

## Chapter 2 ADMINISTRATION<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 2-1. Exercise of governmental authority.

The corporation governmental powers of the City shall be exercised by the Council in the manner provided by the Charter and by the provisions of this chapter.

(Code 2005, § 3-101)

#### Sec. 2-2. Code of Ethics.

(a) *Code of Ethics for City employees.*

- (1) *Prohibited conduct.* Employees of the City shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual and potential conflicts between their private self-interest and the public interest. Prohibited conduct of each such employee shall include, but not be limited to, the following:
  - a. Requesting, using, or permitting the use of any publicly owned or publicly supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of themselves or any other person, except as otherwise allowed by law;
  - b. Engaging in private employment with, or rendering services for, any private person who has business transactions with the City, unless they have notified their Department Director and the Human Resources Director in writing of the nature and extent of such employment or services;
  - c. Appearing on behalf of any private person, other than themselves, before any public body in the City;
  - d. Accepting gifts with a value of more than \$100.00, whether in the form of money, things, favors, loans, or promises, that would not be offered or given to them if they were not an employee
  - e. Disclosing any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the City, without prior formal authorization of the governing body;

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<sup>1</sup>Editor's note(s)—Articles II and III of the city Charter exhaustively set the administrative and governmental structure of the city.

State law reference(s)—Supplemental powers of municipalities and counties enumerated, Ga. Const. art. IX, § II, ¶ III; municipal corporations generally, O.C.G.A. § 36-3-1 et seq.; powers of municipal corporations generally, O.C.G.A. § 36-34-1 et seq.; powers relating to administration of municipal government generally, O.C.G.A. § 36-34-2; provisions applicable to counties and municipalities, O.C.G.A. § 36-60-1 et seq.; provisions applicable to counties and municipal corporations, O.C.G.A. § 36-80-1 et seq.

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- f. Using or permitting the use of confidential information to advance the financial or personal interest of themselves or any other person; or
  - g. Appointing of any person related to them by blood or marriage to fill an office, position, employment, or duty, when the salary, wages, pay, or compensation is to be paid out of public funds.
- (2) *Hearings and determinations.* If an employee is found guilty of an ethics violation, a name clearing hearing shall be held as described in the City of Lawrenceville Personnel Policy.
- (b) *Code of Ethics for City Officials.*
- (1) *Definitions.* As used in this section, the following words shall have the meaning ascribed to them below (unless otherwise required by context):
- a. *Benefit* means anything of monetary value that a reasonably prudent person would recognize as being likely to be intended to influence a City of Lawrenceville Official in the performance or non-performance of an official action.
  - b. *Confidential information* means information which has been obtained in the course of holding public office, employment, an independent contract or otherwise acting as a public servant, and which information is not available to members of the public under the Georgia Open Records Act or other law or regulation and which the public servant is not authorized to disclose, including:
    - 1. Any written information that could lawfully be exempted from disclosure pursuant to state law, unless the public servant disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure;
    - 2. Any non-written information which, if it were written, could be excepted from disclosure under state law, unless the public servant disclosing it is authorized to do so by the state law, or pursuant to some other pertinent law, policy or procedure; and
    - 3. Information which was obtained in the course of or by means of a record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing it is authorized by state law to do so, or unless the public servant disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure; however, when such information is also available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.
  - c. *Entity* means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.
  - d. *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter of any City of Lawrenceville Official related by blood, adoption, or marriage. The relationship by marriage shall include in-laws.
  - e. *City of Lawrenceville Official* means the members of the City Council, Municipal Court Judges (including substitute judges), City Manager, , Assistant City Manager(s), Public Works Director, Police Chief, Chief Communications Officer, City Clerk, Assistant City Clerk, City Attorney, Chief Financial Officer and all other persons holding positions designated by the City Charter. The term City Official also includes all individuals appointed by the City Council to all City authorities, boards, commissions, committees, task forces, or other bodies unless specifically exempted from this article by the City Council.

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- f. *Interest* means any personal pecuniary benefit accruing to a public servant or the public servant's partner in interest, whether in the public servant's own name or the name of any person or business from which the public servant is entitled to receive any personal benefit, as a result of a matter which is or which is expected to become the subject of an official action by or with the City.
- g. *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.
- h. *Partner in interest* means, when used in this article in connection with a public servant, as in the phrase "a public servant or a partner in interest," any and all of the following:
1. A member of the public servant's immediate family;
  2. A business with which the public servant or a member of the public servant's immediate family is associated;
  3. Any other person with whom the public servant or a member of their immediate family is in business, or is negotiating or has an agreement concerning future employment or the future conferring of any personal benefit, whether in the public servant's own name or the name of any business or person from whom the public servant is entitled, or expects to become entitled, to receive any personal benefit, as a result of a contract or transaction which is, or which is expected to become, the subject of an official action by or with the City. The term "partner in interest" does not imply or require any form of legal partnership or formal agreement; or
  4. When used in the phrase "a public servant or partner in interest," the term "partner in interest" refers only to a partner in interest of the public servant to whom reference is being made, and not to any other person's partner in interest.
- i. *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, comprehensive zoning ordinance, or similar matters is deemed remote to the extent that the official would be affected in common with the general public.
- j. *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 as follows:
    - (a) Ownership of five percent or more of the voting stock, shares or equity of the entity; or
    - (b) Ownership of \$5,000.00 or more of the equity or market value of the entity.
  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 ten percent of the recipient's gross income during that period, whichever is less;
    - (b) 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 which entity receives an amount of \$5,000.00 or more; or

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- (c) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.
- (2) *Principal policies.* The public trust requires public servants to fulfill their duties faithfully and honestly and to subordinate any personal interest, which conflicts with the public interest. A public servant is a trustee of the people and should strive to further the general welfare of the public and not use his/her public office or position to unethically improve their own private standing. The principal policies that form the foundation of this Code of Ethics are as follows:
- a. The trust of citizens in their government is cultivated when individual public servants act with integrity and when the public is aware that its servants act with integrity.
  - b. The constitutions, laws and regulations of the United States and the State of Georgia and ordinances of the City of Lawrenceville should be upheld as a minimum standard of conduct.
  - c. The most effective way to eradicate unethical practices is to consistently act with the highest moral principles and react appropriately to the ethical decisions of others.
  - d. City of Lawrenceville Officials should exercise sound judgment and apply ethical principles in making decisions that in any manner reflect upon their elected office.
  - e. All citizens should be treated with courtesy, impartiality and equality.
- (3) *Intent.* It is the intent of this Code of Ethics that City of Lawrenceville officials shall not knowingly engage in any activity that is incompatible with the proper discharge of their official duties or which would tend to impair their judgment or actions in the performance of their official duties. Furthermore, City of Lawrenceville Officials should avoid any action that might result in or create the appearance of:
- a. Using public office or position in an unethical manner for private gain;
  - b. Impeding City of Lawrenceville efficiency or economy; or
  - c. Affecting adversely the confidence of the public in the integrity of those who conduct the affairs and business of the City of Lawrenceville.
- (4) *Conduct.*
1. Expected
    - a. City of Lawrenceville Officials shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and;
    - b. City of Lawrenceville Officials shall avoid both actual and potential conflicts between their private self-interest and the public interest.
    - c. *Disclosure.* City of Lawrenceville Officials shall disclose the nature of any substantial interest they have in a matter at the time such matter is presented to the City Council for discussion and/or action. Such disclosure shall be recorded into the minutes of the meeting and become part of the public record.
    - d. *Duty to leave meeting.* To avoid the appearance of impropriety, after any member of the City Council or Council appointed Board or Committee member is determined to have a substantial interest or a potential substantial interest in any matter, they shall leave their regular seat as a member of the City Council or Council appointed Board or Committee and not return to it until deliberation and action on the matter is completed. Provided, however, that such official shall not be precluded from addressing

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an appointed Council Board or Committee or the City Council during the discussion of any agenda item or any official act or action in the same manner as a member of the general public.

## 2. Prohibited

- a. City of Lawrenceville Officials shall not have a substantial interest that conflicts with their responsibilities and duties as trustees of the public good; or
- b. City of Lawrenceville Officials shall not directly or indirectly engage in financial transactions as a result of, or primarily rely upon, confidential information obtained in the course of their office or received due to their position.
- c. *Acceptance of gifts.* City of Lawrenceville Officials shall not solicit or accept, directly or indirectly, any benefit or payment from any person, corporation or group that has, or is seeking to obtain, a contractual or other business or financial relationship with the City of Lawrenceville.
  1. The above prohibitions shall not apply in the case of:
    - (a) Occasional nonmonetary gift(s) of insignificance or trinkets or gifts, such as a calendar, memento or pen, received in the normal course of business with a value of/or less than \$100.00.(b) Award publicly presented in recognition of public service;
    - (c) Transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as now or hereafter amended;
    - (d) A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of the State of Georgia to engage in the making of such loan or financial transaction;
    - (e) Campaign contributions made and reported in accordance with State of Georgia laws;
    - (f) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value shall not include" as now or hereafter amended;
    - (g) Promotional items generally distributed to the general public or to public officials; or
    - (h) Food, beverage, admission or expenses afforded City Officials, members of their immediate families, or others that are associated with normal and customary business or social functions, activities, or events.
- d. *Use of public property.* City of Lawrenceville Officials shall not use City of Lawrenceville property of any kind for other than officially approved activities, nor shall they direct a City of Lawrenceville employee to use such property for other than official purposes.
- e. *Use of confidential information.* City of Lawrenceville Officials shall not directly make use of, or permit others to make use of, for the purpose of furthering a private interest, City of Lawrenceville information not made available to the general public.
- f. *Coercion.* City of Lawrenceville Officials shall not use their position in any way to coerce, or give the appearance of coercing:
  1. Another person to provide any benefits to themselves or to their immediate family as defined herein;

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2. A City of Lawrenceville employee, an appointed official of the City of Lawrenceville, or a contract employee to provide any benefit to themselves or to their immediate family as defined herein; or
  3. Any judge in the outcome of matters before the court.
- g. *Purchases.* City of Lawrenceville Officials shall not order any goods or services for the City of Lawrenceville or on behalf of the City of Lawrenceville without proper authorization in compliance with the City of Lawrenceville Code.
  - h. *Conflicts of interest.* City of Lawrenceville Officials shall not represent private interests, other than their own, in any action or proceeding against the City of Lawrenceville or any portion of its government; or vote or otherwise actively participate in the negotiation or the making of any contract between the City of Lawrenceville government and any business or entity in which they have a substantial interest. City of Lawrenceville Officials shall not 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 their 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).
    3. Any official who has a proprietary interest in an entity doing business with the City shall make that interest known in writing to the City Council and the City Clerk.
  - i. *City of Lawrenceville employees.* City of Lawrenceville Officials shall not use a City of Lawrenceville employee for personal or private business during regular business hours or during the employee's scheduled shift.
  - j. *Travel expenses.* City of Lawrenceville Officials shall not draw per diem or expense money from the City of Lawrenceville to attend a seminar, convention, conference or similar meeting and then fail to attend the seminar, conference, convention or similar meeting without promptly reimbursing the City thereafter.
  - k. *Commitments.* City of Lawrenceville Officials shall not act or create the appearance of acting on behalf of the City of Lawrenceville by promising to authorize or prevent any future official action of any nature, without proper authorization.
  - l. *False statements.* City of Lawrenceville Officials shall not make an intentionally false or materially misleading statement or in any manner commit fraud in relation to any City of Lawrenceville or public business.
  - m. *Deliberation and vote prohibited.* City of Lawrenceville Officials shall not participate in a City of Lawrenceville Council appointed Board, Committee or Council meeting during the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any agenda item, or any official act or action in which he or she has a substantial interest. Provided, however, that such officials shall not be precluded from addressing a Council appointed Board, Committee or the City Council during the discussion of any agenda item or any official act or action in the same manner as a member of the general public. 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.

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(5) Ethics Hearings

- a. *Ethics hearing officer.* The Chief Judge of Municipal Court, or, in their absence, their designee who shall be another municipal court judge, or if no municipal court judge is available, the City Attorney, is hereby designated as the Ethics Hearing Officer. The Ethics Hearing Officer shall serve without compensation and may be removed for cause by a majority vote of the City Council. If the hearing officer is removed for cause, the next most senior Municipal Court Judge or the City Attorney shall serve as hearing officer.
- b. *Receipt of complaints.* All complaints against a City of Lawrenceville Official shall be filed in writing with the City Clerk to be referred to the Ethics Hearing Officer in such form as may be prescribed by the Ethics Hearing Officer. All complaints shall be submitted and signed under oath, shall be legibly drawn, and shall clearly address matters within the scope of this ordinance. Upon receipt of a complaint in proper form, the City Clerk will deliver a copy of the complaint to the Ethics Hearing Officer, who shall:
  1. Review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary action or is to be considered for further investigation.
  2. Be empowered to dismiss those complaints that are unjustified, frivolous, patently unfounded or that fail to state facts sufficient to constitute a violation of this article; provided, however, that a rejection of such complaint by the Ethics Hearing Officer shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the City of Lawrenceville Official.
  3. Notify the City of Lawrenceville Official charged in the complaint as soon as practicable but in no event later than seven calendar days after receipt of a verified complaint.
  4. Be empowered to collect evidence and information concerning any complaint and to add to the findings and results of its investigation to the file containing such complaint.
  5. Be empowered to conduct probable cause investigations, to take evidence and hold hearings. The Ethics Hearing Officer shall give the City of Lawrenceville Official notice and an opportunity for a hearing.
  6. Be empowered to recommend to the City Council that any City of Lawrenceville Official found to have violated any provision of this article receive a reprimand, censure or be requested to resign their office.
  7. Be empowered to refer a complaint to the appropriate law enforcement agent or agency for investigation and possible prosecution.
  8. Take action within 60 days of receipt of the complaint. The decision by the Ethics Hearing Officer shall be reduced to writing and served upon all parties of interest within five days of reaching a decision.
  9. The Ethics Hearing Officer shall appear in a public hearing before the City Council to present argument and evidence to justify the recommendation contained in paragraph (6) above and make a recommendation of the proper penalty to be imposed. The City Council shall have the final authority to act on or reject the recommendation within 30 days of the presentation by the Hearing Officer.
- c. *City Council action.* Within 30 days following the presentation of the findings of the Ethics Hearing Officer, the City Council shall have the final authority to act on or reject the recommendations of the Ethics Hearing Officer. If the subject of the complaint is a member of the City Council, he or she will not be allowed to vote pursuant to this section or participate in

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any discussion related thereto. Nor shall such position be counted for the purpose of establishing a quorum for this particular purpose.

- d. *Penalties.* Upon majority vote of the City Council, any violation of this Code of Ethics shall subject the offender to disciplinary action including reprimand, censure, or a request to the offending City of Lawrenceville Official that he or she resign their office.
- e. *Right to appeal.* Any City of Lawrenceville Official adversely affected by a disciplinary action taken by the City Council may appeal the decision to the Gwinnett County Superior Court in accordance with the laws of the State of Georgia. Provided, however, that no action of the Hearing Officer refusing or failing to take action pursuant to this Code of Ethics shall be reviewable by the Superior Court.
- f. *Election tolling.* 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.

(Code 2005, § 3-102; Ord. No. 2018-4 , 3-21-2018; Ord. No. 2021-10 , 10-25-2021)

### **Sec. 2-3. Administrative policy and procedures.**

- (a) *Officers.* Each employee shall perform all duties required of his office by State law, the Charter, and this Code, and such other duties not in conflict therewith as may be required by the City Manager, or such other official as designated by the Council or in the Charter.
- (b) *Department directors.* All department directors shall:
  - (1) Be responsible to the City Manager for the effective administration of their respective department and all activities assigned thereto;
  - (2) Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the City Manager, such new practices as appear to be of benefit to the service and to the public;
  - (3) Have power, when authorized by the City Manager, to appoint and remove, subject to personnel regulations, all subordinates under him; and
  - (4) Be responsible for the proper maintenance of all City property and equipment used in their respective departments.
- (c) *Departments.* Each department shall cooperate with every other department and shall furnish, upon the direction of the City Manager, any other department such service, labor, and materials as may be requisitioned by the director of each department, as its own facilities permit.
- (d) *Records.* All municipal records, except those which by order of a State court are prohibited from being open to public inspection, shall be open for public inspection as provided by the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.

(Code 2005, § 3-1013)

### **Secs. 2-4—2-25. Reserved.**

## **ARTICLE II. THE MAYOR AND CITY COUNCIL GENERALLY**



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**Sec. 2-26. Qualifications for office.**

The qualification fee for candidates filing a notice of candidacy in any general or special election shall be set by the Mayor and Council in accordance with State law. Fees are covered in Elections portion of the Code, Chapter 16. Qualifications for office are set out in the City of Lawrenceville Charter.

**Sec. 2-27. Meetings.**

The City Council shall hold regular meetings as prescribed annually by ordinance ordered by the City Council. The City Council shall hold work session meetings as prescribed annually by ordinance ordered by the City Council. A special called meeting of the City Council may be convened at any time in accordance with Georgia law. All meetings at which official actions are to be taken shall be open to the public in accordance with the Open Meetings Act, O.C.G.A. § 50-14-1 et seq.

(Code 2005, § 3-203; Ord. of 11-13-2019(1) )

**Sec. 2-28. Standing committees.**

The Mayor shall appoint standing committees to be composed of members of the City Council should he so desire.

(Code 2005, § 3-204)

**Sec. 2-29. Rules for the conduct of business.**

Robert's Rules of Order, may be used as a guide to govern the conduct of Council meetings.

(Code 2005, § 3-205)

**Sec. 2-30. Compensation.**

The Mayor and Councilmembers shall be compensated in the amount as established from time to time pursuant to law.

(Code 2005, § 3-207)

**Secs. 2-31—2-48. Reserved.**

***ARTICLE III. OFFICERS AND EMPLOYEES<sup>2</sup>***

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<sup>2</sup>Editor's note(s)—Ord. No. 2018-5, adopted May 7, 2018, repealed former Art. III, §§ 2-49—2-52, and enacted a new Art. III as set out herein. Former Art. III pertained to similar subject matter and derived from Code 2005, §§ 3-204, 3-401; Ord. of 8-1-2011.

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## **Sec. 2-49. City Attorney.**

- (a) *Appointment and qualifications.* The City Attorney shall be appointed by City Council, and shall serve at the pleasure of the City Council. No person shall be so appointed unless he is a member in good standing of the State Bar of Georgia and has been actively engaged in the practice of law for at least three years preceding his appointment.
- (b) *Oath.* Before entering upon the duties of his office, the City Attorney shall take the oath prescribed by this Code for City officers.
- (c) *Powers and duties.* The City Attorney shall be the legal advisor and representative of the City and in such capacity shall:
  - (1) Advise the City Council or its committees or any City Official, when thereto requested, upon all legal questions arising in the conduct of City business;
  - (2) Prepare or revise ordinances when so requested by the City Council or any City Official;
  - (3) Give his opinion upon any legal matter or question submitted to him by the City Council, or any of its committees, or by any City Official;
  - (4) Prepare for execution all contracts and instruments to which the City is a party and approve, as to form, all bonds required to be submitted to the City;
  - (5) Prepare, when authorized by the City Council, all charges and complaints against, and appear in the Municipal Court in the prosecution of, every person charged with a violation of this Code or of a City ordinance or of any regulations adopted under authority of the Charter, and see to the full enforcement of all judgments or decrees rendered or entered in favor of the City;
  - (6) Defend any and all suits and actions at law or equity brought against the City unless otherwise directed by the City Council;
  - (7) Make immediate report to the City Council of the outcome of any litigation in which the City has an interest;
  - (8) Make an annual report to the City Council of all pending litigation in which the City has an interest and the status thereof;
  - (9) Keep complete and accurate records of the following, which records shall forever remain the property of the City:
    - a. All suits in which the City had or has an interest, giving the names of the parties, the nature of the action, the disposition of the case or its status, if pending, and the briefs of counsel; and
    - b. All written opinions prepared by the City Attorney and all certificates or abstracts of titles furnished by him to the City, or any department or official thereof; and
  - (10) Render such other legal services as may be required by the City Council.
- (d) *Compensation.* The City Attorney shall submit to the City Clerk bills on a regular basis, itemizing the type of work performed, date, and number of hours he/she was so engaged.

( Ord. No. 2018-5, 5-7-2018 )

## **Sec. 2-50. City Manager.**

The City Manager shall have the following powers and duties:

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- (1) To be responsible for supervising all paid employees of the City.
    - a. The City Manager shall have the authority to supervise all City employees, and this authority shall include the ability to hire, discipline or dismiss any such employee within the limits created under the City's personnel policies.
    - b. The City Manager shall be responsible for the supervision and control of the City Clerk, and all employees reporting to the City Clerk. Actions of the City Manager regarding hiring, disciplinary and termination decisions related to the City Clerk shall be submitted for prior approval by the City Council.
  - (2) To sign and execute deeds and bonds of the City duly authorized by the City Council and permitted by the City Charter or by State law.
  - (3) To investigate, examine, or inquire into, either personally or by any employee or person designated by the City Manager for that purpose, the affairs or operation of any department of the City, including the power to employ consultants and other professionals, when so authorized by the City Council, to aid in such investigations, examinations or inquiries.
  - (4) To set aside, in his discretion, any action taken by a department head and supersede the department head in the functions of that office.
  - (5) To direct any department to perform the work for any other department and to authorize any department head or officer responsible to him to appoint and remove subordinates serving under such person.
  - (6) To examine all proposed contracts to which the City may be a party, and to sign and execute or to have signed and executed on behalf of the City any contracts authorized by the City Council, except where the City Council directs that some other office or officer shall do so.
  - (7) To assist all boards, authorities, commissions and committees created by the City Council, as requested by the City Council.
  - (8) To perform such other tasks as may be delegated or assigned by the City Council.

( Ord. No. 2018-5, 5-7-2018 )

## **Sec. 2-51. City Clerk.**

The City Clerk shall have the following powers and duties:

- (1) To prepare and distribute City Council agenda packets, provide notice of all City Council meetings and publish other public notices as required by law, including notifying the news media of the same.
- (2) To attend all meetings of the City Council and to take and transcribe minutes of all City Council meetings.
- (3) To catalog and publish City Council minutes and City ordinances and ensure Code books are revised to reflect City Council action.
- (4) To maintain the City Charter.
- (5) To serve as the Municipal Election Superintendent.
- (6) To provide administrative support to the City Council.
- (7) To support the maintenance of City records and public documents and perform certification and recording for the City as required on legal documents.

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- (8) To maintain all records and invoices on City quality of life, nuisance and abatement cases and to coordinate with the City Attorney on the filing of liens and collection of payments.
  - (9) To provide public records and information to citizens, civic groups, the media and other agencies as requested.

(10) Shall be custodian of the official city seal.

( Ord. No. 2018-5, 5-7-2018 )

**Secs. 2-52—2-77. Reserved.**

**ARTICLE IV. BOARDS AND COMMISSIONS**

**Sec. 2-78. Municipal Planning Commission.**

- (a) *Regulations.* The Municipal Planning Commission shall be bound by the rules and ordinances of the Zoning Ordinance of the City of Lawrenceville, as amended. The Municipal Planning Commission shall also abide by the terms and provisions of the Official Code of Georgia Annotated as amended which define the function and regulations of the Municipal Planning Commission.
- (b) *Composition, appointment, and tenure period.* The Municipal Planning Commission shall consist of five members appointed by the Mayor, by and with the consent of the City Council. The terms of the members shall be for four years each.
- (c) *Vacancies.* Vacancies shall be filled by appointments for unexpired terms only and in the same manner as for original appointments.
- (d) *Removal.* Members of the Planning Commission serve at the pleasure of the City Council and may be removed for any reason at any time. Any member who misses more than three meetings in any one calendar year without excuse shall be removed from the Commission by the Council. The Chairman of the Commission shall keep an attendance record and report attendance to the Mayor's office on a monthly basis.
- (e) *Compensation.* All members of the Municipal Planning Commission shall receive compensation in an amount to be determined by the Council.
- (f) *Officers and rules of procedure.* The Planning Commission shall elect one of its members as Chairperson, who shall serve for one year or until such person is reelected or a successor is elected. A second appointive member shall be elected as Vice-chairperson and shall serve for one year or until such person is reelected or a successor is elected. The Commission shall appoint a Secretary, who may be an employee of the City or a member of the Planning Commission. The Planning Commission shall meet at least once each month as required at the call of the Chairperson and at such other times as the transaction of business requires. The Planning Commission shall keep a record of its proceedings, which record shall be open to public inspection.
- (g) *Powers and duties.* The Municipal Planning Commission shall make careful and comprehensive surveys and studies of existing conditions and probable future developments and prepare plans for physical, social, and economic growth in an effort to promote the public health, safety, morals, convenience, prosperity, or general welfare of the Municipality. In carrying out its objectives, the Planning Commission shall have the following specific powers and duties:
  - (1) To prepare a master plan or parts thereof for the development of the City;

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- (2) To prepare and recommend for adoption a zoning ordinance and map for the City;
  - (3) To prepare and recommend for adoption regulations for the subdivisions of land within the City limits to administer the regulations that may be adopted; and
  - (4) To prepare and recommend for adoption a plat or an official map showing the exact location of the boundary lines of existing, proposed, extended, unlined or narrowed streets, public open spaces, or public building sites and provide for the regulation of construction of buildings or other structures within such lines.
- (h) *Meetings.* The meetings of the Municipal Planning Commission shall be held once a month as determined by the Planning and Development Director, provided that notification of such is given to the members of the commission by the Director of Planning and Development. Meeting dates shall be available online and in person at the Planning and Development Department.
- (i) *Quorum.* For the purpose of transacting business, a quorum of the Municipal Planning Commission shall be deemed to be three of the five members.
- (j) *City appointment to Municipal-County Planning Commission.*
- (1) There is hereby determined and declared to be a present and future need for the City of Lawrenceville to participate in the Municipal-County Planning Commission established under the Code of Gwinnett County, Georgia.
  - (2) There is hereby created and activated in the City a position titled "Representative of the City of Lawrenceville to the Municipal-County Planning Commission."
  - (3) The appointed representative for the City of Lawrenceville shall be the Director of Planning and Development.
  - (4) The Board of Commissioners of Gwinnett County shall have the power to remove the representative appointed under this section for cause, after written charges have been drawn and after a public hearing has been held.
  - (5) The representative may participate in all discussions before the Municipal-County Planning Commission to represent the interest of the City of Lawrenceville and is hereby empowered to vote in the City's best interest on any issue which affects property within the City limits.
  - (6) The representative shall receive all rights and privileges of this position provided by law and shall be reimbursed for expenses incurred in connection with official duties on behalf of the City of Lawrenceville while serving on the Municipal-County Planning Commission. Compensation shall be set by the Council.

(Code 2005, § 3-601; Ord. of 2-5-2011; Ord. No. 2015-6, 1-5-2015)

## **Sec. 2-79. Vacancies created by appointed officials qualifying for elected office.**

The office of any appointed official of this City shall be declared vacant upon such appointed official qualifying, in a general primary or general election, or special primary or special election, for any state, county, or municipal elective office or qualifying for the House of Representatives or the Senate of the United States if the term of the office for which such official is qualifying begins more than 30 days prior to the expiration of such official's present term of office. The vacancy created shall be filled as provided by this Code. The provisions of this section shall not apply to members of the Downtown Development Authority of Lawrenceville, Georgia.

( Ord. No. 2015-27 , 8-3-2015)

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Editor's note(s)—Ord. No. 2015-27 , adopted Aug. 3, 2015, repealed the former section and enacted a new section as set out herein. The former section pertained to similar subject matter and derived from Code 2005, § 3-603.

**Secs. 2-80—2-101. Reserved.**

## **ARTICLE V. IDENTITY THEFT PREVENTION PROGRAM**

### **Sec. 2-102. Purpose.**

The purpose of this article is to comply with 16 CFR 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

(Code 2005, § 3-701; Ord. of 10-15-2008)

### **Sec. 2-103. 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:

*Covered account* means:

- (1) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- (2) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

*Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

*Creditor* means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

*Customer* means a person that has a covered account with a creditor.

*Identity theft* means fraud committed or attempted using identifying information of another person without authority.

*Person* means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

*Personal identifying information* means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

*Red flag* means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

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*Service provider* means a person that provides a service directly to the City.

(Code 2005, § 3-702; Ord. of 10-15-2008)

**Sec. 2-104. Findings.**

- (a) The City is a creditor pursuant to 16 CFR 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (b) A covered account offered to customers for the provision of City services may include gas, sanitation, general billing, and/or electric accounts.
- (c) The City's previous experience with identity theft related to covered accounts is as follows: Minimal complaints only.
- (d) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, unauthorized entry to the storage room where applications are kept, and verifying the social security number when provided have been identified as potential processes in which identity theft could occur.
- (e) The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the city's computer system or on a hard copy stored in a locked room.

(Code 2005, § 3-703; Ord. of 10-15-2008)

**Sec. 2-105. Process of establishing a covered account.**

- (a) As a precondition to opening a covered account in the city, each applicant shall provide the city with personal identifying information of the customer, including a valid driver's license and social security number. Such information shall be entered directly into the city's computer system and shall not otherwise be recorded.
- (b) Each account shall be assigned an account number.

(Code 2005, § 3-704; Ord. of 10-15-2008)

**Sec. 2-106. Access to covered account information.**

- (a) Access to customer accounts shall be limited to authorized city personnel based on software privileges managed by the Information Technology Staff.
- (b) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Manager and Chief Financial Officer. Software system and user access shall be updated by changing passwords and access to system modules.
- (c) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the City Manager, Chief Financial Officer and the City Attorney.

(Code 2005, § 3-705; Ord. of 10-15-2008; Ord. No. 2015-39, § 7(b), 11-2-2015)

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### **Sec. 2-107. Credit card payments.**

- (a) In the event that credit card payments that are made over the Internet are processed through a third-party service provider, such third-party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- (b) All credit card payments made over the telephone or the City's website shall be entered directly into the customer's account information in the computer database.
- (c) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

(Code 2005, § 3-706; Ord. of 10-15-2008)

### **Sec. 2-108. Sources and types of red flags.**

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft, and such red flags may include:

- (1) *Alerts from consumer reporting agencies, fraud detection agencies or service providers.* Examples of alerts include, but are not limited to:
  - a. A fraud or active duty alert that is included with a consumer report;
  - b. A notice of credit freeze in response to a request for a consumer report;
  - c. A notice of address discrepancy provided by a consumer reporting agency;
  - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
    - 1. A recent and significant increase in the volume of inquiries;
    - 2. An unusual number of recently established credit relationships;
    - 3. A material change in the use of credit, especially with respect to recently established credit relationships; or
    - 4. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- (2) *Suspicious documents.* Examples of suspicious documents include:
  - a. Documents provided for identification that appear to be altered or forged;
  - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
  - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
  - d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
  - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.



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- (3) *Suspicious personal identification, such as suspicious address change.* Examples of suspicious identifying information include:
- a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
    1. The address does not match any address in the consumer report; or
    2. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
  - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
  - c. Personal identifying information or a phone number or address is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
  - d. Other information provided, such as fictitious mailing addresses, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
  - e. The SSN provided is the same as that submitted by other applicants or customers.
  - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
  - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
  - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
  - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- (4) *Unusual use of or suspicious activity relating to a covered account.* Examples of suspicious activity include:
- a. Shortly following the notice of a change of address for an account, the City receives a request for the addition of authorized users on the account.
  - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example, the customer fails to make the first payment or makes an initial payment but no subsequent payments.
  - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
    1. Nonpayment when there is no history of late or missed payments;
    2. A material change in purchasing or spending patterns.
  - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
  - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
  - f. The City is notified that the customer is not receiving paper account statements.

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- g. The City is notified of unauthorized charges or transactions in connection with a customer's account.
  - h. The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
  - i. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

(Code 2005, § 3-707; Ord. of 10-15-2008)

## **Sec. 2-109. Prevention and mitigation of identity theft.**

- (a) In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Chief Financial Officer. If, in his discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to a supervisor, who may, in his discretion, determine that no further action is necessary. If the supervisor, in his discretion, determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the Chief Financial Officer:
  - (1) Contact the customer;
  - (2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
    - a. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
    - b. Close the account;
  - (3) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
  - (4) Notify a debt collector within two business days of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
  - (5) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
  - (6) Take other appropriate action to prevent or mitigate identity theft.
- (b) In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Chief Financial Officer. If, in his discretion, such employee deems that identity theft is unlikely or that reliable

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information is available to reconcile red flags, the employee shall convey this information to the supervisor, who may, in his discretion, determine that no further action is necessary. If the supervisor, in his discretion, determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the Chief Financial Officer:

- (1) Request additional identifying information from the applicant;
- (2) Deny the application for the new account;
- (3) Notify law enforcement of possible identity theft; or
- (4) Take other appropriate action to prevent or mitigate identity theft.

(Code 2005, § 3-708; Ord. of 10-15-2008 Ord. No. 2015-39 , § 7(b), 11-2-2015)

### **Sec. 2-110. Updating the program.**

The City Manager shall from time to time have reviewed as deemed necessary and update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the City and its covered accounts from identity theft. In so doing, the City Manager shall have considered the following factors and exercise his discretion in amending the program:

- (1) The City's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the City offers or maintains; and
- (5) Updates in service provider arrangements.

(Code 2005, § 3-709; Ord. of 10-15-2008)

### **Sec. 2-111. Program administration.**

- (a) The City Manager is responsible for oversight of the program and for program implementation. The Chief Financial Officer is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Chief Financial Officer, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration.
- (b) The Chief Financial Officer at least annually, in compliance with the red flag requirements will review and address material matters related to the program and evaluate issues such as:
  - (1) The effectiveness of the policies and procedures of City in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
  - (2) Service provider arrangements;
  - (3) Significant incidents involving identity theft and management's response; and
  - (4) Recommendations for material changes to the program.
- (c) The Chief Financial Officer is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The

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Chief Financial Officer shall exercise his discretion in determining the amount and substance of training necessary.

(Code 2005, § 3-710; Ord. of 10-15-2008 Ord. No. 2015-39 , § 7(b), 11-2-2015)

### **Sec. 2-112. Outside service providers.**

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts, the Chief Financial Officer shall exercise his discretion in reviewing such arrangements in order to ensure, to the best of his ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

(Code 2005, § 3-711; Ord. of 10-15-2008 Ord. No. 2015-39 , § 7(b), 11-2-2015)

### **Sec. 2-113. Treatment of address discrepancies.**

(a) *Purpose.* Pursuant to 16 CFR 681.1, the purpose of this section is to establish a process by which the City will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the City has received a notice of address discrepancy.

(b) *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:

*Notice of address discrepancy* means a notice sent to a user by a consumer reporting agency pursuant to 15 USC 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address in the agency's file for the consumer.

(c) *Policy.* In the event that the City receives a notice of address discrepancy, the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

(1) Compare the information in the consumer report with:

- a. Information the City maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
- b. Information the City obtains from third-party sources that are deemed reliable by the relevant City employee; or

(2) Verify the information in the consumer report with the consumer.

(d) *Methods of confirming consumer addresses.* The City employee charged with confirming consumer addresses may, in his discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the city's records to verify the consumer's address;
- (3) Verifying the address through third-party sources; or
- (4) Using other reasonable processes.

(Code 2005, § 3-712; Ord. of 10-15-2008)

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**Secs. 2-114—2-139. Reserved.**

***ARTICLE VI. GENERAL PROVISIONS FOR CITY EMPLOYMENT***

**Sec. 2-140. Public benefits.**

In order to receive State or local benefits provided by the City as part of compensation for employment, each new employee must submit a sworn affidavit attesting to the affiant's immigration status. The status of employees who swear by affidavit to be a qualified alien or nonimmigrant under the federal Immigration and Nationality Act will also be verified through the Systematic Alien Verification of Entitlement (SAVE) program.

(Code 2005, § 3-801)

**Sec. 2-141. State income tax withholding.**

The City will withhold a percent of an employee's compensation for State income tax if the employee fails to provide a taxpayer identification number, fails to provide a correct taxpayer identification number, or provides a taxpayer identification number issued for nonresident aliens. The percentage shall be consistent with Georgia Code 48-7-20.

(Code 2005, § 3-802)

**Secs. 2-142—2-165. Reserved.**

***ARTICLE VII. ECONOMIC DEVELOPMENT***

**Sec. 2-166. Recognition of beneficial qualities.**

The City recognizes that certain targeted businesses in fields, such as healthcare, advanced manufacturing, and technology bring high level jobs to the City and are especially beneficial to the community.

(Ord. No. 2013-10, § 1, 7-1-2014)

**Sec. 2-167. Interest of City.**

In order to compete for targeted businesses, it is in the City's best interest to have the availability of offering strategic inducements.

(Ord. No. 2013-10, § 2, 7-1-2014)

**Sec. 2-168. 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:

*Targeted business* means any preferred business or industry type as identified by the City, Partnership Gwinnett or a special impact project of such magnitude as may be determined by the City Council.

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(Ord. No. 2013-10, § 3, 7-1-2014)

**Sec. 2-169. Eligibility for inducements.**

Targeted businesses meeting defined threshold levels, as outlined in section 2-171, may be eligible for inducements as determined by the City Council.

(Ord. No. 2013-10, § 4, 7-1-2014)

**Sec. 2-170. Possible inducements for businesses.**

The City Council, at the recommendation of City management and economic development staff, shall be authorized to offer inducements to targeted businesses meeting threshold requirements and those inducements may include the following:

- (1) Reduction of development permit fees.
- (2) Reduction of building permit fees.
- (3) Reduction of inspection and re-inspection fees.
- (4) Reduction of application fees for public hearings.
- (5) Reduction of any current or future impact fees.
- (6) Reduction of utilities deposit and/or incremental financing on rates based on forecasted load and/or consumption.
- (7) Acceleration of the plan review and permitting process.
- (8) Reduction in Occupation Tax pursuant to O.C.G.A. 48-13-10(f)

(Ord. No. 2013-10, § 5, 7-1-2014)

**Sec. 2-171. Business tier levels and thresholds.**

Inducements may be offered to targeted businesses which meet the following threshold levels:

- (1) *Tier 1.* Targeted business adds at least 25 new jobs and the jobs pay an average salary at least three times the most recently published Federal Poverty Guidelines as calculated and prepared by the Office of Health Planning, Georgia Department of Community Health. For the purpose of this calculation use a Family Size of two for the Federal Poverty Guideline..
- (2) *Tier 2.* Targeted business adds at least 100 new jobs and the jobs pay an average annual salary of at least three times the most recently published Federal Poverty Guidelines as calculated and prepared by the Office of Health Planning, Georgia Department of Community Health. For the purpose of this calculation use a Family Size of two for the Federal Poverty Guideline.

(Ord. No. 2013-10, § 6, 7-1-2014)

**Sec. 2-172. Consideration of State funding.**

In determining whether to offer inducements, the City Manager may consider whether the targeted business has received a funding commitment from the State of Georgia contingent upon the business' relocation or expansion within the State of Georgia.

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(Ord. No. 2013-10, § 7, 7-1-2014)

**Sec. 2-173. Requirement for targeted business.**

The targeted business must build a new building, purchase an existing building and renovate or make a lease commitment of at least three years for space within the City.

(Ord. No. 2013-10, § 8, 7-1-2014)

**Sec. 2-174. Inducement conditional upon not relocating from City.**

Any targeted business which receives any inducement under the provisions of this article shall agree to not relocate out of the City for the entire period during which the inducement is granted. Should the targeted business relocate outside the City or fall below 80 percent of any threshold requirement, the targeted business shall immediately reimburse the City for the full value of all inducements it received.

(Ord. No. 2013-10, § 9, 7-1-2014)

**Sec. 2-175. Authority to sign agreements.**

The City Manager or his designee is authorized to sign confidentiality agreements with prospective businesses pursuant to this article, provided that those confidentiality agreements are made subject to the provisions of the Georgia Open Records Act.

(Ord. No. 2013-10, § 10, 7-1-2014)

**Secs. 2-176—2-203. Reserved.**

***ARTICLE VIII. BUDGET<sup>3</sup>***

**Sec. 2-204. Purpose.**

The purpose of this article is to provide for a system of financial administration, accounting, fiscal, and budgetary control which conforms to generally accepted accounting practices.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-205. Responsibility.**

The responsibility for the proper execution of the provisions of this article shall be with the City Manager or designee, except where the responsibility is explicitly given to the governing authority.

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<sup>3</sup>Editor's note(s)—Ord. No. 2018-18 , adopted Aug. 6, 2018, amended Art. VIII in its entirety to read as herein set out. Former Art. VIII, §§ 2-204—2-219, pertained to similar subject matter and derived from Code 2005, §§ 6-101—6-118; Ord. of 12-1-2008; Ord. No. 2017-1, 1-4-2017.

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( Ord. No. 2018-18, 8-6-2018 )

## **Sec. 2-206. 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:

*Accrual basis* means the basis of accounting under which revenues are recorded when earned or when levies are made, and expenditures are recorded as soon as the result in liabilities, notwithstanding that the receipt of the revenue or payment of the expenditure may take place, in whole or in part, in another accounting period.

*Appropriation* means an authorization granted by the legislative body to make expenditures or to incur obligations for specific purposes.

*Appropriation balance* means an unencumbered balance of appropriation or allotment, and unexpended balance of appropriation or allotment.

*Assets* means property of all kinds of a government, including both current assets and fixed assets.

*Audit* means the examination of records, documents, reports, systems of internal control, accounting and financial procedures, and other evidence for one or more of the following purposes:

- (1) To ascertain whether the statements prepared from the accounts present fairly the financial position and the results of financial operations of the constituent funds and balanced account groups of the governmental unit in accordance with generally accepted accounting principles applicable to governmental units and on a basis consistent with that of the preceding year;
- (2) To determine the propriety, legality and mathematical accuracy of a governmental unit's financial transactions;
- (3) To ascertain whether all financial transactions have been properly recorded; and
- (4) To ascertain the stewardship of public officials who handle and are responsible for the financial resources of a governmental unit.

*Balance sheet* means a statement ordinarily prepared from books kept by double entry showing assets, liabilities, reserves and surplus of a fund of a governmental unit at a specified date properly classified to exhibit financial position of the fund or unit at that date.

*Budget* means a plan of financial operation embodying an estimate of proposed expenditures for a given time and the proposed means of financing them. The annual budget refers to a period of one year.

*Budgetary control* means the control of management of a governmental unit in accordance with an approved budget and keeping expenditures within the limitations of available appropriations or revenues.

*Cash basis* means the system of accounting under which revenues are accounted for only when received in cash, and expenditures are accounted for only when paid.

*Contingent account* means an appropriation to provide for unforeseen expenditures.

*Current surplus* means the excess of the current assets of a fund over its current liabilities and reserves.

*Debit* and *credit* are terms commonly used to indicate the manner in which a transaction is to be recorded. Every entry on the left side of the ledger sheet is called a debit. Every entry on the right side of the ledger sheet is called a credit.

*Debt service* means the amount of money necessary annually to pay the interest on the outstanding debt and the principal of maturing bonded debt not payable from a sinking fund and to provide a fund for the redemption of bonds payable from a sinking fund.

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*Delinquent taxes* means taxes remaining unpaid on and after the date on which a penalty for non-payment is attached. Even though the penalty may be subsequently waived and a portion of the taxes may be abated or canceled, the unpaid balances continue to be delinquent taxes until abated, cancelled or converted into tax liens.

*Encumbrances* means obligations in the form of purchase orders, contracts or salary commitments which are chargeable to an appropriation and for which a part of the appropriations is reserved.

*Fund* means a sum of money or other resources (gross or net) set aside for the purpose of carrying on specific activities or to attain certain objectives in accordance with special regulations, restrictions, or limitations.

*Internal audit* means an audit made by persons on the staff on the governmental unit whose accounts are being audited primarily for the purpose of internal control. An internal audit is usually a continuous audit.

*Liabilities* refers to debts owed.

*Millage.*

- (1) The term "millage" is used to express the property tax rate. The term "millage" is derived from the term "mill," which is one-tenth of a cent. Thus, ten mills equals one cent or one percent.

0.001 = 1 mill or 1/10 cent

0.010 = 10 mills or 1 cent = 1%

0.100 = 100 mills or 10 cents = 10%

- (2) Millage is determined by dividing the total amount of money to be raised by the total assessed value of the Municipality.

Example:

Taxes needed: \$100,000.00

Assessed value: \$8,000,000.00

\$100,000.00 = 0.0125 or 12½ mills; or

\$8,000,000.00 = 1.25% or assessed valuation.

*Taxes receivable* means the uncollected portion of taxes which a governmental unit has levied.

( Ord. No. 2018-18, 8-6-2018 )

### **Sec. 2-207. Fiscal year.**

The fiscal year shall begin on July 1 and end on June 30.

( Ord. No. 2018-18, 8-6-2018 )

### **Sec. 2-208. Date of adoption; balanced budget.**

An annual budget will be adopted by the City Council prior to the first day of the fiscal year. If the budget is not adopted prior to the beginning of the fiscal year, a resolution authorizing the continuation of necessary and essential expenditures to operate the City shall be adopted prior to the beginning of the fiscal year. The proposed budget shall be prepared by the City Manager or designee and transmitted to members of the City Council for its review no later than May 1, before the required date of adoption. The budget shall be adopted by the City Council, in accordance with the City Charter. The budget, as adopted, shall be adopted in accordance with Georgia Law.

( Ord. No. 2018-18, 8-6-2018 )

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**Sec. 2-209. Inspection.**

At the time the proposed budget is transmitted to members of the governing authority, a copy of the proposed budget shall be made available for public inspection in the Office of the City Clerk during regular office hours.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-210. Public hearing.**

A public hearing shall be held to give the public the opportunity to present written and oral comments upon a proposed budget. Notice of such public hearing shall be in accordance with Georgia Law.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-211. Adoption and amendment.**

The adoption of the budget shall be accomplished by the approval of a budget resolution or ordinance which specified the anticipated revenues by appropriate categories and the appropriated expenditures for each department and each non-departmental expense and for each fund covered by the budget. Amendments to the budget shall be approved by resolution or ordinance.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-212. Publication.**

Upon completion, a statement of revenues and expenditures shall be made available for public inspection on the City's website and in the Office of the City Clerk during regular business hours.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-213. Post-adoption changes.**

Any increase in appropriation in a department budget or in a non-departmental expense category, whether accomplished through a change in anticipated revenues or through a transfer of appropriations among departments and non-department expenses, shall require the approval of the City Council.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-214. Sinking funds.**

No appropriation transfer shall be made from a sinking fund or debt retirement fund until all the legal obligations and requirements of such fund have been satisfied.

( Ord. No. 2018-18, 8-6-2018 )

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**Sec. 2-215. Anticipated revenues.**

The City Manager or designee shall present the statement of anticipated revenues on the basis of the ordinary and reasonable revenues which can be expected for the fiscal year. Property tax revenue estimates shall be based upon the anticipated tax digest, less a stated discount for delinquent taxes based on a consideration of the taxes which were delinquent at the close of the three prior fiscal years, plus a stated amount of delinquent taxes, including penalties and interest, to be collected in the fiscal year based on consideration of the actual experience in the collection of delinquent taxes in the three prior fiscal years.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-216. Surplus.**

All appropriations, which are not obligated and not allocated in a Capital Fund, encumbered, or expended at the end of the fiscal year, shall lapse. Funds above the City's Reserve Policy may be appropriated for the next fiscal year.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-217. Accounting.**

The City shall maintain financial records in accordance with Generally Accepted Accounting Practices (GAAP) as established by the Governmental Accounting Standards Board (GASB).

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-218. Financial reports.**

Financial reports showing the current conditions of budgetary and proprietary accounts shall be prepared and presented to the governing authority at least every three months. No later than six months after the close of the fiscal year, a comprehensive annual financial report covering all funds and financial operations shall be prepared. A summary of this report containing at least a statement of revenues and expenditures as of the close of the preceding fiscal year and the combined balance sheet for all funds and account groups will be published in a newspaper of general circulation.

( Ord. No. 2018-18, 8-6-2018 )

**Sec. 2-219. Audit.**

All the funds, accounts and financial transactions of the City shall be subjected to an annual audit by an independent certified public accountant who is to be selected by the City Council. The audit shall be conducted according to the standards for local governments set forth in the American Institute of Certified Public Accountants.

( Ord. No. 2018-18, 8-6-2018 )

**Secs. 2-220—2-250. Reserved.**

## **ARTICLE IX. PROCUREMENT<sup>4</sup>**

### **DIVISION 1. GENERALLY**

#### **Sec. 2-251. Purpose.**

The purpose of the City of Lawrenceville Procurement Ordinance is to:

- (1) Manage the procurement process in accordance with the law;
- (2) Spend tax payers' money wisely, efficiently, and fairly;
- (3) Meet the needs of City departments through continuous improvement of purchasing systems and procedures;
- (4) Establish a comprehensive plan for the purchase of goods and services for the City and its departments;
- (5) Protect against fraud and favoritism by providing fair and equitable treatment of all persons and entities involved in public purchasing;
- (6) Ensure that all segments of the business community are encouraged to contract with the City for goods and services;
- (7) Maximize the purchasing value of public funds in procurement, to the fullest extent practicable, while giving consideration to the lifetime cost as well as other factors needed to determine the best overall interest to the City;
- (8) Provide safeguards for the maintenance of a procurement system of quality and integrity; and
- (9) Provide guidelines for purchasing equipment, materials, supplies, and services for the operational requirements of the City of Lawrenceville that insure competitive and unbiased selection of vendors.

( Ord. No. 2018-6, 5-7-2018 )

#### **Sec. 2-252. Definitions.**

*Absolute value* means the numerical value of an acquisition or change order request without regard to its sign.

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<sup>4</sup>Editor's note(s)—Ord. No. 2018-6 , adopted May 7, 2018, repealed former Art. IX, §§ 2-251—2-282, and enacted a new Art. IX as set out herein. Former Art. IX pertained to similar subject matter and derived from Ord. No. 2016-18; Ord. No. 2016-29, 12-5-2016; Ord. No. 2017-32, 12-4-2017.

State law reference(s)—Contracts by political subdivision concerning procurement of federal equipment, supplies or property, O.C.G.A., § 50-16-81; local political subdivisions purchased through state, O.C.G.A., § 50-5-100 et seq.; local authorities' preference for products produced in Georgia, O.C.G.A. § 50-5-61.

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*Best and final offer* means, in competitive negotiation, the final proposal submitted after negotiations are completed that contains the vendor's most favorable terms for price and services or products to be delivered.

*Bid* means submission of information from a bidder that describes the bidder's commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in an Invitation to Bid.

*Brand name or equal specification* means a specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

*Brand name specifications* means a specification limited to one or more items by manufacturers' names or catalogue numbers.

*Business* means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

*Change order* means a written order signed by a person authorized to act on behalf of the City directing the contractor to make changes that the "Changes" clause of the contract authorizes.

*Commodity* means a discrete and distinct item of tangible personal property, including, without limitation, any such item which is intended to become an integrated part of another item of tangible personal property or of any improvement to real property.

*Confidential information* means any information which is available to an employee only because of the employee's status as an employee of the City and is not a matter of public knowledge or available to the public on request.

*Contract* means any agreement, purchase order, lease, or other document which creates or is intended to create binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award which has been accepted by the bidder.

*Contractor* means any person who is party to a contract.

*Cooperative purchase* means an arrangement whereby two or more public procurement units purchased from the same supplier using a single Invitation to Bid or Request for Proposal.

*Intangible* means incapable of being perceived by the senses.

*Invitation to bid* means all information and documentation disseminated by the City to solicit bids.

*Offeror* means any person who has submitted a bid or proposal to the City or otherwise offered to form a contract with the City.

*Person* means any individual or legal entity.

*Professional service* means a service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgement, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.

*Proposal* means submission of information from a proposer (including a consultant) which states how that proposer intends to fulfill the specifications and other requirements described in a Request for Proposal.

*Qualified products list* means an approved list of supplies, services or construction items described by model or catalogue numbers, which prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

*Request for Proposals* means all information and documentation disseminated by the City to solicit proposals.

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*Responsible bidder* means a person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit which will assure good faith performance.

*Responsive bidder* means a person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation to bids or Request for Proposals.

*Services* means the furnishing of labor, time or effort by a contractor that is not intended to accomplish the delivery of a specified tangible product other than reports which are merely incidental to the required performance, including, without limitation, a professional or consulting service.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-253. Eligibility.**

Every new contractor, and any subcontractor that a contractor hires, must register with the Employment Eligibility Verification (EEV)/Basic Pilot Program, or E-Verify, in order to be eligible to perform work for the City. Contracts between the City and contractors, and between the contractors and their subcontractors, must be accompanied by sworn affidavits attesting to the affiant's registration with E-Verify and compliance with E-Verify's citizenship requirements. This requirement shall apply to all contracts for the physical performance of services for all labor or service contracts that exceed \$2,499.99 except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia.

( Ord. No. 2018-6, 5-7-2018 )

State law reference(s)—Political subdivisions required to use E-Verify, O.C.G.A. § 13-10-91.

### **Sec. 2-254. State income tax withholding.**

The City will withhold six percent of any contractor or subcontractor's compensation for State income tax if the contractor or subcontractor fails to provide a taxpayer identification number, fails to provide a correct taxpayer identification number, or provides a taxpayer identification number issued for nonresidents.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-255. Competitive sealed bidding.**

- (a) *Conditions for use.* All contracts of the City over \$100,000.00 shall be awarded by competitive sealed bidding except as otherwise provided in sections 2-256 through 2-263.
- (b) *Invitation for bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- (c) *Public notice.* Adequate public notice of the invitation for bids shall be given a reasonable time, not less than 15 calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation a reasonable time prior to the bid opening. The public notice shall state the place, date, and time of the bid opening.
- (d) *Receipt of bid.* No written bid shall be eligible for consideration by the City unless it is placed in a sealed envelope or package and actually received by the Purchasing Department by the date and time specified in the Invitation to Bid. All bids shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A bid delivered late shall under no circumstances be eligible for consideration by the City.

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- (e) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid together with the name of each bidder shall be recorded. The record shall be open to public inspection in accordance with state law.
- (f) *Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation unless it is set forth in the invitation for bids.
- (g) *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
- (1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - (2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. The bidder shall give notice in writing of his claim of right to withdraw his bid due to an error within two business days after the conclusion of the bid opening procedure.

All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Manager.

- (h) *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid exceeds available funds as certified by the appropriate fiscal officer, and such bid does not exceed such funds by more than five percent, the Purchasing Manager is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.
- (i) *Multi-step sealed bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
- (j) *Tie bids.* In the event two responsive bids are tied for the lowest price and the other terms and conditions of the two bids are substantially the same, the bid shall be awarded to the local firm if only one of the bidders has a current City business license and office located within the boundaries of the City of Lawrenceville. If both or neither of the tied bidders are local firms, the Purchasing staff shall request the firms' best and final offers, and the award shall be to the lowest bid. If both firms have the same price after best and final offer, then the bid award shall be made to the winner of a coin toss by Purchasing staff in a public session. Bidders will be invited to attend and one or more witnesses may be present.
- (k) *Approval by City Council.* All contracts exceeding \$100,000.00 shall be approved by City Council. Once the contract has been approved by the City Council, all expenditures made in accordance with the terms of the

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contract are approved and shall require no further action by the City Council. Provided however that the Stormwater Authority is authorized to approve all stormwater projects up to \$300,000.00.

( Ord. No. 2018-6, 5-7-2018 ; Ord. No. 2021-6, 5-24-2021 )

### **Sec. 2-256. Competitive sealed proposals.**

- (a) *Conditions for use.* When the Purchasing Manager determines that the use of competitive sealed bidding or other procurement methods is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposals method.
- (b) *Public notice.* Public notice shall be advertised as required by Georgia law. The public notice shall contain a general description of the item or service to be purchased, shall state the location where documents may be obtained and the date, time and place of proposal receipt. Notice of any required bonding and insurance shall be included in the public notice.
- (c) *Receipt.* No written proposal shall be eligible for consideration by the City unless it is placed in a sealed envelope or package and actually received by the Purchasing Department by the date and time specified in the Request for Proposals. All proposals shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A proposal delivered late shall under no circumstances be eligible for consideration by the City.
- (d) *Opening proposals.* Proposals shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Proposals. The name of each Proposer shall be announced.
- (e) *Proprietary information.* Information submitted by a Proposer that is specifically marked "proprietary" shall not be disclosed outside of the Purchasing Department without prior notification to the Proposer. The City of Lawrenceville is required to comply with the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq. and therefore may not be able to protect information submitted in any response. Entire proposals may not be deemed "proprietary."
- (f) *Evaluation.* Each proposal shall be evaluated to determine whether it is responsive to the specifications and other terms and conditions contained in the Request for Proposals. With the approval of the Purchasing Associate named in the solicitation, the evaluating team may communicate with each proposer to clarify and amplify each Proposer's proposal. No information concerning any other Proposer's proposal shall be communicated in any way to the Proposer. Additional information may be requested of Proposers. The Purchasing Department will initiate such requests.
- (g) *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to ensure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- (h) *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.



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- (i) *Approval by City Council.* All contracts exceeding \$100,000.00 shall be approved by the City Council. Once the contract has been approved by the City Council, all expenditures made in accordance with the terms of the contract are approved and shall require no further action by the City Council. Provided however that the Stormwater Authority is authorized to approve all stormwater projects up to \$300,000.00.

( Ord. No. 2018-6, 5-7-2018 ; Ord. No. 2021-6, 5-24-2021 )

### **Sec. 2-257. Informal purchases.**

- (a) *Conditions for Use.* Those purchases anticipated to be under \$100,000.00 that do not justify the administrative time and expense for the conduct of competitive sealed bids or proposals. The Purchasing Manager is authorized to establish the methods and procedures to be used in handling informal purchases such as, but not limited to, telephone requests, e-mail requests, or informal written requests. Unless otherwise specifically provided, such purchases will be obtained competitively through informal written solicitations.
- (b) *General.* Procurements that involve amounts less than \$100,000.00 do not require a formal sealed bid/proposal process. However, the processes used for this type of procurement will include as much competition as is consistent with the anticipated cost of the procurement and the best interest of the City. The formal sealed bid/proposal process may still be exercised with an informal purchase if deemed in the best interest of the City.
- (c) *Prohibition of improper use.* Purchases may not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for competitive sealed bids/proposals or applicable approvals.
- (d) *Small purchases between 1,000.00 and \$5,000.00.* Insofar as it is practical for small purchases between \$1,000.00 and \$5,000.00, no less than three businesses shall be solicited to submit quotations unless adequate source supply is not available. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.
- (e) *Small purchases of \$1,000.00 or less.* The City Manager shall adopt operational procedures for making small purchases of \$1,000.00 or less. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchases made.
- (f) *Approval by City Council.* Regardless of procurement method, all purchases exceeding \$100,000.00 shall be approved by City Council. Once the purchase has been approved by the City Council, all expenditures made in accordance with the terms of the purchase are approved and shall require no further action by the City Council. Provided however that the Stormwater Authority is authorized to approve all stormwater projects up to \$300,000.00.
- (g) *Approval by City Manager.* Regardless of procurement method, all purchases between \$5,000.00 and \$100,000.00 shall be approved by the City Manager or his/her designee.
- (h) *Approval and signing of contracts.* Contracts and agreements required by a purchase of less than \$100,000.00 shall be authorized to be approved and signed by the Purchasing Manager for values of \$10,000.00 or less and the City Manager or his/her designee for purchases over \$10,000.00. Contracts for purchases over \$100,000.00 require City Council approval prior to signing.

( Ord. No. 2018-6, 5-7-2018 ; Ord. No. 2021-6, 5-24-2021 )

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**Sec. 2-258. Exemptions.**

- (a) Professional services are exempt from the provisions of this purchasing policy. The term "professional services" shall mean services rendered by accountants, engineers, architects, physicians, lawyers and other professions as defined by the laws of the State of Georgia.
- (b) Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property.
- (c) Dues and membership fees.
- (d) Public works construction contracts to the extent governed by O.C.G.A. § 36-91-1 et seq.
- (e) Advertisements and legal advertisements that are required by law to publicly advertise meetings or actions in the legal organ.
- (f) Intangible repairs that are cost prohibitive to seek competitive quotations.
- (g) Subscriptions.
- (h) Utilities, where there is no reasonable basis for competitive procurement, for example electric power, water, and sewerage.
- (i) Training, travel, lodging or meal expense covered by other City policies and regulations.
- (j) Entertainment services for City-sponsored events.
- (k) Proprietary maintenance and software agreements.
- (l) Works of art or other creative/artistic endeavors that require a demonstrated skill or talent to include, but not limited to, artists, musicians, and writers.
- (m) The procurement of employee benefits that are procured through a quotation and negotiating process conducted by an expert on behalf of the City (i.e., broker).

( Ord. No. 2018-6, 5-7-2018 )

**Sec. 2-259. Sole source procurement.**

Based upon evidence that a particular commodity or service may be obtained from only one source and no similar commodity or service available from a different source will adequately meet an acquiring department's requirements and specifications, the City Manager may decide that the commodity or service be purchased sole source or by brand name based upon supporting documentation from the requesting department. Supporting documentation will be reviewed by the Purchasing Department and findings will be presented to the City Manager. Requesting department shall present any sole source procurement over \$50,000.00 for approval by the City Council in an officially called public meeting. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.

( Ord. No. 2018-6, 5-7-2018 )

**Sec. 2-260. Emergency procurements.**

Notwithstanding any other provisions of this article, the City Manager may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, safety, or to the soundness and integrity of public property or to the delivery of essential services and

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where the adverse effects of such emergency may worsen materially with the passage of time provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file and shall be submitted for approval to the City Council as a consent agenda item at the next meeting following the emergency procurement. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the items procured under the contract, and the identification number of the contract file.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-261. Cooperative purchases.**

The City may participate in a cooperative purchase for commodities, supplies and services when determined that it is in the best interest of the City. The sponsoring entity, whether federal, state, local, or non-profit must have performed a competitive procurement process and entered into a contract that stipulates allowance for other governmental entities to purchase from the supplier at the same price and under the same terms and conditions as extended to itself. If such arrangement has not been made a part of the contract, written permission from the sponsoring entity and the awarded supplier must be obtained. Documentation to substantiate this decision will be maintained by the Purchasing Department.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-262. Governmental and affiliated entity purchases.**

The City may purchase services and incidental commodities from other federal, state or local governments, associations and non-profit organizations when determined to be in the best interest of the City. Documentation to substantiate this decision will be maintained by the Purchasing Division.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-263. Change orders and contract modifications.**

- (a) *General provisions.* Except as hereinafter provided, any change order or other modification of a contract term shall be approved by the City Council. Once approved by City Council the amount of the contract shall be reset and additional change orders and contract modifications as hereinafter authorized shall use the new total value, including the original and any changes approved by Council, as the base amount of the contract.
- (b) *City Manager authority.* The City Manager or his/her designee shall have authority to approve all purchases and change orders to purchase orders and contracts collectively up to an absolute value of \$100,000.00 over the base amount as approved by City Council.
- (c) *Purchasing Manager authority.* The Purchasing Manager shall have authority to approve all change orders to purchase orders and contracts up to an absolute value of \$5,000.00.

( Ord. No. 2018-6, 5-7-2018 ; Ord. No. 2021-6, 5-24-2021 )

### **Sec. 2-264. Standardization**

For efficient operations, departments may standardize equipment or supplies. Requests to standardize equipment or supplies shall be submitted to the Purchasing Manager. The requests shall be submitted on the Request to Standardize form created by the Purchasing Manager. The Purchasing Manager shall review the

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request and document any alternatives not considered. The Request to Standardize Form and Purchasing Manager Review shall be submitted to the Chief Financial Officer to determine the financial impact. The Chief Financial Officer shall submit the Request to Standardize and financial implications to the City Manager for approval. If approved, the standardization shall be reviewed every seven years.

( Ord. No. 2018-6, 5-7-2018 )

**Sec. 2-265. Cancellation of invitations for bids or request for proposals.**

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

( Ord. No. 2018-6, 5-7-2018 )

**Sec. 2-266. Vehicle purchases.**

Competitive procurement methods shall be used for all vehicle purchases. The Purchasing Director shall work with departments to determine the appropriate procurement method to ensure the best value for the City. Once the solicitation process is complete, the City Manager shall be authorized to approve the purchase of replacement and new vehicles as long as the total expenditure shall not exceed the cumulative approved budget amount in any fiscal year without seeking additional or specific approval of the City Council. For the purposes of this section, the term "vehicle" means automobiles, motorcycles, heavy equipment, heavy machinery, trailers and similar items.

( Ord. No. 2018-6, 5-7-2018 ; Ord. No. 2020-4, 8-24-2020 )

**Secs. 2-267—2-277. Reserved.**

*DIVISION 2. PROCUREMENT FOR FEDERAL AID HIGHWAY PROGRAM FUNDING  
PROJECTS*

**Sec. 2-278. Purpose.**

The purpose of this chapter is to set forth the City of Lawrenceville Policy for Competitive Negotiation Qualifications-based Selection for Projects Using Federal Aid Highway Program (FAHP) Funding.

( Ord. No. 2018-6, 5-7-2018 )

**Sec. 2-279. General policy.**

- (a) *Competitive negotiation.* Except as provided in sections 2-280 and 2-281, the City shall use the competitive negotiation method for the procurement of engineering and design related services when FAHP funds are

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involved in the contract (as specified in 23 U.S.C. § 112(b)(2)(A)). The solicitation, evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. §§ 1101—1104, commonly referred to as the Brooks Act.

- (b) *Application of competitive negotiation method procedures.* In accordance with the requirements of the Brooks Act, the following procedures shall apply to the competitive negotiation procurement method:
- (1) *Solicitation.* The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a request for proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements or letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications and request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through a prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under an RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.
  - (2) *Request for proposal (RFP).* The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:
    - a. Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of the work, and applicable standards, specifications, and policies;
    - b. Identify the requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;
    - c. Identify evaluation factors including their relative weight of importance in accordance with subsection (c) of this section;
    - d. Specify the contract type and method(s) of payment to be utilized in accordance with 23 CFR 172.9;
    - e. Identify any special provisions or contract requirements associated with the solicited services;
    - f. Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and
    - g. Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall be not less than 14 days from the date of issuance of the RFP.
  - (3) *Evaluation factors.*
    - a. Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives,

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quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.

- b. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.
- c. In-state or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement which attests to the minimum qualifications and competence of a consultant to perform the solicited services.
- d. The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selection:
  - 1. A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.
  - 2. The participation of qualified and certified Disadvantaged Business Enterprise (DBE) sub-consultants may be used as a nominal evaluation criterion where appropriate in accordance with 49 CFR Part 26 and the City of Lawrenceville's FHWA-approved DBE program.

(4) *Evaluation, ranking, and selection.*

- a. Consultant proposals shall be evaluated by the City based on the criteria established and published within the public solicitation.
- b. While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.
- c. Following submission and evaluation of proposals, the City shall conduct interviews or other types of discussions determined three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussion requirements shall be specified within the RFP and should be based on the size and complexity of the project as defined in City written policies and procedures (as specified in 23 CFR 172.5(c)). Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task, or service with respect to established criteria.
- d. From the proposal evaluation and any subsequent discussions which have been conducted, the City shall rank, in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria.

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- e. Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.
  - f. The City shall retain acceptable documentation of the solicitation, proposal, evaluation, and selection of the consultant accordance with the provisions of 49 CFR 18.42.
- (5) *Negotiation.*
- a. *Independent estimate.* Prior to receipt or review of the most highly qualified consultant's cost proposal, the City shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.
  - b. Elements of contract costs (e.g., indirect cost rates, direct salary or wage rates, fixed fee, and other direct costs) shall be established separately in accordance with 23 CFR 172.11.
  - c. If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 112(b)(2)(E)).
  - d. The City shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42. This documentation shall include the consultant cost certification and documentation supporting the acceptance of the indirect cost rate to be applied to the contract (as specified in 23 CFR 172.11(c)).

( Ord. No. 2018-6, 5-7-2018 )

## **Sec. 2-280. Informal purchases.**

The informal purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed the established informal purchase threshold. The City may use the State's small purchase procedures which reflect applicable State laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the Federal simplified acquisition threshold (as specified in 48 CFR 2.101). When a lower threshold for use of small purchase procedures is established in State law, regulation, or policy, the lower threshold shall apply to the use of FAHP funds. The following additional requirements shall apply to the small purchase procurement method:

- (1) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.
- (2) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.
- (3) Contract costs may be negotiated in accordance with State small purchase procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.
- (4) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for Federal-aid

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funding. The FHWA may withdraw all Federal-aid from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-281. Noncompetitive.**

The noncompetitive method involves procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

- (1) The City may use their own noncompetitive procedures which reflect applicable State and local laws and regulations and conform to applicable Federal requirements.
- (2) The City shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.
- (3) Circumstances under which a contract may be awarded by noncompetitive procedures are limited to the following:
  - a. The service is available only from a single source;
  - b. There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
  - c. After solicitation of a number of sources, competition is determined to be inadequate.
- (4) Contract costs may be negotiated in accordance with the City noncompetitive procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.

( Ord. No. 2018-6, 5-7-2018 )

### **Sec. 2-282. Additional procurement requirements.**

(a) *Common grant rule.*

- (1) The City must comply with procurement requirements established in State and local laws, regulations, policies, and procedures which are not addressed by or in conflict with applicable Federal laws and regulations (as specified in 49 CFR 18.36).
- (2) When State and local procurement laws, regulations, policies, or procedures are in conflict with applicable Federal laws and regulations, the City of Lawrenceville must comply with Federal requirements to be eligible for Federal-aid reimbursement of the associated costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).

(b) *Disadvantaged Business Enterprise (DBE) program.*

- (1) The City shall give consideration to DBE consultants if required by the use of state and federal funds in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2) in accordance with 49 CFR 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with the City of Lawrenceville's FHWA approved DBE program through either:
  - a. Use of an evaluation criterion in the qualifications-based selection of consultants (as specified in 23 CFR 172.7(a)(1)(iii)(D)); or
  - b. Establishment of a contract participation goal.

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- (2) The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.43).
- (c) *Suspension and debarment.* The City must verify suspension and debarment actions and eligibility status of consultants and sub-consultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR 180.
- ( Ord. No. 2018-6, 5-7-2018 )

**Secs. 2-283—2-298. Reserved.**

## ***ARTICLE X. CDBG FUNDS***

### **Sec. 2-299. Purchasing requirements.**

The City Manager shall ensure that the purchase of equipment, supplies and/or services relating to the expenditure of federal CDBG funds shall follow federal requirements in accordance with the Common Rule, 24 CFR Part 85 to the CDBG Entitlement Program.

(Code 2005, § 7-101)