

**AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE II (OFFICERS AND EMPLOYEES), DIVISION 2 (CODE OF ETHICS) OF THE FULTON COUNTY CODE TO DISBAND THE BOARD OF ETHICS AND TO REPLACE IT WITH A SLATE OF ETHICS HEARING OFFICERS; AND FOR OTHER PURPOSES.**

6           **WHEREAS**, the Fulton County Board of Commissioners (“BOC”) has established  
7 a Code of Ethics (Fulton County Code §§ 2-66 *et seq.*, (1983)) governing minimum  
8 standards of conduct for Fulton County officers and employees; and

9           **WHEREAS**, among other provisions, the Code of Ethics creates a Board of Ethics  
10 (the “BOE”) and empowers it to render advisory opinions regarding the applicability of the  
11 Code of Ethics and to hear and decide complaints regarding alleged violations; and

12           **WHEREAS**, pursuant to Fulton County Code § 2-80, BOE membership currently  
13 consists of (i) one (1) member to be nominated by the president of the Atlanta Bar  
14 Association from among the Association's membership; (ii) one (1) member to be  
15 nominated by the president of the Gate City Bar Association from among the Association's  
16 membership; (iii) one (1) member to be nominated by the president of the North Fulton  
17 Chamber of Commerce from among the Chamber's membership; (iv) one (1) member to  
18 be nominated by the president of the Atlanta Business League from among the  
19 membership of the Atlanta Business League; (v) one (1) member to be nominated by the  
20 president of the Atlanta Airport Chamber of Commerce from among the Chamber's  
21 membership; (vi) one (1) member to be nominated by the South Fulton Chamber of  
22 Commerce from among the Chamber’s membership; and, (vii) one (1) member to be  
23 nominated and appointed by the Board of Commissioners; and

24           **WHEREAS**, the BOE has committed numerous violations of the Fulton County  
25 Code of Ethics (“Code of Ethics”), BOE rules of procedure, the Georgia Open Meetings  
26 Act, the Georgia Open Records Act, the Georgia Constitution and the United States

1 Constitution while adjudicating several matters pending before the BOE and in the Fulton  
2 County Superior Court, including the following:

3 **2022 BOE Complaint of Reshard Snellings:**

4 i. On March 21, 2022, Reshard Snellings filed an ethics Complaint against a  
5 County officer.

6 ii. On May 19, 2022 and July 14, 2022, the BOE conducted preliminary probable  
7 cause hearings regarding this matter against a County officer as required by  
8 Fulton County Code of Ethics Sec. 2-81(e).

9 iii. On July 21, 2022, the BOE determined by majority vote that there was probable  
10 cause to proceed with a formal hearing, but violated the Georgia Open  
11 Meetings Act, O.C.G.A. § 50-14-1, by not publishing on its website a notice of  
12 the July 21, 2022 meeting, the meeting agenda or the meeting minutes.

13 iv. The BOE failed to provide notice of the July 21, 2022 meeting to the County  
14 officer—a party to the matter decided at that meeting—or to his attorney of  
15 record.

16 v. The BOE further violated the provisions of Section 2-81(e) of its hearings and  
17 procedures by not voting at the conclusion of the July 14, 2022 preliminary  
18 hearing and by failing to provide the County officer—a party to the  
19 proceeding—with written notice of its July 21, 2022 determination of probable  
20 cause until December 2, 2022.

21 **2020 BOE Complaint of Meisha Mainor:**

22 i. On November 9, 2020, Meisha Mainor filed an ethics Complaint against a  
23 County officer.

- 1       ii.    On March 16, 2021, the BOE determined by a majority vote that Mainor’s  
2           complaint lacked sufficient evidence and failed to show probable cause to  
3           proceed further.
- 4       iii.    On June 17, 2021, the BOE, in violation of its 2-81 of the Fulton County Code  
5           of Ethics, began discussing how to seek judicial advice about additional  
6           “evidence” discussed in the news media after the March 16, 2021 BOE  
7           determination of no probable cause; without providing either party to the  
8           previously adjudicated matter notification that the BOE was again considering  
9           the matter.
- 10      iv.    The BOE’s decision to proceed with investigating and adjudicating a matter that  
11           the BOE previously determined to lack probable cause was in violation of Code  
12           of Ethics Sec. 2-81(f) which provides that “[i]f at least one-half of the voting  
13           members of the board of ethics conclude at the preliminary hearing that  
14           specific, substantial evidence does not exist to support a reasonable  
15           belief that there has been a violation of this code as to any claim in a  
16           complaint or subject matter of an investigation it has initiated, those claims  
17           shall be dismissed or the investigation terminated and the parties will be  
18           so advised in writing.”

19    **2022 BOE suit for Declaratory Judgment Against County Officer:**

- 20      i.    On April 29, 2022, the BOE filed a sealed Complaint—Fulton County Superior  
21           Court Civil Action File No. 2022-CV-64124—against a County officer and one  
22           of his legal clients, who was not and is not subject to the Fulton County Code  
23           of Ethics, concerning the 2020 Mainor BOE Complaint that should have been

1 dismissed pursuant to Code of Ethics Sec. 2-81(f) over a year prior on March  
2 16, 2021.

3 ii. The BOE, upon advice and counsel of the BOE's attorney, filed this lawsuit in  
4 the Fulton County Superior Court despite the fact that the BOE is not an entity  
5 capable of suing or being sued, despite the fact that it created a conflict  
6 because the County officer was a party in a matter then pending before the  
7 BOE, despite the fact that the BOE matter giving rise to the lawsuit had already  
8 been found by the BOE to lack probable cause, and despite the fact that the  
9 question the BOE presented to the Superior Court was how the BOE should  
10 rule on an evidentiary matter in a Complaint that should have been dismissed—  
11 thus seeking an advisory opinion from the very Court that decides writs of  
12 certiorari on appeal from the BOE.

13 iii. The County officer only learned of the lawsuit when he was served on or about  
14 July 22, 2022.

15 **County Officer's Motion to Recuse the BOE:**

16 i. On August 17, 2022, the County officer filed a Motion for Recusal,  
17 Disqualification or Dismissal of the 2022 Snellings BOE Complaint based on  
18 the conflict created by the BOE when it filed a lawsuit on April 29, 2022 against  
19 the County officer who was a party to matters pending before the BOE, which  
20 came to the officer's attention when he was finally served on July 22, 2022.

21 ii. On November 26, 2022, despite the pendency of the Motion to Recuse, the  
22 BOE notified the County officer of a formal hearing scheduled in the Snellings  
23 Complaint on December 8, 2022.

- 1       iii. Upon objection by the officer’s attorney seeking a ruling on the Motion to  
2       Recuse prior to a hearing on the Snellings Complaint, the December 8, 2022  
3       BOE hearing date was postponed.
- 4       iv. On January 12, 2023, the BOE advised the County officer that the Snellings  
5       Complaint would be the subject of a formal hearing on January 26, 2023.
- 6       v. On January 31, 2023, the BOE dismissed its suit for Declaratory Judgment  
7       against the County officer and his client, but did so without prejudice to refiling  
8       the action.

9       **County Officer’s Ethics Complaint Against the BOE:**

- 10       i. On February 28, 2023, the County officer filed a complaint against the BOE,  
11       which should have been considered in a probable cause hearing within 60 days  
12       pursuant to Code of Ethics Sec. 2-81(d).
- 13       ii. To date, there is no indication that the BOE has conducted such a preliminary  
14       probable cause hearing and the matter remains pending in violation of the  
15       BOE’s own procedures as codified in the Code of Ethics.

16       ; and

17       **WHEREAS**, the BOE violated the Code of Ethics by conducting a probable  
18       cause hearing and failing to provide its findings in writing to the subject of the hearing, as  
19       required by Fulton County Code § 2-81(d); and

20       **WHEREAS**, the BOE has violated the Georgia Open Meetings Act, O.C.G.A. §  
21       50-14-1, by not publishing on its website the notice of the July 21, 2022 meeting, the  
22       meeting agenda or the meeting minutes; and

23       **WHEREAS**, the BOE also violated the Georgia Open Records Act, O.C.G.A § 50-

1 18-70 et seq., by failing to provide the notice of the July 21, 2022 meeting, the meeting  
2 agenda and the meeting minutes; and

3 **WHEREAS**, the BOE violated the Open Records Act by failing to make available  
4 for public inspection, the minutes of a meeting in which the BOE conducted officer  
5 business, as required by O.C.G.A. § 50-14-1; and

6 **WHEREAS**, the BOE exceeded its authority by filing a lawsuit which it does not  
7 have the power to do; and

8 **WHEREAS**, the BOE has engaged in procedural violations and unlawful actions  
9 that have created an unnecessary and unwaivable conflict, and

10 **WHEREAS**, the BOE's flagrant violation of procedures and laws in the two BOE  
11 Complaints described herein is a strong indicator of similar violations that may be  
12 occurring in all of the matters pending before the BOE; and

13 **WHEREAS**, as currently constituted, the BOE can have no credibility to sit in  
14 judgment of a party's adherence to the Code of Ethics because the BOE itself has failed  
15 to follow its own procedures, the Code of Ethics, and the Georgia Open Meetings Act,  
16 the Georgia Open Records Act, the Georgia Constitution and the United States  
17 Constitution; and

18 **WHEREAS**, the BOE's actions throughout the course of the above-referenced  
19 proceedings have irreparably tainted its impartiality; and shown its refusal to comply with  
20 the Fulton County Code of Ethics, and

21 **WHEREAS**, the BOC has determined that replacing the BOE with a slate of Ethics  
22 Hearing Officers to carry out the functions of rendering advisory opinions, conducting

1 timely hearings, and deciding complaints consistent with the applicable codes and laws,  
2 will help to uphold the aims of the Code of Ethics; and

3 **WHEREAS**, the BOC desires to ensure that ethical matters are carried out  
4 efficiently by professionals who have the requisite knowledge, experience, and skills in  
5 the areas of ethics and local government law; and

6 **WHEREAS**, the BOC finds it necessary and appropriate to amend the Code of  
7 Ethics to disband the BOE and replace it with a slate of Ethics Hearing Officers; and

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

13 **NOW, THEREFORE, BE IT ORDAINED**, that the Fulton County Board of  
14 Commissioners hereby amends the Ethics Code (Fulton County Code §§ 2-66 et seq.),  
15 including eliminating the Board of Ethics and replacing it with a slate of Ethics Hearing  
16 Officers, as set forth in Exhibit “A,” which is attached hereto and incorporated by  
17 reference.

18 **BE IT FURTHER ORDAINED**, that upon the effective date of this Ordinance the  
19 Board of Ethics shall immediately cease in adjudicating any and all matters before it, and  
20 shall submit a list of pending matters with a summary of the current status to the  
21 Clerk to the Board of Commissioners.

22 **BE IT FINALLY ORDAINED**, that this Ordinance will take effect upon its adoption,  
23 and that all ordinances, resolutions, and parts of ordinances and resolutions in conflict

1 with this Ordinance are hereby repealed to the extent of such conflict.

2 **SO ORDAINED**, this 6<sup>th</sup> day of December 2023.

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**FULTON COUNTY BOARD OF COMMISSIONERS**

Sponsored by:

\_\_\_\_\_  
Marvin S. Arrington, Jr., Commissioner  
District 5

**ATTEST:**

\_\_\_\_\_  
Tonya R. Grier, Clerk to the Commission

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Y. Soo Jo, County Attorney



**December 6, 2023 proposed changes to June 6, 2018<sup>1</sup> adopted Code of Ethics  
(as amended by Agenda Item No. 21-0526 on August 4, 2021 and  
Agenda Item No. 23-0385 on June 7, 2023)**

**Sec. 2-66. Declaration of policy and aspirational objectives.**

- (a) It is essential to the proper government and administration of Fulton County that members of the board of commissioners, as well as all other officers and employees of the county, are in fact and in appearance, independent and impartial in the performance of their official duties; that public service not be used for private gain; and that there be public confidence in the integrity of the county. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interests and public responsibilities of county officers and employees, the public interest requires that the county protect against such conflicts of interest by establishing appropriate ethical standards of conduct. It is also essential to the efficient operation of the county that those persons best qualified be encouraged to serve in positions of public trust. Accordingly, the standards hereinafter set forth must be so interpreted and understood as not to unreasonably frustrate or impede the desire or inclination to seek and serve in public office by those persons best qualified to serve. To that end, no officer or employee of the county, except as otherwise provided by law, should be denied the opportunity available to all other citizens to acquire and maintain private, economic, and other interests, except where a conflict of interest situation would necessarily result. The policy and purpose of this code of ethics, therefore, is to make clear those standards of

<sup>1</sup> Re-enacted in its entirety 2/4/04, Agenda Item No. 03-153.

ethical conduct that shall be applicable to the persons hereinabove named in the discharge of their official duties; to implement the objective of protecting the integrity of the county's government; and to prescribe only such essential restrictions against conflicts of interest as will not impose unnecessary barriers against public service.

- (b) Officers and employees should aspire to avoid even the appearance of a conflict of interest by avoiding conduct or circumstances that would provide a reasonable basis for the impression that the officer's or employee's ability to protect the public interest or impartially perform an official act is compromised by his or her financial or personal interests in the matter or transaction. The appearance of a conflict of interest can exist even in the absence of an actual conflict of interest.
- (c) Officers and employees should aspire to avoid even the appearance of impropriety by avoiding conduct or circumstances that would provide a reasonable basis for the impression that a person can improperly influence or unduly enjoy the officer's or employee's favor in the performance of his or her official acts or actions. The appearance of impropriety can exist even in the absence of actual impropriety.

**Sec. 2-67. Definitions.**

- (a) *Business* means any corporation, partnership, proprietorship, organization, self-employed individual, and any other entity operated for economic gain, whether professional, industrial, or commercial, and other entities, which for purposes of federal income taxation are operated as non-profit organizations.

- (b) *Confidential information* means information which has been obtained in the course of performing official duties as an officer or employee and has not been disclosed in a public proceeding or publication.
- (c) *Contract* means any written or otherwise established agreement, lease, claim, account, or demand against any person, to which the county is an actual or otherwise interested party.
- (d) *Financial interest* means any interest which shall, directly or indirectly, yield a monetary or other material benefit to the officer or employee, or to any person employing or retaining the services of the officer or employee, or to any member of the immediate family of the officer or employee.
- (e) *Gifts and favors* means anything of value given by or received from a prohibited source.

Exemption: Notwithstanding anything contained in this chapter, *Gifts and favors* shall not mean and include, and shall not be intended to prohibit, the donation, sale, lease, conveyance, or transfer of residential real property between and among any banking institution, charitable organization, or nonprofit business or entity and Fulton County police officers, firefighters or emergency medical technicians ("First Responders") participating in the Fulton County Homes for First Responders Program, a public-private initiative, pursuant to which such real property is donated, sold, leased, conveyed or transferred to and occupied by Fulton County First Responders. (*Amended 1/9/13, item no. 12-1150*)

- (f) *Immediate family* means an officer or employee and the spouse of an officer or employee, as well as the parents, children, brothers, and sisters of an officer or employee.
- (g) *Intent* means the state of mind in which a person seeks to accomplish a given result through a deliberate course of action. Intent is the design, resolve, or determination with which a person acts, and which can seldom be proved by direct evidence, but must usually be proved by circumstances from which intent may be inferred.
- (h) *Intent to influence* means to deliberately and willfully act in a manner chosen and designed to exert power over others, or to modify or affect the actions of others, even if in a gentle, subtle, or gradual fashion.
- (i) *Interest* means any financial interest or personal interest or any other direct or indirect pecuniary or material benefit held by or accruing to an officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county. Unless otherwise provided, the term "interest" does not include remote interests, such as those shared with a substantial segment of the county's population.
- U) *Lobbyist* means (i) any natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage, approval, or defeat of an ordinance or resolution by the board of commissioners; and (ii) any natural person who makes a total expenditure of more than \$250.00 in a calendar year to promote or oppose the passage, approval, or defeat of an ordinance or resolution by the board of commissioners,

but not including the person's own travel, food, and lodging expenses, or expenses for informational materials.

(k) *Matter or transaction* means the subject of any official act by an officer or employee or any governing body of the county or any county agency.

(l) *Officer or employee* means any elected officer of the county, any person appointed to a county board, commission, or agency by the board of commissioners, any person employed by the county, including contractual employees, and any person retained by the county or any agency of the county in a consulting capacity, who is exclusively obligated to the county for a period of ninety (90) or more days. This definition does not include members of advisory boards having no decision-making authority; provided, however, that county employees serving on the Advisory Committee of the Atlanta-Fulton County Water Resources Commission continue to be included within this definition while serving on that Advisory Committee. This definition includes retired former employees and other former employees of the county during any period in which they are later employed or retained by the county or any county agency.

*(Amended 8117105, item no. 05-0975)*

(m) *Official act* means any executive, legislative, administrative, appointive, ministerial, or discretionary act taken by the board of commissioners or the county manager, as well as any such act taken by any other officer or employee in the performance of his or her official duties.

(n) *Paid* means the receipt of, or right to receive, a salary or a commission, percentage, brokerage, or contingent fee for services.

- (o) *Participate* means to take part in any official act, actions, or proceedings personally, and to take part in such acts, actions, or proceedings as an officer or employee for the purpose of performing a duty, granting or denying approvals, rendering decisions, or failing to so act or perform such a duty.
- (p) *Participation in contracting* means, with respect to current officers and employees as well as former officers and employees during the time periods set forth in Section 2-77(b), to take part in or to attempt to or actually influence any official act, actions, or proceedings involving county contracts, including preparing, making recommendations for, influencing the content of, rendering advice regarding, or interpreting the meaning of county regulations and policies relevant to any part of contracts, purchasing specifications, or solicitations for bids or proposals. *(Amended 10/18/06, item no. 06-1102)*
- (q) *Person* means any individual, business, representative, fiduciary, trust, or association.
- (r) *Personal interest* means any interest arising from relationships between the officer or employee and members of his or her immediate family or from associations with any business, whether or not a financial interest is involved. For the purposes of this code of ethics, and without being limited thereto, an officer or employee shall be deemed to have an interest in matters and transactions involving:
- (1) any person in his or her immediate family;

- (2) any person with whom a contractual relationship (either written or implied) exists, whereby he or she may receive any payment or other benefit, including any agreement for employment; and
  - (3) any business in which he or she is a director, officer, employee, prospective employee, or substantial shareholder.
- (s) *Prohibited source* means any person, business, or entity that the involved officer or employee knows or should know:
- (1) is seeking official action from the county;
  - (2) is seeking to do or is doing business with the county;
  - (3) represents a person who is seeking official action from the county or who is seeking to do or is doing business with the county;
  - (4) has interests that may be affected by the performance or non-performance of official duties by the officer or employee; or
  - (5) is a registered lobbyist in accordance with state law.
- (t) *Reprimand* means an action taken by ~~the board of an~~ ethics hearing officer, which constitutes and transmits a public disapproval of the conduct of an officer or employee.

**Sec. 2-68. Conflicts of interest generally / Impartiality.**

- (a) No officer or employee shall perform, or fail to perform, any official act or influence others to perform, or fail to perform, any official act, on a matter in which the officer or employee knows, or reasonably should know, they have an interest that may be affected.

- (b) No officer or employee shall state or specifically imply that any person can improperly influence him or her in the performance of any official acts or actions or that the officer or employee is able to improperly influence the official acts or actions of other county officers or employees.
- (c) No officer or employee shall, by virtue of his or her position with the county, except as necessary in the performance of his or her official duties, directly or indirectly influence or attempt to influence the decision of any other officer or employee who must act to further any county procurement, policy, contract, matter, or transaction.

**Sec. 2-69. Gifts and favors / Honoraria.**

- (a) No officer or employee shall directly or indirectly solicit, request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value, in any form whatsoever, for himself, herself, or another person, from any prohibited source.
- (b) No officer or employee shall directly or indirectly solicit, request, exact, receive or agree to receive an honorarium, which, for purposes of this section, means a payment of money or anything of value for any service, including, but not limited to, appearances, speeches, or articles, if the subject matter of the appearance, speech, or article relates to the official duties of the officer or employee and such payment or other thing of value is given to the officer or employee because of his or her status with the county.
- (c) This section shall not apply in the case of:
  - (1) a nonpecuniary gift, ticket, or other thing of value, the value of which is \$100.00 or less;



- (2) an award publicly presented in recognition of public service;
- (3) a commercially reasonable loan made in the ordinary course of business by an institution authorized by law to engage in the making of such a loan;
- (4) a ticket or pass of admission, or a discount on such ticket or pass of admission to a price below its face value, given to an officer or employee by a member of his or her immediate family, or given by a business, other than a public agency, in which the officer or employee or a member of his or her immediate family serves as an officer, director, stockholder, creditor, trustee, partner, or employee; and
- (5) a ticket or pass of admission to any recreational, entertainment, or sporting event, or a discount on such ticket or pass of admission to a price below its face value, if the officer or employee at issue is performing an official duty at the event. For purposes of this subsection, an official duty shall include any appearance, meeting, discussion, greeting, or introduction, the substantial purpose of which is related to the performance of an official act.

**Sec. 2-70. Campaign contributions.**

This code of ethics shall not apply to campaign contributions made or received in compliance with the laws of the State of Georgia.

**Sec. 2-71. Confidential information.**

- (a) No officer or employee shall disclose, except as required by law, or otherwise use confidential information acquired by virtue of his or her position with the

county to advance his or her interests or the interests of any other person, where such disclosure or use would conflict with the best interests of the county.

- (b) Without limiting the scope of subsection (a), no officer or employee shall disclose any information acquired during any session of the board of commissioners that is closed to the public pursuant to the provisions of the Georgia Open Meetings Act, unless such disclosure is specifically authorized by vote of the board of commissioners. *(Added 10/17/09, item no. 09-1043)*

**Sec. 2-72. Representation.**

- (a) Except in the regular discharge of their official duties, no officer or employee shall appear on his or her own behalf, or represent, or appear on behalf of any person, whether paid or unpaid, before any court or before any individual, legislative, administrative, or quasijudicial board, body, agency, commission, or committee appointed by the county manager, board of commissioners, or other county official, concerning any contract, matter, or transaction which is or may be the subject of an official act by the county, its officers, or its employees, or otherwise use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or other persons; provided, however, that this subsection shall not prohibit an officer or employee from appearing on his or her own behalf, concerning any contract, matter, or transaction, unless such officer or employee knows or reasonably should know that the contract, matter, or transaction is under his or her official responsibility as an officer or employee.

- (b) No officer or employee shall represent any person, business, or entity whose interests are in conflict with the interests of the county in any action, proceeding, or litigation in which the county or agency of the county is a party or complainant.

**Sec. 2-73. Nepotism.**

- (a) No officer or employee shall advocate for or cause, directly or indirectly, the hiring, advancement, promotion, or transfer of a member of his or her immediate family to any office or position with the county or a county agency.
- (b) No officer or employee having authority to appoint or recommend for appointment members of any county board, commission, or authority shall appoint or recommend for appointment a member of his or her immediate family.

**Sec. 2-74. Abstention and disclosure of interest.**

An officer or employee who has an interest in a contract, matter, or transaction that he or she has reason to believe will be affected by his or her official acts or actions, or by the official acts or actions of the county, shall abstain from participating in such official acts or actions and shall not vote for or against, discuss, decide, or otherwise participate in the county's consideration of the contract, matter, or transaction, or otherwise attempt to or actually influence the vote, discussion, or decision of the county regarding the contract, matter, or transaction. In addition, the officer or employee shall disclose publicly the nature of such interest prior to any determination of the contract, matter, or transaction.

**Sec. 2-75. Incompatible interests and employment.**

- (a) No officer or employee shall invest or hold any investment, directly or indirectly, in any financial, business, commercial, or other private contract, matter, or

transaction, which creates a conflict with and adversely affects the performance of official duties by the officer or employee to the detriment of the county.

- (b) No officer or employee shall own stock in any business doing business with the county. This section is not intended to apply where the officer or employee owns less than ten percent (10%) of any company or publicly traded stock.
- (c) No officer or employee shall solicit, request, or accept employment by, or agree to otherwise provide services to, any person or business when such employment or the providing of such services is adverse to or incompatible with the proper discharge of official duties by the officer or employee.
- (d) An officer or employee may serve as an unpaid director of, or volunteer for, a not-for-profit or charitable business or organization that receives or solicits grant funding from the county or a county agency, as long as that officer or employee is not involved in the grant selection process. *(Added 3/16/04, item no. 05-0294)*

**Sec. 2-76. Contracts involving officers and employees.**

- (a) The county shall not enter into any contract involving services or property with an officer or employee, or with a person or business in which an officer or employee has an interest. This section shall not apply in the case of:
  - (1) contracts for goods or services with an officer or employee, or member of the immediate family of an officer or employee, or a business that employs an officer or employee, or member of the immediate family of an officer or employee, where (i) the contract is competitively procured; and (ii) the officer or employee does not participate in any aspect of the procurement or performance of the contract; *(Amended 8/4/04, item no. 04-0796)*

- (2) the designation of a bank or trust company as a depository for county funds;
  - (3) the borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loan;
  - (4) contracts for goods or services entered into with a business which is the only available source of such goods or services; and
  - (5) contracts entered into under circumstances which constitute an emergency situation, provided that a record explaining the emergency is prepared by the county manager and within ten (10) days submitted to filed with the board of secretary for the ethics hearing officer at its next regular meeting.
- (b) No officer or employee shall participate in any contract involving the county if he or she knows or should have known that an interest in the contract is possessed by such officer or employee, one or more members of his or her immediate family, or any business, other than a public agency, in which he or she or a member of his or her immediate family serves as an officer, director, stockholder, creditor, trustee, partner, or employee.

**Sec. 2-77. Unemployed officers and employees.**

- (a) No officer or employee shall, after the termination of his or her employment with the county, participate in any contract with the county, in a managerial, entrepreneurial, or consulting capacity. For the purposes of this section, "consulting" shall include, but not be limited to, advising any person doing business with the county or seeking to do business with the county (whether as a

prime contractor or subcontractor) regarding the meaning and application of county rules and regulations, the administration of which were a part of the official responsibility of the officer or employee before termination of his or her employment. In addition, no officer or employee shall, after termination of his or her employment with the county, knowingly make, with the intent to influence, any communication to or appearance before any department, board, or other authority of the county in connection with a particular matter:

- (1) in which the county has a direct and substantial interest; and
- (2) in which such person knows or reasonably should know was under his or her official responsibility as such officer or employee before the termination of his or her employment with the county. *(Amended 10/18/06, item no. 06-1102)*

- (b) The restrictions set forth in this section shall be in effect for a period of one year after the termination of the officer's or employee's employment with the county; provided, however, with respect to former members of the board of commissioners, the restrictions shall be in effect for a period of two years after leaving office; provided, further, that in the case of any former member of the board of commissioners who is convicted of a felony criminal offense in connection with the solicitation or award of a county contract, the restrictions shall be in effect for a period of seven years, beginning at the time of the conviction, except that in cases where a period of imprisonment is ordered, the seven years shall begin at the completion of the period of imprisonment.

**Sec. 2-78. Compliance with applicable laws.**

No officer or employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office or position. When any provision of this code of ethics shall conflict with the laws of Georgia or the United States, such laws shall apply. If any section of this code of ethics shall be declared by any court to be invalid, the remaining sections shall remain applicable.

**Sec. 2-79. Disclosure of income and financial interests.** *(Amended 8/4/04, item no. 04-0796)*

- (a) On or before April 15 of each calendar year, each of the following individuals shall file an income and financial disclosure report with the clerk to the commission, which report shall cover the preceding calendar year:
- (1) all elected officials of Fulton County, as well as judges of the juvenile and magistrate courts;
  - (2) county manager;
  - (3) deputy county managers;
  - (4) all department heads, including the county attorney and the clerk to the commission, as well as all division heads reporting to the county manager, and the deputy director of zoning;
  - (5) members of the board of tax assessors and all property appraisers;
  - (6) ethics hearing officer~~members of the community zoning board;~~ and
  - (7) members of the Development Authority of Fulton County.
- (b) The obligation to file an income and financial disclosure report annually with the clerk to the commission is mandated for the calendar year, regardless of whether the person is removed from the appointment or their term ends prior to April 15.
- ~~(1) members of the board of zoning appeals; and~~
  - ~~(2) members of the board of ethics.~~

- (c) Each such report shall identify the source of each of the following, received or accrued during the preceding calendar year, by each person required to file such report and such person's spouse, if any:
- (1) any income for services rendered of \$1,000.00 or more;
  - (2) any honorarium from a single source in the aggregate amount of \$500.00 or more, except as otherwise reported under applicable state law;
  - (3) any gift(s) or favor(s) from a single prohibited source in the aggregate value or amount of \$100.00 or more; and
  - (4) any dividend income of \$1,000.00 or more.
- (d) Each such report shall also contain:
- (1) the name, address, and general description of any professional organization in which the person reporting is an officer, director, partner, proprietor, or employee, or serves in any advisory capacity, from which income of \$1,000.00 or more was received;
  - (2) the name and address of every business in which the person reporting owns 10% or more of such business's then outstanding stock;
  - (3) the address and tax parcel ID number of all real property in which the person reporting has an ownership interest valued at 5% or more of the property's then assessed value; and
  - (4) the source, date, and amount of any reimbursement of expenses to the person reporting in the amount of \$1,000.00 or more.

**Sec. 2-80. ~~Board of ethics / Creation /~~Ethics hearing officers: appointment:**

**Dduties.**



(a) ~~Creation.~~ There is hereby created a body to be known as the Fulton County board of *ethics*. ~~Appointment.~~ The board of commissioners shall appoint independent ethics hearing officers to serve in matters and perform the functions as outlined herein.

(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 president of the South Fulton Chamber of Commerce, Inc. from among the Chamber's membership;
- a-AG
- (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. Nomination. Each member of the board of commissioners may nominate an individual to serve as an ethics hearing officer subject to approval by the board of commissioners. Each ethics hearing officer shall be an impartial attorney who is an active member of the State Bar of Georgia for at least five (5) years. Ethics hearing officers shall not be current employees or current elected officials of the county nor shall they be former employees of former elected officials unless one (1) year has passed since they separation prior to the date of their appointment.~~

~~(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.~~

~~(dc ) Compensation, organization, and meetings. Members of the board of ethics Ethics hearing officers shall be paid a per diem in the amount of \$150.00 per matter. 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.~~

- (ed) *Term of appointment 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~~Ethics hearing officers shall serve at the pleasure of the board of commissioners.
- (fe) *Background Checks.* ~~Members~~Ethics hearing officers shall be subject to investigation sufficient to confirm their educational and employment histories and any history of criminal convictions.
- (gf) *Vacancies.* Any vacancy ~~on the board of ethics occurring before the end of the term of the departing member~~in the slate of ethics hearing officers shall be filled in the same manner as the original selection ~~for the remainder of the regular term.~~

- (hg) *Political Activities.* ~~Members of the board of ethics, during their term of office~~While appointed, ethics hearing officers are prohibited from making contributions to the political campaigns of any candidate for a county office.
- (ih) *Duties.* The duties of the ~~board of ethics~~ hearing officers 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;~~
- (21) 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 an ethics hearing officer, the board of subsequently assigned~~ ethics hearing officer shall be bound to follow the advisory opinion, unless it is established that material facts were omitted or misstated in the request for same;
- (32) to conduct hearings ~~its proceedings~~ in meetings open to the public;
- ~~(4) to prescribe forms necessary to carry out any function prescribed by this code of ethics;~~
- (53) to make available ~~to the public~~ for public inspection pursuant to the Open Records Act ~~information~~ public records disclosed pursuant to this code of ethics;

(64) 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

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

- (i) 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 hearing officers in the performance of their duties under this code of ethics.

#### **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 for the board of~~ ethics hearing officers, a written, sworn complaint under penalty of perjury, upon a form prescribed by the ~~board of ethics~~ county, which the secretary shall then forward to a randomly assigned ethics hearing officer.
- (b) With the written concurrence of at least three (3) other ethics hearing officers, ~~The board of an~~ ethics hearing officer may also initiate an investigation on ~~its his~~ or her own initiative by submitting to the secretary for the ethics hearing officers, a written notice of investigation using a form prescribed by the county.
- (c) Within five (5) business days following the filing of a complaint or notice of investigation, the subject of the complaint or investigation shall be notified by the secretary for the ethics hearing officers of the existence and nature of the complaint or investigation.

- (d) ~~The board of ethics shall, w~~Within sixty (60) days following the filing of a complaint ~~or initiation of an investigation on its own initiative,~~ the assigned ethics hearing officer shall issue a written initial determination as to ~~conduct a preliminary hearing to determine whether~~ specific, substantial evidence exists to ~~the allegations~~ support a reasonable belief that there has been a violation of this code of ethics and give notice to the ~~involved parties~~.
- (e) If an initial determination regarding a complaint is that the allegations therein ~~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 ~~thea~~ complaint ~~or subject matter of an investigation it has initiated,~~ ~~the involved parties shall be so advised in writing~~ ~~and the board of~~ the assigned ethics hearing officer shall schedule a formal hearing to further consider those claims or subjects for which such an initial determination has been made. The ~~board of~~ assigned ethics hearing officer 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. When an investigation has been initiated by an ethics hearing officer, said ethics hearing officer shall schedule a formal hearing and give notice in the same manner as a hearing for a filed complaint.
- (f) If an initial determination regarding a complaint is that the allegations therein ~~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 ~~do not~~ support a reasonable belief that there has been a violation of this code as to any

claim in ~~the~~ complaint ~~or subject matter of an investigation it has initiated~~, those claims shall be dismissed ~~or the investigation terminated~~ and the ~~involved~~ parties will be so advised in writing with the written initial determination.

- (g) Formal hearings shall be public, and all ~~involved~~ 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~~ An ethics hearing officer 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~~ The county shall bear the costs of issuing subpoenas and, if desired by the ~~board of~~ ethics hearing officer, 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 hearing officer shall deliberate upon ~~its- his or her~~ 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 of the ethics hearing officer shall ~~subsequently~~ be reduced to writing and provided to the parties within thirty (30) days of the conclusion of the formal hearing, which decision shall be final; provided, however, that the decision shall be subject to review through a petition for judicial review ~~by writ of certiorari~~ to the state or superior courts 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 county, ~~the board of an~~ ethics hearing officer may recommend to the board of commissioners or the appropriate appointing authority disciplinary action in accordance with the personnel rules, policies and procedures of the county 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 an~~ ethics hearing officer may recommend to the Department of Purchasing and Contract Compliance that debarment proceedings be commenced in accordance with applicable county ordinances ~~of Fulton County~~.
- (d) Any person who furnishes false or misleading information to an ethics hearing officer, fails to follow an opinion or decision issued by an ethics hearing officer, or



fails to comply with a subpoena issued by an ethics hearing officer shall, at the determination of the assigned hearing officer, be subject to the sanctions provided for at subsection (a) after notice and an opportunity to be heard.

**Sec. 2-83. Secretary for the ethics hearing officerto the board of ethics /L legal counsel; compliance advisors.**

(a) ~~The board of ethics shall select a~~ A secretary, who shall be under contract with or employed by the county and paid from funds approved by the board of commissioners. shall be made available to the ethics hearing officers, whose duties shall include

(1) the receiving of complaints, and requests for advisory opinions, notices of investigations and disclosure reports;

(2) impartially assigning matters to ethics hearing officers;

(3) —and the maintaining of all records and minutes of the meetings and proceedings of the board of ethics hearing officers: and

(4) submitting to the clerk to the commission copies of all records and minutes of the proceedings of the ethics hearing officer. No longer than five (5) business days following each meeting of the board of ethics, the secretary shall provide the clerk to the commission with a copy of all such records and minutes. The secretary shall be under contract with Fulton County to provide such services to the board of ethics and shall be compensated from funds approved by the board of commissioners.

(b) ~~The board of ethics shall be represented by independent legal counsel, selected by the board of ethics from those attorneys admitted to practice law in the State of Georgi. Said legal counsel shall be under contract with Fulton County to provide such services to the board of ethics and shall be compensated from funds approved by the board of commissioners.~~

(c) There shall be three (3) compliance advisors, who shall be attorneys in good standing with the State Bar of Georgia, and selected in the manner provided herein, with each being responsible for ruling on all procedural questions and ensuring that an ethics hearing officer is complying with applicable rules and laws during a matter or proceeding in which the particular compliance advisor is assigned. The compliance advisors shall be retained by the county pursuant to independent contractor agreements, with said positions advertised by the department of human resources then spread on the meeting minutes of the board of commissioners. The compliance advisors shall provide to the county their taxpayer ID numbers and are to be paid as vendors of the county and not through the county payroll system. They shall be provided with 1099 form by the county and shall not accrue any benefits. Said compliance advisors are not intended by this ordinance to be legal counsel for ethics hearing officers or to be advisors for purposes of a pending matter before any ethics hearing officer.

**Sec. 2-84. Lobbyist registration.**

(a) Every lobbyist, as defined in section 2-67, and who is required by the laws of the State of Georgia to be registered with the State Ethics Commission, shall also register with Fulton County. Registration with Fulton County shall be complete upon the filing of a copy of such person's registration filed with the State Ethics Commission, including each renewal of and supplement to same, with the Fulton County board of ethics secretary for the ethics hearing officers. Each such registration, as well as each renewal of and supplement to such registration filed with the State Ethics Commissions, shall be filed with the board of ethics secretary for the ethics hearing officers not more than three (3) business days

following the applicable deadline for filing same with the State Ethics Commission.

(b) The registration required by this code section shall not apply to:

- (1) Any person who expresses personal views, on that individual's own behalf, to the board of commissioners or any member thereof;
- (2) Any officer or employee of Fulton County, or any officer or employee of any other governmental agency or non-profit entity which is funded or partially funded by Fulton County, who appears before or provides information to the board of commissioners or a member thereof at the request of the board or a member thereof;
- (3) Any licensed attorney appearing before the board of commissioners on behalf of a client in any adversarial proceeding before the board, as well as any witness appearing in such a proceeding for the purpose of giving testimony;
- (4) Any elected official performing the official duties of their office; and
- (5) Any person employed or appointed by a registered lobbyist, but who is not a lobbyist as defined at section 2-67.

**Sec. 2-85. Lobbyist disclosure reports.**

Every lobbyist, as defined in section 2-67, and who is required by the laws of the State of Georgia to file disclosure reports with the State Ethics Commission, shall also file such disclosure reports with Fulton County. This requirement shall be complete upon the filing of a copy of each such disclosure report filed with the State Ethics Commission with the ~~Fulton County board of ethics~~secretary for the ethics hearing officers. Each such disclosure report shall be filed with the ~~board of ethics~~secretary for the ethics hearing officers not more than three (3) business days following the applicable deadline for filing same with the State Ethics Commission.

**Sec. 2-86. Denial, suspension, or revocation of registration / Reinstatement / Administrative sanction. (Added 7120105, item no. 05-0867)**

- (a) In addition to other penalties provided in this code of ethics, ~~an the board of~~ ethics hearing officer may by order deny, suspend, or revoke, for a period not to exceed one year, the registration of a lobbyist if it finds that the lobbyist has violated or failed to comply with the registration and disclosure requirements of section 2-84 or section 2-85. An ethics hearing officer may also impose an administrative sanction not to exceed \$1,000 per violation.
- (b) Following any period of suspension or revocation ordered pursuant to section 2-86(a), a lobbyist may apply to ~~the board of ethics~~ for reinstatement of registration. Such reinstatement application shall be conducted in the same manner as required for an initial registration under section 2-84 and shall be conditioned upon payment of any outstanding penalty or fees.
- ~~(c) Any person failing to comply with or violating any of the provisions of section 2-84 or section 2-85 shall be subject to an administrative sanction by the board of ethics not to exceed \$1,000.00 per violation.~~