

ARTICLE VI. - CODE OF ETHICS

Sec. 2-220. - Purpose and scope.

- (a) The purpose of this Code is to:
 - (1) Encourage high ethical standards in official conduct by city officials;
 - (2) 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;
 - (3) Require disclosure by such officials of private financial or other interest in matters affecting the city; and
 - (4) Serve as a basis for disciplining those who refuse to abide by its terms.
- (b) 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 section shall be interpreted to supplement, and not replace, said provisions of state law and the Charter.

(Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Sec. 2-221. - 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. For the convenience of the reader, unless the context of the regulation specifically relates to only one set or subset of actors, the terms official, employee, appointee, and volunteer may be used synonymously with "official" and "employee" throughout this article. All terms not defined shall be defined as in the Webster's Dictionary 2004 edition.

Agency means the city council, and all other agencies, authorities, boards, commissions, committees, departments, and offices of the city, without exception.

Appointee means any person duly appointed by the city council to serve on any authority, board, committee, subcommittee, agency, body, or in any other office or position.

Business means a corporation, a partnership, a limited liability company, a sole proprietor, or any other person or organization carrying on an enterprise for profit.

Business relationship means an agreement between parties designed to result in an enterprise for profit to those parties.

Censure means a public expression of severe criticism or reproach.

City means the City of Jonesboro, Georgia.

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

Contract means any lease, claim, account or demand against or agreement with any person, whether express or implied, executed or executory, verbal or in writing.

Employee means any person holding a classified position as defined in the city's personnel policy.

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

Formal reprimand means an action taken by the ethics board against a person or entity found to be in violation of the ethics ordinance, issued in writing to the person or entity, chastising the person or entity for the violation. The record of said formal reprimand shall be inserted into the minutes of the city council.

Immediate family means spouse and children.

Interest means any direct or indirect pecuniary or material benefit accruing to a public officer or employee as a result of a contract or transaction, which is or may be the subject of an official act or action by or within the city. This does not, however, include those contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. Examples of interest include, but are not limited to, situations involving:

- (1) Any person in the immediate family of the official, employee, appointee, or volunteer;
- (2) Any person or business with whom a contractual relationship (either written or implied) exists, whereby he may receive a payment or other benefit, including an agreement for employment; and
- (3) Any business in which he is an officer, director, employee, prospective employee or substantial shareholder (owning or controlling in excess of five percent of the total stock or total legal and beneficial ownership).

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. 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.

Official act or action means any executive, legislative, administrative, appointive or discretionary act of any official or employee of the city or any agency of the city.

Official city business means work, action, attendance, or other legitimate participation in any event or activity sanctioned by the governing authority of the city.

Paid means the receipt of, or right to receive, a salary or commission, percentage, brokerage or contingent fee.

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

Person means any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid, including any official or employee.

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

Reprimand means an expression of disapproval, either public or private.

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

(Ord. No. 2005-13, Art. I, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Sec. 2-222. - Conflict of interest and disclosure.

- (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.
- (d) An official of the city shall disclose the nature of any interest or benefit he or she has at the time such matter is presented to the mayor and council for discussion and/or action. Such disclosure shall be recorded into the minutes of the meeting and become part of the public record. The member shall not participate in any ex-parte communications with other members regarding any such matter.
- (e) No official of the city shall participate in any discussion, debate, deliberation or vote, or otherwise

take part in the decision-making process on any agenda item, any official act or action in which he or she has a conflict of interest. Further, to avoid the appearance of impropriety, following any disclosure made pursuant to this code of ethics, the official shall leave the room in which the meeting is being held and not return to it until deliberation and action of the matter is complete.

(Ord. No. 2005-13, Art. II, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Editor's note— Ord. No. 2024-009, § 1(Att. A), adopted Aug. 12, 2024, amended the title of § 2-222 to read as herein set out. The former § 2-222 title pertained to disclosure.

Sec. 2-223. - Prohibitions.

No official of the city shall:

- (1) By conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of official acts.
- (2) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for him/herself or another person if it could reasonably be considered to influence the member in the discharge of official duties. This limitation is not intended to prohibit the acceptance of an occasional non-monetary gift of insignificant value, an award publicly presented in recognition of public service, a commercially reasonable loan or other financial transaction made in the ordinary course of business by a regular lending institution, or campaign contributions made and reported in accordance with Georgia law.
- (3) Disclose or otherwise use confidential information acquired by virtue of his/her official position for his/her or another person's private gain.
- (4) Use his/her official position to attempt to secure privileges that are not available to the general public.
- (5) Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of official duties.
- (6) Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to him/her by virtue of being an official or employee of the city.
- (7) Use his/her position to request or require an employee to:
 - a. Do clerical work on behalf of the member's family, business, social, church or fraternal interest when such work is not furthering a city interest;
 - b. Perform any work outside the employee's normal course of municipal employment;
 - c. Purchase goods or services to be used for personal, business, or political purposes; and

- d. Work for the member personally without paying the employee just compensation.
- (8) Use government property of any kind for other than officially approved activities, nor shall he/she direct employees to use such property for any purposes other than those officially approved.
- (9) Use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself/herself or persons having an interest.
- (10) Vote or otherwise participate in the negotiation of the making of any contract with any business or entity in which he or she has an interest.
- (11) Draw a per diem or expense money from the City of Jonesboro to attend a convention, seminar or similar meeting and then fail to attend the seminar, conference or meeting.
- (12) Make false or materially misleading statements or in any manner commit fraud or conceal wrongdoing in relation to city business.

(Ord. No. 2005-13, Art. III, 12-15-2005)

Sec. 2-224. - Board of ethics.

The board of ethics of the city shall consist of three members, one appointed by the mayor, two appointed by the city council, which appointments shall be submitted by September 9, 2024. All members shall serve a two-year term; provided, however, that among the three members appointed immediately following adoption of the ordinance from which this article derives, one shall serve for one year, one shall serve for two years, and one shall serve for three years, so as to provide staggered two-year terms for all future board members. The initial appointees shall decide which initial term each initial appointee will serve. All members shall meet the following prerequisites and conditions for service on the board:

- (1) All members of the board of ethics shall be residents of the city and shall remain a resident while serving on the board;
- (2) 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;
- (3) 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;
- (4) The members of the board of ethics shall serve without compensation. The city council shall provide adequate meeting space for the board of ethics and, subject to budgetary procedures

and requirements of the city, such supplies and equipment as may be necessary for the board to perform its duties and responsibilities;

- (5) 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;
- (6) No person shall serve on the board of ethics who is less than 21 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 of Jonesboro;
- (7) 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;
- (8) Members of the board of ethics may be removed by majority vote of the city governing authority for cause including, but not limited to, failure to maintain any requirement or condition for qualification to serve on the board of ethics.

(Ord. No. 2005-13, Art. IV, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Editor's note— Ord. No. 2024-009, § 1(Att. A), adopted Aug. 12, 2024, amended the title of § 2-224 to read as herein set out. The former § 2-224 title pertained to establishment of committee.

Sec. 2-225. - Complaints.

- (a) Any person having a complaint against any official or employee of the City of Jonesboro for alleged ethics violations shall file in writing a verified complaint setting forth the particular facts and circumstances which constitute the alleged violation. 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 calendar days. 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.
- (b) Upon receipt of a complaint in proper form, the board of ethics shall:
 - (1) Review the complaint to determine whether it is founded or unfounded, states sufficient facts to invoke disciplinary action or is to be considered for further investigation.
 - (2) Be empowered to dismiss those complaints which are unfounded or fail to state sufficient

facts to invoke disciplinary actions.

- (3) If the complaint is not dismissed, a hearing shall be held by the board of ethics 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. 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.
 - (4) Be empowered to collect evidence and information concerning any complaint and to add to the findings and results of its investigations to the file containing such complaint.
 - (5) Be empowered to conduct probable cause investigations, take evidence, and hold hearings.
 - (6) Be empowered to subpoena witnesses and information regarding matters before the board.
 - (7) Report its findings and recommendations for disciplinary actions to the mayor and council within seven calendar days after completion of the final hearing. The findings shall include a summary of the board's actions and investigation into the matter and shall be delivered to all parties of interest within ten business days of reaching the decision/recommendation. The mayor and council shall take action upon the recommendation of the ethics committee at the next regular meeting of the mayor and council following receipt of the recommendation.
- (c) No action may be taken on any complaint which is filed later than 12 months after a violation of this chapter is alleged to have occurred, and a complaint alleging a violation must be filed within six months from the date the complainant(s) knew or should have known of the action alleged to be a violation.
- (d) 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. For any complaints that may be time barred because of the moratorium, they may be brought within 30 days after the election results have been certified.
- (e) The mayor and council shall provide meeting space for the board of ethics. Subject to budgetary requirements of the city, the city shall provide the board with supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.

(Ord. No. 2005-13, Art. V, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Sec. 2-226. - Appeals.

- (a) A complainant or respondent adversely affected by a final decision or resulting penalty action under this section may seek judicial review of such final decision or resulting city council penalty action as provided herein.
- (b) A petition seeking judicial review of a final decision may be commenced by filing an application for a writ of certiorari in the Superior Court of Clayton County within 30 days after a final decision is rendered. The 30-day right to appeal shall be a subject matter jurisdiction limitation time to appeal, and failure of any affected party to file an application for writ of certiorari within that time shall deprive the superior court of jurisdiction to hear any appeal.
- (c) The filing of an appeal and application for judicial review shall act as a supersedeas writ and stay any penalty or action imposed by the city council until further order of the Superior Court of Clayton County.

(Ord. No. 2005-13, Art. VI, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Sec. 2-227. - Penalties.

Any official found to have violated any provisions of this article may be subject to disciplinary actions by the mayor and council. These disciplinary actions may include, but shall not be limited to, public reprimand, public censure, request for resignation, the withholding of any pay/stipend of an official for service to the City of Jonesboro, or removal from office as provided in section 5.16 of the city Charter.

(Ord. No. 2005-13, Art. VII, 12-15-2005; Ord. No. 2024-009, § 1(Att. A), 8-12-2024)

Secs. 2-228—2-250. - Reserved.