

## **ORDINANCE 24-14**

To Amend Chapter 2 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned "Administration"; To Provide For An Effective Date; To Provide For The Repeal Of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

### **Section 1.**

Chapter 2 of the 2001 Revised Code of the City of Dalton, Georgia, captioned "Administration" his hereby amended by striking the by striking, repealing and deleting Chapter 2 in its entirety and substituting in lieu thereof a new Chapter 2 which shall read as follows:

## **Chapter 2 ADMINISTRATION**

**Secs. 2-1—2-25. Reserved.**

### ***ARTICLE II. MAYOR AND COUNCIL***

#### ***DIVISION 1. GENERALLY***

#### **Sec. 2-26. Annual appointment of officers and agents.**

At the beginning of each year, the mayor and council shall appoint such officers and agents as, in its judgment, shall be necessary and expedient for the proper carrying on of the city's business.

#### **Sec. 2-27. Salaries of appointed officers, employees or agents.**

The salaries of all appointed city officers, employees or agents shall be affixed by the city administrator or his or her designee, subject to approval of mayor and council, which shall review the same on at least a yearly basis.

#### **Sec. 2-28. Contempt toward mayor and council.**

Contemptuous or disorderly conduct toward the mayor and council or any committee thereof or in their presence is prohibited.

#### **Sec. 2-29. Agenda protocol and procedure.**

- (a) For each regular meeting of the mayor and council, the city administrator shall prepare an agenda as provided in this section of all matters which he or she knows may be considered at the meeting and

described in sufficient detail to explain the nature of the item and the name of the person placing it on the agenda. A copy of this final agenda shall be delivered to each member of the mayor and council not later than 5:00 p.m. on the Friday preceding the particular meeting in compliance with open meetings law (O.C.G.A. § 15-14-1 et seq.).

- (b) No matter shall be placed on the agenda unless the following procedure has been followed:
  - (1) Only the mayor, councilmembers, the heads of city departments and other agencies, boards and commissions of the city may place items on the agenda.
  - (2) Any request for an item to be placed on the agenda must be received in writing by the city administrator prior to 12:00 noon on Thursday preceding the next regular meeting of the mayor and council. Such request shall include a brief affirmative statement of the subject matter of the item, together with a statement of what action the mayor and council is being requested to take, and may refer only to one item.

### **Sec. 2-30. Meetings.**

The mayor and council shall hold regularly scheduled meetings on the first and third Mondays of each month at a time set annually by the mayor and council. The mayor and council shall have the authority to set a different meeting date or call a special meeting in its discretion and upon due notice as required by law. The mayor and council shall have the authority to cancel a regularly scheduled meeting if there is no business to conduct.

### **Sec. 2-31. Liaisons.**

At the beginning of each calendar year, the mayor shall appoint members of the council or employees of the city to serve as liaisons between the mayor and council and the various departments, boards and commissions of the city. A liaison shall serve for balance of the calendar year, but may be reappointed for additional one-year terms at the discretion of the mayor. If a liaison position becomes vacant during a calendar year, the mayor shall appoint a new liaison to serve for the balance of that year. Liaisons shall keep the mayor and council current on matters concerning their respective departments, boards and commissions. Liaisons shall communicate concerns of the mayor and council to the departments, boards and commissions. Liaisons shall be invited to attend, and to participate in, all regular, special and executive meetings of the department, board or commission with which they liaise, but shall not have a vote on matters coming before the meeting of such department, board or commission except for liaisons to the Building Authority, Pension Board, Public Safety Commission, Public Works Committee, Downtown Dalton Development Authority, and Northwest Georgia Trade & Convention Center Authority, which shall be entitled to vote. In the event a liaison is unable to attend a meeting, the mayor is authorized to appoint another member of the council as a substitute liaison to attend such meeting.

### **Secs. 2-32—2-58. Reserved.**

## ***DIVISION 2. COMMITTEES, BOARDS, AND COMMISSIONS***

### **Sec. 2-59. Finance and administration committee.**

- (a) The finance and administration committee shall have supervision over the finances and budgeting of the city, ordinance review and recommendation, insurance policies, community development, building codes enforcement, purchasing, personnel administration and public input and involvement.
- (b) The finance and administration committee shall be comprised of all members of the mayor and council.

## **Sec. 2-60. Public works and facilities committee.**

- (a) The public works and facilities committee shall have general supervision over city cemeteries, , railroads, streets, public works projects and all other public property and facilities within the city. The public works committee shall provide direction to, and have oversight of, infrastructure projects and the public works department of the City of Dalton.
- (b) The public works committee shall be comprised of the city administrator and two (2) members of the mayor and council appointed by the mayor and serving at the pleasure of the mayor.

## **Sec. 2-61. Oaths.**

Upon their appointment and prior to taking office, all commission members, board members, authority members, police officers, and firefighters, shall take the following oath:

“I do solemnly (swear)(affirm) that I will faithfully perform the duties of (title of office) of this city and that I will support and defend the charter thereof as well as the constitution and laws of the State of Georgia and of the United States of America. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I will perform the duties of my office in the best interest of the City of Dalton to the best of my ability without fear, favor, affection, reward, or expectation thereof.” The oath shall be administered by the city attorney or any judicial officer authorized to administer oaths.

## **Sec. 2-62. Chairpersons.**

Each board, commission, or authority of the city shall elect one of its members to serve as chair, for a term of one (1) year. Said election shall occur at the first meeting in the calendar year of the board, commission, or authority. A chair may serve an indefinite number of terms.

## **Sec. 2-63 Public Safety Commission.**

Appointment, Term, Compensation of Public Safety Commission.

A public safety commission, which shall be an advisory commission consisting of five (5) members to be appointed by the mayor and council of said city as is hereinafter provided, may from time to time make such rules and regulations as they may think proper for the proper conduct of the affairs of such commission. The Public Safety Commission's purpose is to be an advisory authority to the public safety departments. The public safety commission shall consist of five commissioners appointed by the mayor and council and each such member shall serve a five-year term. At least one such member shall be a councilmember and at least one such member shall have had experience as a public safety employee. The terms of the commissioners shall be staggered. Any vacancy in a term of a member shall be filled for the expiration of that term by appointment of the mayor and council. Upon the expiration of the term of service of any member so appointed, the mayor and council shall appoint a member for a full term.

## **Sec. 2-64**

Services of City Attorney to Public Safety Commission.

The city attorney of the City of Dalton shall render such services as are required by said public safety commission.

## **Sec. 2-65 Recreation Commission.**

The recreation commission of the City of Dalton was established by resolution of the mayor and council in 1956 and is hereby reaffirmed. Said commission provides direction to, and advises, the City of Dalton parks and recreation department.

**Secs. 2-66—2-86. Reserved.**

## ***ARTICLE III. OFFICERS AND EMPLOYEES***

### ***DIVISION 1. GENERALLY***

#### **Sec. 2-87. Liability protection.**

- (a) This section shall be known as the municipal liability protection ordinance and may be referred to as such in any document or pleading.
- (b) The mayor and council find as follows:
  - (1) The city's elected and appointed officers, supervisors, administrators and employees have increasingly been the target of liability lawsuits for actions arising out of the performance of their duties or in any way connected therewith;
  - (2) The general assembly has empowered municipalities to purchase liability insurance or contracts of indemnity insuring or indemnifying the members of governing bodies and supervisors, administrators, employees or other elected or appointed officers of municipalities against personal liability for damages arising out of the performance of their duties or in any way connected therewith, whether based upon negligence, violation of contract rights or violation of civil, constitutional, common law or other statutory rights, whether state, federal or local;
  - (3) The city has purchased liability insurance covering certain acts of the mayor and council, supervisors, administrators, employees and other elected or appointed public officers on a continuous basis since 1982;
  - (4) Liability insurance is not always available to cover all necessary areas of potential liability of the mayor and council, supervisors, administrators, employees and other elected or appointed public officers of the city;
  - (5) The city needs to retain the services of capable and experienced supervisors, administrators, employees and other public officers as well as to encourage capable and experienced members of the general public to seek and hold elective office of the city, and the prospect of personal liability unmet by available insurance is a deterring factor to the city's meeting such goal;
  - (6) The state general assembly has provided that a municipality may adopt a policy establishing the terms and conditions under which it will pay part or all of any claim or civil judgment rendered against the mayor or any councilmember, supervisor, administrator, employee or other elected or appointed official of the city whom it is authorized to defend pursuant to a written public policy;

- (7) It is in the best interest of the city and the good order and administration of the government of the city and its people that the city establish, in addition to any liability insurance or contract of indemnity and secondary thereto, only a policy under which the city will undertake to defend all or specified civil, criminal or quasicriminal actions brought or maintained against the mayor and any councilmember or against any supervisors, administrators, employees or other elected or appointed city officers arising out of the performance of their duties or in any way connected therewith, based upon negligence, violation of contract rights or violation of civil, constitutional, common law or statutory rights and to pay part or all of any claim or civil judgment rendered against any person whose defense the city so undertakes; and
- (8) These should be limitations on such duty to provide a legal defense and obligation to pay part or all of any claim or civil judgment rendered against the mayor or any councilmember, supervisor, administrator, employee or other elected or appointed officer of the city such that the city is not defending or paying claims or judgments with respect to criminal offenses involving theft, embezzlement or other like crimes with respect to the property or money of or in which the city has an interest.
- (c) In addition to any contract to defend provided under any liability insurance or contract of indemnity insuring or indemnifying the mayor or councilmembers, supervisors, administrators, employees or other elected or appointed officers of the city against personal liability for damages arising out of the performance of their duties or in any way connected therewith and secondary thereto only, it shall be the city's policy to provide as a part of the compensation in terms of employment of the mayor and councilmembers, all supervisors, administrators, employees and other elected or appointed officers of the city a defense for all civil, criminal or quasicriminal actions brought or maintained against such mayor, councilmembers, supervisors, administrators, employees and other elected or appointed officials, arising out of the performance of their duties or in any way connected therewith, whether based upon negligence, violation of contract rights or violation of civil, constitutional, common law or statutory rights. However, the city shall not be authorized to furnish a defense to any person charged with a criminal offense involving theft, embezzlement or other like crime with respect to the property or money of or in which the city has an interest.
- (1) The city may expend public funds for such purposes, including, but not limited to attorney's fees, court costs, deposition costs, witness fees and compensation and all other like costs, expenses and fees.
- (2) The city shall designate in its sole discretion appropriate legal counsel to fulfill its policy of providing legal defense under subsection (c)(1) of this section. As a condition of receipt of such legal defense, the mayor, councilmembers, supervisors, administrators, employees and other elected or appointed officials of the city shall have the duty to cooperate with such legal counsel designated by the city in the defense of the claim or suit.
- (d) In addition to any liability insurance or contract of indemnity covering the mayor, councilmembers, supervisors, administrators, employees or other elected or appointed officials of the city, and secondary thereto only, the city shall pay part or all of any claim or civil judgment rendered against any person as provided in this section whose defense the city is authorized to undertake under subsection (c) of this section. As a condition to such payment of any part or all of any claim or civil judgment, such person shall be obligated to cooperate with the attorneys appointed or designated by the city to defend such person in the action. Failure of such employee to cooperate in the defense of the action shall void any obligation of the city to pay part or all of any claim or civil judgment rendered against such person.
- (e) This section is intended to set forth a written policy for the city as authorized and provided in O.C.G.A. §§ 45-9-21 and 45-9-22. Nothing in this section shall be construed as waiving any immunity or privilege of any kind enjoyed by the city or other public body, department, board, commission or agency of the city or by the mayor and any councilmember or by any supervisor, administrator, employee or other elected or appointed officer of the city or any public body, board, department, agency or political subdivision of the city.

**Secs. 2-88—2-113. Reserved.**

## *DIVISION 2. CITY CLERK*

### **Sec. 2-114. General duties.**

The City Clerk shall issue licenses, summons, processes, subpoenas and executions; shall have the custody of all records, papers and books and seals belonging to the council; and shall pay all moneys received by him or her to the city depository at least once a week.

### **Sec. 2-115. Books to be kept.**

The city clerk shall keep a book of neat and accurate minutes, cards for recording all licenses, a book for ordinances and a book of the annual tax digest.

### **Sec. 2-116. Appointment as superintendent of elections.**

Pursuant to the power vested in the mayor and council pursuant to O.C.G.A. § 21-2-45(c)(2), the county is appointed to perform, until further act of the mayor and council, all duties as superintendent of elections as specified in O.C.G.A. § 21-2-1 et seq., with the exception of the qualification of candidates for municipal office, which duty shall be performed by the city clerk.

**Secs. 2-117—2-141. Reserved.**

## *DIVISION 3. OPEN RECORDS OFFICER*

### **Sec. 2-142. Open records officer.**

There is hereby created the office of open records officer. The city administrator is hereby designated as the city's open records officer; the open records officer may designate, in writing, assistant open records officer(s) as required to perform the duties of his or her office. The open records officer shall serve at the pleasure of the mayor and council.

### **Sec. 2-143. Duties.**

It shall be the duty of the open records officer and his or her duly designated assistant open records officer(s) to accept written requests to inspect and copy public records, pursuant to O.C.G.A. § 50-18-70, et seq., and to produce to the requester all records responsive to a request within a reasonable amount of time not to exceed three business days of receipt of a request, unless the time for response is extended in accordance with law. No request shall be deemed filed until served upon the open records officer, either by hand delivery or statutory overnight delivery to the open records officer at City Hall, 300 W. Waugh Street, Dalton, Georgia, 30720; by certified United States mail, return receipt requested to the open records officer at P.O. Box 1205, Dalton, Georgia,

30722; by email to [openrecords@cityofdaltonga.gov](mailto:openrecords@cityofdaltonga.gov); or by facsimile transmission to open records officer at 706-529-2491. Requests, whether oral or in writing, served upon any other officer or employee of the city shall not be deemed filed, until the requester has filed his or her request, in writing, with the open records officer. In the absence or unavailability of the open records officer, an assistant open records officer shall perform the duties of the open records officer. The absence or unavailability of a designated open records officer shall not delay the city's response to a properly served request.

#### **Sec. 2-144. Request response.**

Upon receipt of a request, it shall be the duty of the open records officer to promptly ascertain the availability of all public records responsive to the request and to produce to the requester those records that can be located and produced within a reasonable time, not to exceed three business days of receipt of a request. For purposes of computing the time within which a response must be made, the open records officer shall not count the business day on which a request is received, nor any intervening Saturday, Sunday, or designated holiday on which city offices are closed for general business. Upon intake of a request, the open records officer shall stamp the request with the date and time of receipt, and initial the request. In any instance where records are unavailable within three business days of the request, it shall be the duty of the open records officer to provide the requester with a written description of such records and a timeline for when the records will be available for inspection or copying and to provide the responsive records to the requester as soon thereafter as practicable. Such response shall also contain a good faith estimate of the cost to the requester for the search, retrieval, redaction, and production and copying of records. The open records officer shall confer with every officer or department head of the city, as necessary, to ascertain the existence of public records responsive to a request (including electronically-stored information), and it shall be the duty of every city officer and department head to confer with and provide records, or true and correct copies of the originals thereof, to the open records officer promptly, time being of the essence. Upon receipt of a public record responsive to a request, the open records officer shall determine, in consultation with the city attorney, if the record is exempt from disclosure by order of a court of this state or by law; if the record is exempt from disclosure, the written response by the open records officer shall set forth the specific legal authority under which withholding of inspection of the record is claimed. The open records officer shall maintain a log or other documentation of his or her due diligence to comply with a proper request.

#### **Sec. 2-145. Fees.**

The open records officer shall further have the duty to collect from a requester a reasonable charge for the search, retrieval, redaction, and production/copying of records, utilizing the most economical means available to identify and produce nonexcluded records. The charge for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid full-time employee who, in the reasonable discretion of the open records officer, has the necessary skill and training to perform the request; provided, however, no charge shall be made for the first quarter hour. In addition thereto, where certified copies of specific records are sought, the fees for certified copies prescribed by law shall apply; otherwise, a fee for the copying of records shall not exceed ten cents per page for letter or legal size documents or, in the case of other documents and electronic records, the actual cost of reproducing the document or media on which the records or media are produced. It shall be the right of the requester, at the time of inspection, to make photographic copies or other electronic reproductions of records, at his or her own expense, using suitable portable devices brought to the place of inspection. Whenever any person has requested to inspect and copy public records and received a written response estimating the cost of the search, retrieval, redaction, and production/copying of the records responsive to the request, and the city has actually incurred such costs but the requester fails to inspect or accept copies of the records, the open records officer shall be authorized to collect such charges in any manner authorized by law. In any instance in which the open records officer has estimated costs in excess of \$25.00 for responding to a request, the open records officer may defer the search, retrieval, redaction, and production/copying of the records until the requester has stated, in writing, his or her willingness to pay an amount equal to the estimate of costs. In any instance in which the estimated costs exceed \$500.00, the open records officer shall insist, in writing, upon

prepayment of the estimated costs prior to beginning search, retrieval, redaction, production or copying of the records. In any instance in which a requester has outstanding costs owing to the city for a previous records request, the open records officer shall insist upon prepayment of the outstanding costs and estimated costs prior to beginning search and retrieval.

#### **Sec. 2-146. Litigation.**

Requests by civil litigants, or their counsel of record, in any ongoing civil action or administrative proceeding shall be made in writing and shall include the style of the action or proceeding, the names and addresses of all parties and, if a party is represented by counsel, the name, address, and telephone number of the party's attorney; a copy of the request shall be served by the requester upon all parties or their counsel of record in the action or proceeding contemporaneous to filing the written request with the open records officer. The open records officer shall make duplicate set(s) of records provided in response to the request available to all parties or their counsel for the cost of copies only, unless a party or its counsel elects not to receive the records and pay the copying charge. If the city is a party to the action or proceeding, a set of responses shall be provided to counsel for the city at no charge.

#### **Secs. 2-147—2-172. Reserved.**

### ***ARTICLE V. FINANCE***

#### **Sec. 2-173. Designation of tax commissioner to prepare tax digest, assess and collect taxes.**

Pursuant to applicable state law, the mayor and council may by contract, designate the county tax commissioner to prepare the tax digest for the city; to assess and to collect municipal taxes in the same manner as county taxes; and, for the purpose of collecting such municipal taxes, to invoke any remedy permitted for collection of municipal taxes.

#### **Secs. 2-174—2-199. Reserved.**

### ***ARTICLE VI. RESERVED***

#### **Secs. 2-200—2-231. Reserved.**

### ***ARTICLE VII. RECORDS RETENTION***

#### **Sec. 2-232. Retention schedules for local government records.**

"Retention Schedules for Local Government Paper and Electronic Records", as promulgated by the Archives, Records and Information Management Section, Georgia Secretary of State, revised May 2007, as from time to time amended, are hereby adopted and incorporated by reference as the minimum retention schedules for public records of the city. For purposes of this section, the definition of "records" found at O.C.G.A. § 50-18-91(5) is hereby incorporated by reference. Municipal court records shall be maintained in accordance with those standards



promulgated, from time to time, by the Georgia Administrative Office of Courts. Records pertaining to investigations of the police or fire departments shall be maintained in accordance with the policies of those departments.

Notwithstanding an applicable records retention schedule to the contrary, records relevant to an actual or potential investigation not initiated by the city police or fire departments, administrative proceeding, or lawsuit, shall be preserved until the city attorney or other legal representative of the city determines the records are no longer needed. This exception supersedes any previously or subsequently established retention schedule for those records.

#### **Sec. 2-233. Compliance.**

The city administrator and each department head under the city administrator will be responsible for overseeing implementation, maintenance, security and compliance with record retention requirements. The responsibility imposed by this section includes training and education of employees in the creation, storage, indexing or archiving of public records, records management and retention, compliance with open records laws, and the production and disclosure of records in litigation.

#### **Sec. 2-234. Records management officer.**

The city clerk is hereby appointed and designated as the records management officer for the city. It shall be the duty of the records management officer to promulgate policies and procedures governing public records management. Such policies and procedures shall include electronically stored information in addition to records created or maintained in tangible format. The records management officer may designate, in writing, such assistant or deputy officers as required to perform the duties of the office.

#### **Sec. 2-235. Title vested in city.**

Title to any public record created or required to be filed or recorded with the city or any department or agency thereof shall be vested in the city and no individual officer or employee shall acquire any property rights therein. Any records designated as "confidential" or "privileged" by law shall be so treated in their creation, maintenance, storage, dissemination, and disposal. Access to such records shall be restricted in the manner provided by law and disclosure thereof shall be made available only to authorized individuals.

#### **Sec. 2-236. Destruction of records.**

The destruction of public records shall occur only through the application of the appropriate retention schedule and after satisfying any administrative approvals necessary to authorize destruction. Alienation, alteration, theft or unauthorized destruction of public records of the city by any person or persons in a manner not authorized by an applicable records management program or retention schedule is prohibited, and may result in such person's criminal prosecution and/or removal from public office or dismissal from public employment.

#### **Secs. 2-237—2-262. Reserved.**

### ***ARTICLE VIII. ETHICS***

#### **Sec. 2-263. Findings of fact.**

The mayor and council make the following findings of fact:

- (a) It necessary to the proper operation of democratic government that public officials be, and appear to be, independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper manner and structure; and that public office not be used for personal gain; and
- (b) Affirmative measures to this end are necessary to provide the public with confidence in the integrity of its government,
- (c) It is the policy of the city that its officials, employees, appointees, and volunteers conducting official city business be governed by the principles set forth in Resolution 09-07, and be further governed by the specific provisions of this article.

#### **Sec. 2-264. Purpose.**

The purpose of this code of ethics is to:

- (a) Encourage high ethical standards in official conduct by city 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 city;
- (c) Require disclosure by such officials of private financial or other interest in matters affecting the city; and
- (d) Serve as a basis for disciplining those who refuse to abide by its terms.

#### **Sec. 2-265. Scope.**

The provisions of this code of ethics shall be applicable to all elected or appointed city officials. Notwithstanding anything herein to the contrary, state law and the charter of the city shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This article shall be interpreted to supplement, and not replace, said provisions of state law and the charter.

#### **Sec. 2-266. Definitions.**

Solely for the purpose of this code of ethics:

*City official* or *official*, unless otherwise expressly defined does not include city employees but does mean the mayor, members of the city council, municipal court judges (including substitute judges), city manager, city clerk, city attorney, and all other persons holding positions designated by the city charter, as amended as well as all head of all departments of the government of the city. The term "city official" also includes all individuals, including city employees, appointed by the mayor and/or city council as appropriate to city authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the mayor and/or city council.

*Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.

*Employee* means any person who is a full-time or parttime employee of the city.

*Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter related by blood, adoption or marriage and shall include in-laws, steps, and halves of the relationships listed.

*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.

*Remote interest* means an interest of a person or entity, including a city 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 city fees, city utility charges or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.

*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 city council; 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.

## **Sec. 2-267. Prohibitions.**

- (a) No city 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 city.
- (b) No city official, in any matter before the council or other city 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 city official shall act as an agent or attorney for another in any matter before the city council or other city body.
- (d) No city 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 city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city, except as authorized by state law.
  - (1) This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.
  - (2) This prohibition shall not be applicable to an otherwise valid employment contract between the city and a city official who is not elected (such as, by way of example, a city manager, city administrator or chief of police).
  - (3) Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city 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 city official shall solicit or accept other employment to be performed, or compensation to be received, while still a city official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of city duties.
- (i) If a city 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 city council and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
- (j) No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- (k) No city 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 city 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 city 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 city official shall not order any goods and services for the city without prior official authorization for such an expenditure. No city official shall attempt to obligate the city or give the impression of obligating the city without proper prior authorization.
- (o) No city official shall draw travel funds or per diem from the city for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the city therefor.
- (p) No city official shall attempt to unduly influence the outcome of a case before the municipal court nor shall any city official other than the municipal court clerk engage in ex parte communication with a municipal court judge on any matter pending before the municipal court.

#### **Sec. 2-268. Conflict of interest.**

- (a) A city 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 city 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 mayor and council prior to participating in a vote or decision regarding funding of the entity by or through the city.
- (c) Where the interest of a city official in the subject matter of a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

#### **Sec. 2-269. Board of ethics.**

- (a) A board of ethics is hereby established to act as provided below with respect to complaints that allege a violation of this article by city official.
- (b) The board of ethics shall consist of three residents of the city, one appointed by the mayor, one appointed by the council, and the third appointed by the two named board members and approved by a majority of the city council. The third member of the board of ethics shall be a member in good standing of the State Bar of Georgia.

- (c) All members of the board of ethics shall be residents of the city for at least one year immediately preceding the date of taking office and shall remain a resident while serving on the board.
- (d) All members of the board of ethics shall serve a five-year term.
- (e) 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 or contracting opportunity with the city or has been employed by the city.
- (f) Members of the board of ethics with any permit or rezoning application pending before the city, or any pending or potential litigation against the city or any city official charged in the complaint shall be disqualified from serving on the board of ethics for that complaint. An alternate member of the board of ethics shall be selected in the same manner as the disqualified individual.
- (g) The members of the board of ethics shall serve without compensation. The city council shall provide meeting space for the board of ethics and, subject to budgetary procedures and requirements of the city, such supplies and equipment as may be reasonably necessary for the board to perform its duties and responsibilities.
- (h) No person shall serve on the board of ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.
- (i) No person shall serve on the board of ethics who is less than 18 years of age, who holds a public elective office, who is physically or mentally unable to discharge the duties of a member of the board of ethics, or who is not qualified to be a registered voter in the city.
- (j) Upon appointment, members of the board of ethics shall sign an affidavit attesting to their qualification to serve as a member of the board of ethics.
- (k) Members of the board of ethics may be removed by majority vote of the mayor and council.

#### **Sec. 2-270. Receipt of complaints.**

- (a) All complaints against city officials shall be filed with the board of ethics, who may require that oral complaints and complaints illegibly or informally drawn, be reduced to a memorandum of complaint in such form, as may be prescribed, by the city council or the board of ethics. Upon receipt of a complaint in proper form, the chair of the board of ethics shall forward a copy of the complaint to the city official or officials charged in the complaint within and no more than seven 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 article.
- (c) Upon receipt of a complaint in proper form, the board 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 mayor and council. The board of ethics 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 mayor and council; provided, however, that a rejection of such complaint by the board of ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official. For complaints that are not dismissed, the board of ethics is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigation to the file containing such complaint.
- (d) Upon completion of its investigation of a complaint, the board of ethics 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 mayor and council; provided, however, that a rejection of such complaint by the board of ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official.

- (e) The board of ethics is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.
- (f) The board of ethics is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the city council has not prescribed such forms.
- (g) Findings of the board of ethics shall be submitted to the mayor and council for action.
- (h) To discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted against a person seeking election as a city official, whether currently serving as a city official or not, from the date qualifying opens for the elected office at issue through the date the election results for that office are certified. The time for filing complaints will not run during this period. Properly filed complaints will be accepted and processed after the election results have been certified.

### **Sec. 2-271. Service of complaint.**

The city clerk, on behalf of the board of ethics, shall cause the complaint to be served on the city official charged as soon as practicable but in no event no later than seven 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 60 calendar days after filing of the complaint. The board of ethics 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 board of ethics shall be rendered to mayor and council within seven calendar days after completion of the final hearing. At any hearing held by the board of ethics, the city official, who is the subject of inquiry, shall have the right to written notice of the hearing and the allegations at least seven 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 city official, subject to the inquiry, shall have also have the right, but not the obligation, of submitting evidence and calling witnesses. Failure to comply with any of the time deadlines in this section shall not invalidate any otherwise valid complaint, or in any way affect the power or jurisdiction of the board of ethics or the city council to act upon any complaint.

### **Sec. 2-272. Right to appeal.**

- (a) Any city official or complainant adversely affected by the findings or recommendations of the board of ethics may obtain judicial review of such decision as provided in this article.
- (b) An action for judicial review may be commenced by filing an application for a petition for review, in the county superior court within 30 days after the decision of the board of ethics. The filing of such application shall act as supersedeas.

**Sec. 2-273. Penalty.**

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

- (1) Public reprimand, censure, or removal if permitted by law by the mayor and council; or
- (2) Request for resignation by the mayor and council.

**Section 2.**

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

**Section 3.**

All ordinances and parts of ordinances in conflict with this ordinance are repealed.

**Section 4.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, second by Councilmember \_\_\_\_\_ and upon the question the vote is \_\_\_\_ ayes, \_\_\_\_ nays and the Ordinance is adopted.

\_\_\_\_\_  
MAYOR/MAYOR PRO TEM

ATTEST:

\_\_\_\_\_  
CITY CLERK