Clerk. A copy of such complaint shall be immediately delivered by hand, facsimile or email to the County official or employee against whom the complaint was filed with a second copy being provided to the County office or employee by registered mail. The complaint must be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit should be attached to the affidavit. The person filing the complaint shall verify the complaint by his signature thereon. Every ethics complaint shall be signed and notarized, and shall contain the following statement:

"I have read the ethics complaint and aver that the facts contained therein are true to the best of my knowledge and belief."
- (c) The complaint must contain the full legal name of the complainant along with a current valid mailing address, phone number, and, if applicable, an email address.
- (d) A complaint must be filed within six months of the date the alleged violation is said to have occurred, or in case of concealment or nondisclosure within six months of the date the alleged violation should have been discovered after due diligence. If the Ethics Panel Clerk makes an initial determination that a complaint is technically deficient, the Ethics Panel Clerk shall submit a list of the deficiencies to the complainant and offer the complainant the opportunity to correct the deficiencies within seven days prior to the complaint being dismissed on technical grounds. For purposes of this Chapter, "technical deficiencies" shall mean that the complaint is not supported by affidavits based on personal knowledge, is not signed and notarized, pertains to conduct occurring more than six months prior to the complaint being filed or contains no statement that the conduct was concealed or non-disclosed, or does not contain the full legal name, mailing address, or phone number of the complaining party. Unremedied technical deficiencies shall authorize the Ethics Panel Clerk to dismiss the complaint.
- (e) Upon receipt of a complaint alleging misconduct, the County official or employee against whom the complaint was filed may reply to the complaint within 30 days, unless such time for reply is extended by the Ethics Panel upon good cause shown. The response of the County official or employee must be supported by affidavits based on personal knowledge, must set forth such facts as would be admissible in evidence, and must show

affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit should be attached to the affidavit.

- (f) Within 60 days of receipt of a complaint, the Ethics Panel shall conduct an investigatory review to determine whether specific substantiated evidence from a creditable source(s) exists to support a reasonable belief that there has been a violation of this Chapter. In addition to any notice required under the Georgia Open Meetings Act, the Clerk shall provide written notice to the party tendering the complaint, and the official or employee that is the subject of the complaint, of the date, time and location of the Ethics Panel meeting where the investigatory review is to be conducted. This notice shall be provided via statutory overnight or certified mail delivered to the residence or other provided address of the respective party, with said notice to be received a reasonable time and in no event less than two days prior to the date of said meeting. The above notice notwithstanding, neither the complaining nor responding party shall be entitled to make a presentation or otherwise address the Ethics Panel during the investigatory review meeting. The opportunity for presenting evidence and otherwise addressing the Ethics Panel shall occur in accord with subparagraph (g) of this section. If after reviewing the complaint the Ethics Panel by majority vote determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this Chapter or determines that no violation occurred, it may dismiss the complaint without further proceedings. In the event a complaint is dismissed based upon the merits of the complaint or after the formal public hearing, the complaint may not be re-filed.
- (g) If the Ethics Panel determines that specific, substantiated evidence from a creditable source(s) exists to support a reasonable belief that there has been a violation of this Chapter, certified written notice of a hearing, containing the time, date and place of such hearing, shall be given to each party by the Ethics Panel, and a formal public hearing shall be conducted and both parties afforded an opportunity to be heard. Any formal public hearing shall be conducted in accordance with the requirements of due process. The Ethics Panel is authorized to swear witnesses.
- (h) Any final determination resulting from the hearing shall include written findings of fact and conclusions of law. The Ethics Panel shall determine if clear and convincing evidence shows any violation of this Chapter.
- (i) In the event an ethics complaint brought against a County official or employee (both hereafter referred to as "Respondent") arising out of their official duties is dismissed based upon the merits of the complaint or after the formal public hearing, the Respondent shall be entitled to reimbursement for reasonable attorney's fees and costs incurred in defending said ethics complaint. Upon securing a final determination by the Ethics Panel of the complaint being dismissed, the Respondent shall submit a copy of the order making such findings to the Newton County Manager along with a copy of all applicable itemized attorney's fees and costs incurred in defending same. The itemized attorney's fees and costs shall have attorney time and tasks broken down in 1/10 of an hour increments along with the attorney's hourly fee, and all other itemized costs coupled with

a sworn statement by the attorney that the amount submitted for repayment is the same amount for which the Respondent would otherwise have been responsible. No paralegal or other expenses shall be subject to reimbursement.

- (j) The County Manager shall submit, within three business days of receipt, the attorney fee statement to the County Attorney for a determination of reasonableness, of which determination shall be provided in writing (or email) to the County Manager and Respondent within ten business days. Upon the fees being deemed reasonable, the County Manager shall submit all documentation to the Finance Department for issuance of a reimbursement check to the Respondent or Respondent's attorney, at Respondent's sole discretion, with reimbursement payment occurring within ten days from the date of the County Attorney's determination notification. In no event shall reimbursement under this paragraph exceed \$10,000.00.

SECTION 3-111. DISCIPLINARY ACTION

- (a) Employees are subject to the following penalties and actions for a violation of this Chapter:
 - (1) Written warning or reprimand;
 - (2) Suspension without pay;
 - (3) Termination of employment; and
 - (4) Repayment to the County of any unjust enrichment.
- (b) County officials are subject to the following penalties and actions for a violation of this Code of Ethics:
 - (1) Written warning, censure, or reprimand;
 - (2) Removal from office to the extent provided by state law; and
 - (3) Repayment to the County of any unjust enrichment.
- (c) Upon direction of an Ethics Panel, a petition may be filed for injunctive relief, or any other appropriate relief, in the Newton County Superior Court, or in any other court having proper venue and jurisdiction, for the purpose of requiring compliance with the provisions of this Chapter. In addition, the court may issue an order to cease and desist from the violation of this Chapter. The court may also void an official action that is the subject of the violation, provided that the legal action to void the matter was brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public. The court, after hearing and considering all the circumstances in the case, may grant all or part of the relief sought. However, the court may not void any official action appropriating public funds, levying taxes or

providing for the issuance of bonds, notes or other evidences of public obligation under this Chapter.

- (d) In addition to any other remedy provided in this Chapter, upon determination of a violation of this Code of Ethics, an Ethics Panel may recommend to the Board of Commissioners in writing that any contract, bid, or change order that was the subject of the violation should be cancelled or rescinded. The Board of Commissioners, however, shall retain the discretion to determine whether such a cancellation or rescission would be in the best interest of the County and shall not be bound in any way by a recommendation of an Ethics Panel.
- (e) An Ethics Panel may also forward its findings of fact and conclusions of law to the County District Attorney's office for appropriate action.

SECTION 3-112. JUDICIAL REVIEW

- (a) Any party against whom a decision of an Ethics Panel is rendered may obtain judicial review of the decision by writ of certiorari to the Newton County Superior Court. The application for the writ must be filed within 30 days from the date of the written decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.
- (b) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.
- (c) The appellate rights afforded under this Chapter shall be in lieu of any right to appeal an adverse employment action under the County's personnel appeal processes, to the extent the County official or employee may be subject to the same.

§ 36.30 CODE OF ETHICS

(A) Purpose and intent.

- (1) The purpose of this code of ethics is to establish ethical standards of conduct for all officials and employees of Pike County by identifying acts or actions that are incompatible with the best interests of the community and the organization and by requiring disclosure by such officials and employees of private financial, or other interests, in matters affecting the County.
- (2) Those covered officials and employees are bound to observe in their official acts the highest standards of behavior and to faithfully discharge the duties and responsibilities of their office, regardless of personal considerations, recognizing that the public interest must be their primary concern.
- (3) Covered officials and employees shall not exceed their authority or breach the law, or ask others to do so, and they shall work in full cooperation with other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of their work.
- (4) It is the intent of this section to supplement the Code of Ethics set forth in Federal and State Law pertaining to local government officials.

(B) Definitions.

- (1) **CODE OF ETHICS.** The Code of Ethics of Pike County.
- (2) **COUNTY.** Pike County, Georgia.
- (3) **COVERED OFFICIAL.** Any member of the Board of Commissioners of Pike County and any person who has been appointed to a position by the Board of Commissioners of Pike County including, but not limited to, the County Manager, the County Clerk, department heads, and any member of the planning commission, the zoning board of appeals, or any other appointed board. The county attorney is subject to the ethical considerations and disciplinary rules enacted by the State Bar of Georgia, and is also considered a covered official insofar as the application of this article. However, enforcement shall be through the procedures as established by the State Bar of Georgia.
- (4) **GIFT.** The transfer of anything of economic value, regardless of form, without adequate and lawful consideration. "Gift" also means a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred.
- (5) **IMMEDIATE FAMILY.** Parents, spouse, children or siblings.
- (6) Text of ethical considerations.

(C) Notwithstanding any provisions of law to the contrary, each covered official and employee of Pike County shall:

- (1) Uphold the Constitution, laws and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, or allow any member of his/her immediate family to engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his/her governmental duties;

- (4) Never use any information coming to him/her confidentially in the performance of governmental duties as a means for making private profit;
 - (5) Expose corruption wherever discovered;
 - (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any persons, association, or corporation for himself/herself, or any member of his/her immediate family, under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the official's/employee's official duties. For gifts, loans, gratuities, discounts, favors, hospitality, or services solicited, accepted, or agreed to accept under circumstances from which it cannot be reasonably inferred that a major purpose of the donor was to influence the performance of the official's/employee's official duties, the following rules shall apply: A covered official shall publicly disclose, prior to discussing or taking any official action on any matter involving the donor, any gift or campaign contribution (cash or in kind) received by him/her, or any member of his/her immediate family, greater than five hundred dollars (\$500.00). Receipt of gifts and campaign contributions valued at two thousand dollars (\$2,000.00) or more by a covered official, or member of his/her immediate family, will prohibit the covered official from participating or taking official action on any matter involving the donor.
 - (7) Never accept any economic opportunity for himself/herself, or any member of his/her immediate family, under circumstances where he/she knows or should know that there is a substantial possibility that the opportunity is being afforded with intent to influence his/her conduct in the performance of his/her official duties. All business relationships, regardless of the dollar amount involved, between a covered official, or a member of his/her immediate family, and anyone having business with the County shall be publicly disclosed prior to any discussion or official action being taken on the matter. Should the business relationship provide a covered official, or a member of his/her immediate family, with at least ten thousand dollars (\$10,000.00) on an annual basis, such covered official shall be prohibited from participating or taking official action on any matter involving the person with whom such business relationship exists; and
 - (8) Never engage in other conduct which is unbecoming to an official/employee or which constitutes a breach of public trust.
- (D) Procedure for alleged violations.
- (1) Alleged violations of this code of ethics must be submitted via written, sworn complaint to the Clerk of the Board of Commissioners shall review all complaints against covered officials and employees except those complaints filed against a member of the Board of Commissioners. A majority of the full Board of Commissioners must agree that a sufficient basis has been given to warrant a public hearing. Certain violations alleged against employees may be referred through the proper channels within the employee handbook's disciplinary procedures.
 - (2) The Board of Commissioners shall conduct the public hearing to determine whether, based upon clear and convincing evidence, the covered official or employee violated the code of ethics. Covered officials and employees are subject to the following penalties and actions for violations of this code of ethics:
 - (a) Written reprimand or public censure;
 - (b) Recovery of value transferred or received by the County;
 - (c) Cancellation of the contract or rejection by the County;

- (d) A monetary fine not to exceed two thousand dollars (\$2,000.00); and
 - (e) Demotion or termination.
- (3) If a complaint is received by the Human Resource Administrators which alleges a violation of the code of ethics by a member of the Board of Commissioners, an independent review board will be formed if the complaint alleges sufficient facts which, if proven to be true, would be a violation of the code of ethics. The County Attorney of any county within the Griffin Judicial Circuit, except the County Attorney for Pike County, shall make the determination of whether or not a review board should be impaneled. If a review board is needed, three (3) County Attorneys within reasonably close geographical proximity to the County will be requested to conduct a public hearing based upon the complaint. A majority vote, based on clear and convincing evidence, will determine the existence of a violation.
- (Ord. Passed 10-30-07)

Code of Ethics

County Commission for Stewart County, Georgia

Basic Responsibilities

- Understand and follow applicable legal and policy requirements.
- Adhere to high standards of conduct and personal ethics in your work.

Comment:

Living by the rules starts with knowing the rules. However, no set of policies or rules can address every situation. We sometimes face circumstances that do not have easy answers. In these cases, consider the commission's *Guiding Principles* and assess your options using the policies and standards of this *Code of Ethics*. If you are still unsure, seek guidance.

Reporting Misconduct and Seeking Guidance

- Report misconduct and seek guidance if you have questions.
- Adhere to the Commission's confidentiality and non-retaliation policies.

Comment:

If you become aware of misconduct, you must report it. You should also take reasonable steps whenever possible to prevent violations before they occur. If you are concerned that conduct may be unlawful or unethical but are not sure, seek guidance. Confidentiality and non-retaliation laws and policies apply for those who report misconduct or seek guidance in good faith.

Work Environment

- Help ensure a safe work environment that is free from unlawful discrimination and harassment.
- Help ensure a work environment that is characterized by respect and open communication.

Comment:

We share responsibility for maintaining a workplace that is safe, respectful, and free from unlawful discrimination and harassment. Never engage in or tolerate sexual harassment or unlawful discrimination, such as basing an employment decision on race, sex, age, religion, handicap, or any other impermissible factor. Follow our workplace safety policies and procedures and look for ways we can improve. Abide by our drug-free workplace policy. Treat each other with respect, encourage open communication and appropriately resolve ethical concerns.

Code of Ethics

County Commission for Stewart County, Georgia

Conflicts of Interest

- Avoid conflicts of interest and the appearance of conflicts.

Comment:

A conflict of interest occurs when a personal interest of yours — such as a financial interest or family connection — could affect your ability to perform your job objectively and in the best interests of the County. Situations that can raise potential conflicts include: service as a director or employee of a private business; the provision of goods or services to the Commission by an entity that you have an interest in; accepting gifts from vendors; and helping family members or friends in matters concerning the Commission. If you face a situation that presents a potential conflict of interest, consult this *Code of Ethics* and, if necessary, contact an appropriate manager or the County Attorney.

Government Relations and Anticorruption

- Be above reproach in political involvement, in dealing with present or former government officials, and in seeking personal business from the Commission.

Comment:

We must strictly adhere to laws and regulations governing the political process and avoid even the appearance of impropriety in dealing with government officials. Political contributions, gifts, and hiring decisions involving government officials must be in accordance with applicable law and approved in accordance with Commission policies. Never make a false claim for payment from the Commission, and avoid making false or misleading statements to government officials.

Accurate and Timely Periodic Reports

- Prepare and maintain accurate and reliable financial records.
- Prepare accounts and records, such as expense accounts, vouchers, bills, payroll records and disclosure documents, honestly and with care.
- Assist our vigorous efforts to comply with generally accepted accounting principles.
- Maintain effective internal accounting and disclosure controls and procedures.
- Disclose full and accurate information in an orderly and timely manner.

Comment:

Business and Confidential Information

- Protect the integrity of Commission records.
- Do not improperly use or disclose confidential information.

Comment:

You are required to maintain accurate records in accordance with the Commission's records retention policy. Falsifying or improperly altering or destroying Commission documents, such as when they are subject to a discovery request or official government proceeding, is strictly prohibited.

Code of Ethics

County Commission for Stewart County, Georgia

Business Conduct and Fair Dealing

- Conduct the Commission's business fairly and in good faith.
- Perform your duties in good faith and in the best interests of the Commission within the confines of sound and ethical practice and applicable law.
- Never give or accept bribes

Protection and Use of Company Property

- Protect Commission property and use it only for its intended purpose.

Commission property, from buildings to computer and telephone systems to paper clips, is valuable and intended for business use. It must be preserved, protected, and used for its intended purpose.

External Communications

- Do not speak on behalf the Commission unless authorized to do so.
- Do not respond to requests for information on behalf of the Commission unless authorized to do so.

From time to time, we receive requests for information from other governments, the media, or the general public. In other cases, we wish to make our views on matters affecting our Commission business known to legislators, governmental agencies, the media, or the public at large. In order to ensure that such communications are complete, properly coordinated, and in accordance with law, and to protect the rights of those involved in the case of certain types of inquiries, such communications may only be made by authorized persons in accordance with guidelines set forth in the Code of Ethics.

This Code of Ethics, the County Personnel Policy, and notices of applicable workplace laws and regulations are available at the Commission office, on the County's shared drive, and on the County website, www.stewartcountyga.gov. If you need guidance on County policies or state and local laws and regulations, please contact the County Manager.