

1 AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE II
2 (OFFICERS AND EMPLOYEES), DIVISION 2 (CODE OF ETHICS) OF THE FULTON
3 COUNTY CODE OF ORDINANCES TO CREATE A NEW CODE SECTION 2-80.1
4 REQUIRING THE APPOINTMENT OF AN INTERIM ETHICS HEARING OFFICER
5 WHERE THERE EXISTS A CONFLICT OF INTEREST BETWEEN THE BOARD OF
6 ETHICS AND ANY PARTY FILING A COMPLAINT OR ANY PARTY ACCUSED OF
7 VIOLATING THE CODE OF ETHICS; AND FOR OTHER PURPOSES.
8

9 WHEREAS, the Fulton County Board of Commissioners (“BOC”) has created a
10 Code of Ethics (Fulton County Code §§ 2-66 *et seq.*) establishing the minimum standards
11 of conduct for Fulton County officers and employees; and

12 WHEREAS, Fulton County Code § 2-80 of the Code of Ethics creates a Board of
13 Ethics (the “BOE”), and among other things, empowers it to render advisory opinions
14 regarding the applicability of the Code of Ethics and to hear and decide complaints
15 regarding alleged violations of the Code of Ethics; and

16 WHEREAS, pursuant to Fulton County Code § 2-80, BOE membership consists of
17 seven (7) members; including six (6) members to be nominated (one each) from various
18 civic and professional organizations and one (1) member to be nominated and appointed
19 by the BOC; and

20 WHEREAS, there is currently no provision for alternate adjudication where a
21 conflict of interest exists or arises between the Board of Ethics and parties in the matters
22 that come before the Board of Ethics; and

23 WHEREAS, the BOC finds that fairness and open and transparent adjudication of
24 an ethics complaint require that a neutral person or body hear the ethics complaint when
25 a conflict of interest exists; and

26 WHEREAS, the BOC finds it necessary and appropriate to amend the Code of
27 Ethics to require the appointment of an Interim Ethics Hearing Officer to hear ethics

1 matters where there exists a conflict involving the BOE; and

2 **WHEREAS**, the BOC has authority, pursuant to the Constitution of the State of
3 Georgia (Art. 9, § 2, ¶ 1(a)), to adopt reasonable ordinances, resolutions, or regulations
4 relating to the affairs of Fulton County, Georgia, for which no provision has been made
5 by general law and which is not inconsistent with the Constitution or any local law
6 applicable thereto.

7 **NOW, THEREFORE, BE IT ORDAINED**, that the Fulton County Board of
8 Commissioners hereby amends the Code of Ethics (Fulton County Code §§ 2-66 *et seq.*),
9 to create a new Code Section 2-80.1 to require the appointment of an Interim Ethics
10 Hearing Officer to preside over any ethics matter in which there is a conflict of interest
11 between the Board of Ethics or its members and any party filing a complaint or any party
12 accused of violating the Code of Ethics, including complaints brought against the Board
13 of Ethics or its members, as set forth in **Exhibit A**, attached hereto and incorporated by
14 reference.

15 **BE IT FURTHER ORDAINED**, that Code Section 2-80.1 shall immediately apply to
16 all matters currently pending before the Board of Ethics, including the Complaint or any
17 other complaints filed with the Board of Ethics prior to adoption of this amendment.

18 **BE IT FURTHER ORDAINED**, that upon the effective date of this Ordinance the
19 Board of Ethics shall immediately cease adjudicating any and all matters before it where
20 a conflict exists and shall submit a list of any such pending matters with a summary of the
21 current status to the Clerk to the Commission within ten (10) days of adoption of this
22 Ordinance.

23 **BE IT FINALLY ORDAINED**, that this amended Ordinance will take effect upon its

1 adoption, and that all ordinances, resolutions, and parts of ordinances and resolutions in
2 conflict with this Ordinance are hereby repealed to the extent of such conflict.

3 **SO PASSED AND ADOPTED**, by the Board of Commissioners of Fulton County
4 Georgia this 24th day of January, 2024.

5
6

7 **FULTON COUNTY**
8 **BOARD OF COMMISSIONERS**

9
10 **Sponsored by:**

11
12
13 _____
14 Marvin S. Arrington, Jr.,
15 Commissioner District 5
16
17
18
19
20

21 **ATTEST:**

22
23
24
25 _____
26 Tonya R. Grier
27 Clerk to the Commission
28
29
30

31 **APPROVED AS TO FORM:**

32
33
34
35
36 _____
37 Y. Soo Jo, County Attorney

EXHIBIT A

Sec. 2-80. Board of ethics / Creation / Duties.

(a) Creation. There is hereby created a body to be known as the Fulton County board of ethics.

(b) Membership. The board of ethics shall consist of the following seven (7) members, who shall have been residents of Fulton County for not less than three years preceding their selection. The members for positions (1) through (6) shall be subject to final appointment by the Board of Commissioners:

(1) One member to be nominated by the president of the Atlanta Bar Association from among the Association's membership;

(2) One member to be nominated by the president of the Gate City Bar Association from among the Association's membership;

(3) One member to be nominated by the president of the North Fulton Chamber of Commerce from among the Chamber's membership;

(4) One member to be nominated by the president of the Atlanta Business League from the membership of the Atlanta Business League;

(5) One member to be nominated by the president of the Atlanta Airport Chamber of Commerce from among the Chamber's membership;

(6) One member to be nominated by the personnel board of the county from its membership; and (7) One member to be nominated and appointed by the board of commissioners.

In the event an organization with nominating power under subparagraphs (1) through (6), above, fails to submit a nomination following resignation or expiration of the term of its respective nominee, the Clerk to the Commission shall send notice to the organization requesting the name of a nominee. If no such nominee is provided within thirty (30) days of the notice, the board of commissioners may proceed to nominate and appoint a new member of its own choosing to the relevant position on the board of ethics.

(c) Chair. At the first meeting of the board of ethics in each calendar year, the board shall select, from among its members, a chair who shall serve as chair for the remainder of the calendar year and until a successor is chosen pursuant to this subsection.

(d) Compensation, organization, and meetings. Members of the board of ethics shall be paid a per diem in the amount of \$150.00. The board of ethics shall meet no less than is required to conduct the business of the board, which in no event shall be less than once each calendar quarter. All meetings of the board of ethics shall be held at the Fulton County Government Center.

(e) Term of office. The members first selected pursuant to subsections (b)(1) and (2), above, shall serve an initial term of one year from the date of their selection. The terms of office of the members first selected pursuant to subsections (b)(3) and (4), above, shall expire one year after the expiration of the terms of office of the persons selected pursuant to subsections (b)(1) and (b)(2), above. The terms of office of the members first selected pursuant to subsections (b)(5), (b)(6) and (b)(7), above, shall expire two years after the expiration of the terms of office of the persons selected pursuant to subsections (b)(1) and (b)(2), above. Each member selected after the initial terms of office have expired shall serve a term of three years or until his or her successor is appointed. A member shall cease to serve upon the termination of his or her membership in the organization from which he or she was selected.

(f) Background Checks. Members shall be subject to investigation sufficient to confirm their educational and employment histories and any history of criminal convictions.

(g) Vacancies. Any vacancy on the board of ethics occurring before the end of the term of the departing member shall be filled in the same manner as the original selection for the remainder of the regular term.

(h) Political Activities. Members of the board of ethics, during their term of office, are prohibited from making contributions to the political campaigns of any candidate for a county office.

(i) Duties. The duties of the board of ethics shall be:

(1) to establish procedures, rules, and regulations for its internal organization

and the conduct of its affairs, consistent with the provisions of this code of ethics;

(2) to render advisory opinions, not more than sixty (60) days after receiving a

request to do so, with respect to the interpretation and application of this code of ethics, to any officer or employee who requests such an advisory opinion as to whether a particular course of conduct would constitute a violation of the standards imposed herein, which requests shall be in writing. In any subsequent complaint concerning the same officer or employee and same conduct which is the subject of an advisory opinion rendered by the board of ethics, the board of ethics shall be bound to follow the advisory opinion, unless it is established that material facts were omitted or misstated in the request for same;

(3) to conduct its proceedings in meetings open to the public;

(4) to prescribe forms necessary to carry out any function prescribed by this code of ethics;

(5) to make available to the public information disclosed pursuant to this code of ethics;

(6) to receive, hear, investigate, and make findings concerning complaints of violations of this code of ethics, and to hold hearings in connection therewith as the board or ethics may deem necessary; and

(7) to recommend to the board of commissioners revisions of this code of ethics.

(j) Neither the board of commissioners nor any officer or employee shall engage in

any conduct designed to interfere with or improperly influence the members of the board of ethics in the performance of their duties under this code of ethics.

Sec. 2-80.1 Interim ethics hearing officer.

(a) Conflicts of interest by board of ethics. Circumstances or actions may create a conflict of interest between the board of ethics or individual members of the board of ethics and the parties that appear before them pursuant to this Code. Such conflicts of interest raise or could be perceived to raise questions about the neutrality and objectivity of the board of ethics in a particular matter over which it presides, and include but are not limited to financial interest in the outcome of the matter, close personal or business relationship with a party, active or past litigation between the board of ethics or its members and any party, any other fact or action that would reasonably suggest that a board member or the board of ethics as a whole maintains a personal stake in the adjudication of a matter over which the board of ethics presides, or any other fact or action that would reasonably suggest that a board member or the board of ethics as a whole cannot be unbiased in the adjudication of a matter over which the board of ethics presides.

In the event there exists a conflict of interest between the board of ethics or any of its members and any party filing a complaint or any party accused of violating the code of ethics, or where a complaint of a violation of this code of ethics is made against the board of ethics or any of its members, a conflict of interest shall exist which precludes the board of ethics from adjudicating the matter or rendering an advisory opinion interpreting the code of ethics as to that matter.

(b) Duties. Whenever a conflict of interest exists with the board of ethics or any of its members, an interim ethics hearing officer shall be appointed to carry out all duties of the board of ethics enumerated in section 2-80(i) of this code of ethics or any other section. The interim ethics hearing officer shall

preside over the matter until its conclusion as provided by and subject to the provisions of sections 2-81 and 2-82 of this code of ethics.

(c) Appointment. The interim ethics hearing officer shall be appointed by the chief judge of probate court and shall be a member in good standing of the State Bar of Georgia for at least the last five (5) years.

After being notified by the board of ethics or by a party that a conflict exists between the board of ethics or any of its members and any party involved in a matter being adjudicated by the board of ethics, the clerk to the commission shall notify the chief judge of probate court of the need for appointment of an interim ethics hearing officer.

If the chief judge of probate court determines that a conflict exists, she/he may choose any member of the state bar of Georgia who is in good standing as provided herein. After making the appointment of an interim ethics hearing officer, the chief judge of probate court shall notify the clerk to the commission of the appointment. If the chief judge of probate court determines that a conflict does not exist, she/he shall return the matter to the board of ethics for adjudication.

The interim ethics hearing officer shall not have any other business interest with the county while in the role as an interim ethics hearing officer. Such interim ethics hearing officer shall be engaged by the county under contract prepared and managed by the Office of the County Attorney and shall be compensated for said services at a reasonable hourly rate to be determined by such contract.

Sec. 2-81. Hearings and procedures.

(a) Any person may initiate a complaint of a violation of this code of ethics by submitting to the secretary to the board of ethics, a written, sworn complaint under penalty of perjury, upon a form prescribed by the board of ethics.

(b) The board of ethics may also initiate an investigation on its own initiative.

(c) Within five (5) business days following the filing of a complaint, the subject of the complaint shall be notified of the existence and nature of the complaint.

(d) The board of ethics shall, within sixty (60) days following the filing of a complaint or initiation of an investigation on its own initiative, conduct a preliminary hearing to determine whether specific, substantial evidence exists to support a reasonable belief that there has been a violation of this code of ethics.

(e) If the board of ethics determines by majority vote at the preliminary hearing that specific, substantial evidence exists to support a reasonable belief that there has been a violation of this code as to any claim in a complaint or subject matter of an investigation it has initiated, the involved parties shall be so advised in writing and the board of ethics shall schedule a formal hearing to further consider those claims or subjects for which such a determination has been made. The board of ethics shall notify all involved parties in writing of the time and place of the formal hearing, which hearing shall not be held sooner than ten (10) days following notice of same.

(f) If at least one-half of the voting members of the board of ethics conclude at the preliminary hearing that specific, substantial evidence does not exist to support a reasonable belief that there has been a violation of this code as to any claim in a complaint or subject matter of an investigation it has initiated, those claims shall be dismissed or the investigation terminated and the parties will be so advised in writing.

(g) Formal hearings shall be public, and all parties shall have the opportunity to be heard, to summon witnesses, and to present evidence. Persons alleged to have violated this code of ethics shall have the right to be represented by counsel at their own expense.

(h) The board of ethics shall have the power to compel the attendance of witnesses and the production of records by subpoena, and to take testimony under oath. Fulton County shall bear the costs of issuing subpoenas and, if desired by the board of ethics, the cost of having a court reporter present to record hearings. Any matters related to enforcing or quashing subpoenas may be submitted to the superior court of Fulton County.

(i) At the conclusion of the formal hearing, the board of ethics shall deliberate upon its findings in public and shall determine its findings by majority vote. Findings that a violation of this code of ethics has occurred must be based upon a clear and convincing evidence standard. The board of ethics' decision shall subsequently be reduced to writing and provided to the parties, which decision shall be final; provided, however, that the decision shall be subject to review by writ of certiorari to the superior court of Fulton County.

Sec. 2-82. Violations.

(a) Any intentional violation of this code of ethics, the furnishing of false or misleading information to the board of ethics, the failure to follow an opinion or decision issued by the board of ethics, or the failure to comply with a subpoena issued by the board of ethics, as determined by the board of ethics after notice and the right to be heard in accordance with the hearing requirements of this code of ethics, shall subject the violator to:

(1) an administrative sanction not to exceed \$1,000.00, which sanction shall be deposited into the general fund of Fulton County; and/or

(2) a public reprimand.

(b) In addition to those sanctions provided for at subsection (a), with regard to a violation of this code of ethics committed by an employee of Fulton County, the board of ethics may recommend to the board of commissioners or the appropriate appointing authority disciplinary action in accordance with the personnel rules and regulations of Fulton County.

(c) In addition to those sanctions provided for at subsection (a), with regard to a violation of this code of ethics committed by any person, business, or other entity, the board of ethics may recommend to the Department of Purchasing and Contract Compliance that debarment proceedings be commenced in accordance with applicable ordinances of Fulton County.