

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF FOREST PARK, GEORGIA TO REVISE THE CODE OF ETHICS FOR OFFICIALS; TO PROVIDE FOR THE ESTABLISHMENT OF AN ETHICS OFFICER; TO PROVIDE FOR DISCIPLINE; AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED by the Governing Authority of the City of Forest Park:

Section 1. The Code of Ordinances, City of Forest Park, Georgia is hereby amended by deleting Chapter 6 to Title 2 of the Code and replacing it with a new Chapter 6 to Title 2 as shown on Exhibit A.

Section 2. All pending ethics complaints before the City shall be referred to the newly created Ethics Officer.

Section 3. In the event any word, phrase, sentence or paragraph is determined by a court of competent jurisdiction to be unconstitutional, the offending provisions shall be severed from the ordinance and the remaining words, phrases, sentences and paragraphs shall continue in effect as fully as though no challenge had been brought, it being the intent of the Council that severability be applied to the maximum extent allowed by law.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. This ordinance shall be effective immediately upon its adoption.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

SO ORDAINED this _____ day of _____, 2021.

Mayor Angelyne Butler

Council Member Kimberly James, Ward 1

Council Member Dabouze Antoine, Ward 2

Council Member Hector Gutierrez, Ward 3

Council Member Latresa Wells, Ward 4

Council Member Allan Mears, Ward 5

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

Chapter 6 Code of Ethics

Sec. 2-6-1 Purpose and intent.

(a) It is the policy of the City of Forest Park that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials is adopted.

(b) This Chapter has the following purposes:

- (1) To encourage high ethical standards in official conduct by city officials;
- (2) To establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interest of the City;
- (3) To require disclosure by such officials of private financial or other interests in matters coming before the City; and
- (4) To serve as a basis for disciplining those who refuse to abide by its terms.

(c) It is the intent of this Chapter that City officials shall avoid any action, whether or not specifically prohibited by section 2-2-5 of this Chapter, which might result in, or create the appearance of the following:

- (1) Using public office for private gain;
- (2) Impeding government efficiency or economy; or
- (3) Affecting adversely the confidence of the public in the integrity of the government.

Sec. 2-6-2 Political campaigns not covered.

The provisions of this Chapter shall not apply to political contributions; loans, expenditures, reports or regulation of political campaigns; or the conduct of candidates in such campaigns.

Sec. 2-6-3 Scope of persons covered.

The provisions of this Chapter shall be applicable to the Mayor and all Members of the City Council, as well as to all members of the Forest Park Planning and Zoning Board, Forest Park Downtown Development Authority, the Forest Park Urban Redevelopment Agency, Forest Park Development Authority, and to members appointed to all other boards, authorities, commissions, or agencies of the City.

Sec. 2-6-4 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

- (1) *City Official* or *Official*, unless otherwise expressly defined, means the Mayor and all Members of the City Council, as well as to all members of the Forest Park Planning and Zoning Board, Forest Park Downtown Development Authority, the Forest Park Urban Redevelopment Agency, Forest Park Housing Authority, and to members appointed to any boards, commissions or authorities of the City.
- (2) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the Mayor and Council or other City board, authority, commission or agency, as well as the discussions or deliberations of the Council, board, authority, commission or agency which can or may lead to a vote or formal action by that body.
- (3) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son, daughter, grandchild of any city official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.
- (4) *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, City utility charges or a comprehensive zoning ordinance or similar matter is deemed remote to the extent that the Official would be affected in common with the general public.
- (5) *Financial interest* means any an interest, either directly or through a member of the immediate family, in another person or entity, where:
 - a. The interest is ownership of five percent (5%) 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
 - b. The funds received by the person from the other person or entity during the previous 12 months either equal or exceed (i) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in

payment for goods, products or services, or (ii) ten percent (10%) of the recipient's gross income during that period, whichever is less;

- c. 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
- d. The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

(6) *Thing of value* means any item, consideration, or benefit other than those exempted under O.C.G.A., § 16-10-2(a)(2). Thing of value shall not include the following:

- a. Food or beverage consumed at a single meal or event;
- b. Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's non-public business, employment, trade, or profession;
- c. An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;
- d. Food, beverages, and registration at group events to which all members of the Council, board, authority, commission or agency is invited;
- e. Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to permit participation or speaking at the meeting;
- f. A commercially reasonable loan made in the ordinary course of business;
- g. Any gift with a value less than \$100.00;
- h. Promotional items generally distributed to the general public or to City Officials;
- i. A gift from a member of the City Official's immediate family; or
- j. Food, beverage, or expenses afforded City Officials, members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

Sec. 2-6-5 Prohibited conduct.

(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 or from whom the Official has received a Thing of Value, shall fail to disclose for the record such Interest or receipt of such Thing of Value prior to any discussion or vote or fail to recuse himself or 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 Thing of Value in any matter or proceeding connected with, or related to, the duties of his office except as may be provided or exempted 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. 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 or 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) No City Official shall use his position in such a manner as to threaten, intimidate or humiliate the public or City workforce.

(m) 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.

(n) 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.

(o) 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 nor give the impression of obligating the City without proper prior authorization.

(p) No City official shall draw travel funds or per diem from the City for attendance at meetings, seminars, training or other education events and fail to attend such events without promptly reimbursing the City therefor.

(q) No City Official shall attempt to unduly influence the outcome of a case before the Municipal Court of the City of Forest Park.

(r) No City Official shall use the attorney or attorneys who are employed by or appointed by the City for personal or private business without paying just compensation therefor.

(s) No City Official shall use his superior position to request or require an employee of the City to:

- (1) Do clerical or other work on behalf of his or her family, business, social, church, or charitable or fraternal interests;
- (2) Purchase goods and services to be used for personal, business, or political purposes; or
- (3) Work for him or her personally without offering just compensation.

(t) No City Official shall grant or make available to any person or entity any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large. No City Official shall ask or require any City employee to grant or make available to any person or entity any consideration, treatment, advantage or

favor beyond that which it is the general practice to grant or make available to the public at large, or to exercise any discretionary authority except in accordance with established law.

(u) No City Official may 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.

(v) No City Official who serves as a corporate officer or member of the board of directors of a nonprofit entity shall fail to disclose that interest to the Mayor and Council prior to participating in a vote or decision regarding funding of that entity by or through the City.

(w) No City Official shall violate any provision of the City Charter or ordinances of the City.

(x) No City Official shall fail to conduct themselves with courtesy and respect, and the utmost civility and decorum, both in public and private settings.

Sec. 2-6-6 Remote interests need not be disclosed.

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. 2-6-7 Ethics Officer.

- (1) There is hereby created the position of Ethics Officer for the City of Forest Park. The Ethics Officer may be an individual or a law firm. The Ethics Officer or the primary law firm representative must be an active member of the Georgia Bar Association in good standing with five (5) years' experience in the practice of law.
- (2) The Ethics Officer shall be appointed by the City Council a period not to exceed four (4) years.
- (3) The Ethics Officer shall not be involved in partisan or nonpartisan political activities or the political affairs of the City of Forest Park or Clayton County.
- (4) The Ethics Officer may be suspended or discharged only for cause by a majority vote of the City Council. For these purposes, "cause" shall include the failure to perform the position of Ethics Officer, any violation of the City Charter or Ordinances, or having been charged with any crime of moral turpitude.

Sec. 2-6-8 RECEIPT OF COMPLAINTS

- (a) All complaints against city officials shall be filed with the city clerk, who will give it to the Mayor and Council. The Mayor and Council 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. Upon receipt of a complaint in proper form, the city clerk or the clerk's designee shall forward a copy of the complaint to the city official or officials charged in the complaint within no more than seven (7) calendar days. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery.

- (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 Ethics 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 City Council. The Ethics 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 City Council; provided, however, that a rejection of such complaint by the Ethics Officer 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 Ethics 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) The Ethics Officer is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.
- (e) The Ethics Officer 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.
- (f) Findings of the Ethics Officer shall be submitted to the City Council for action.
- (g) 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. 2-6-9 Hearing

A hearing shall be held within sixty (60) calendar days after filing of the complaint. The Ethics 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 Ethics Officer shall be rendered to Mayor and Council within seven calendar days after completion of the final hearing. At any hearing held by the Ethics Officer, 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 (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 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 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 Ethics Officer or the city council to act upon any complaint.

Sec. 2-6-10 Appeals.

Any final decision by the Mayor and Council shall be reviewable by the Superior Court of Clayton County by writ of certiorari; provided that no failure or refusal of the Ethics Officer or the Mayor and Council to take action pursuant to this Chapter shall be reviewable by superior court.

Sec. 2-6-11 Bar against subsequent complaint.

Where a complainant files a complaint for which the Ethics Officer fails to make a “finding of violation” or for which the Mayor and Council fails to determine that any penalty is appropriate, the complainant shall be barred from filing any subsequent complaint against the same respondent Official for a period of 12 months after termination of the original complaint proceeding. Where a complainant files a complaint for which the Ethics Officer fails to make a “finding of violation” or for which the Mayor and Council fail to determine that any penalty is appropriate, the complainant shall be barred from filing any subsequent complaint against the same respondent City Official alleging substantially the same facts and circumstances as the basis for the subsequent complaint.

Sec. 2-6-12 Penalty

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

- (a) Public reprimand or censure by the city council;
- (b) Request for resignation by the city council; or
- (c) Removal from elected office pursuant to the procedure established by Section 5.16 of the City Charter.