

ORDINANCE NO. 13-327

ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STOCKBRIDGE, GEORGIA RELATING TO ETHICS SO AS TO PROVIDE FOR A NEW COMPREHENSIVE REGULATION OF ETHICS WITHIN THE OPERATIONS OF CITY GOVERNMENT; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority of the City of Stockbridge, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government; and

WHEREAS, duly elected governing authority of the City of Stockbridge, Georgia is the Mayor and City Council thereof; and

WHEREAS, the governing authority deems it essential to the proper operation of City government that the public officials be, and give the appearance of being, independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; and that public office not be used for personal gain; and

WHEREAS, such measures are necessary to provide the public with confidence in the integrity of its government; and

WHEREAS, the governing authority wishes to set forth policy for the City that its officials, employees, appointees, and volunteers conducting official City business serve others, rather than themselves, be independent, impartial, and responsible, use resources with efficiency and economy, treat all people fairly, use the power of their positions for the well-being of their constituents, and create an environment of honesty, openness, and integrity.

THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

SECTION 1. Ordinance. That Title 2, Chapter 2.40 of the current Code of Ordinances, City of Stockbridge regarding Ethics be deleted in its entirety, and a new Title 2, Chapter 2.40 be added to the Code of Ordinances, City of Stockbridge, so as to read as follows:

2.40.010 - Purpose.

The purpose of this code of ethics is to:

- (a) Encourage high ethical standards in official conduct by city officials;
- (b) Establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the interest of the city;
- (c) Require disclosure by such officials of private financial or other interest in matters affecting the city; and
- (d) Serve as a basis for disciplining those who refuse to abide by its terms.

2.40.020 – Scope.

The provisions of this code of ethics shall be applicable to all elected or appointed city officials.

Notwithstanding anything herein to the contrary, state law and the charter or the city shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This ordinance shall be interpreted to supplement, and not replace, said provisions of state law and the charter.

2.40.030 – Definitions.

Solely for the purpose of this code of ethics:

- (a) *City official* or *official*, unless otherwise expressly defined does not include city employees but does mean the mayor, members of the city council, municipal court judges (including substitute judges), city manager, city clerk, city attorney, and all other persons holding positions designated by the city charter, as amended. The term “city official” also includes all individuals, including city employees, appointed by the mayor and/or city council as appropriate to city authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the mayor and/or city council.
- (b) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.
- (c) *Employee* means any person who is a full-time or part-time employee of the city.
- (d) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter of any city official related by blood, adoption, or marriage. The relationship by marriage shall include in-laws.
- (e) *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.
- (f) *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, or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.
- (g) *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 ownership of five percent or more of the voting stock, shares, or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity; or
- (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 (b) ten percent of the recipient's gross income during that period, whichever is less;
- (3) 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
- (4) the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

2.40.040 – Prohibitions.

- (a) No city official shall use such position to secure special privileges or exemptions for himself or herself or other, or to secure confidential information for any purpose other than official duties on behalf of the city.
- (b) No city official, in any matter before the council or other city body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable.
- (c) No city official shall act as an agent or attorney for another in any matter before the city council or other city body.
- (d) No city official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
- (e) No city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city except as authorized by state law.
 - (i) This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.
 - (ii) 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, city administrator, or chief of police).
 - (iii) Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city clerk.
- (f) All public funds shall be used for the general welfare of the people and not for personal economic gain.
- (g) Public property shall be disposed of in accordance with state law.
- (h) No city official shall solicit or accept other employment to be performed or compensation to be received, while still a city official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of city duties.

- (i) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity, or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the city council and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
- (j) No city official shall use city facilities, personnel, equipment, or supplies for private purposes, except to the extent such are lawfully available to the public.
- (k) No city official shall grant or make available to any person any consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public at large.
- (l) A city official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.
- (m) A city official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family, or those with whom the official has business or financial ties amounting to a substantial interest.
- (n) A city official shall not order any goods or services for the city without prior authorization for such an expenditure. No city official shall attempt to obligate the city nor give the impression of obligating the city without proper prior authorization.
- (o) No city official shall draw travel funds or per diem from the city for attendance at meetings, seminars, training, or other educational events and fail to attend such events without promptly reimbursing the city therefor.
- (p) No city official shall attempt to unduly influence the outcome of a case before the Municipal Court of the City of Stockbridge nor shall any city official engage in ex parte communication with a municipal court judge of the City of Stockbridge on any matter pending before the Municipal Court of the City of Stockbridge.

2.40.050 – Conflict of Interest.

- (a) A city official may not participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.
- (b) A city official who serves as a corporate officer or member of the board of directors of a nonprofit entity must disclose their interest in said entity to the mayor and council prior to participating in a vote or decision regarding funding of the entity by or through the city.
- (c) Where the interest of a city official in the subject matter of a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

2.40.060 – Board of Ethics.

- (a) The Board of Ethics of the city shall consist of three (3) residents of the city, one appointed solely by the mayor, one appointed solely by the city council, and the third appointed by the mayor and approved by a majority of the city council.

- (b) All members of the Board of Ethics shall be residents of the city for at least one (1) year immediately preceding the date of taking office and shall remain a resident while serving on the Board.
- (c) All members of the Board of Ethics shall serve a four-year term.
- (d) No person shall serve as a member of the Board of Ethics if the person has, or has had within the preceding one (1) year period, any interest in any contract or contracting opportunity with the city or has been employed by the city.
- (e) Members of the Board of Ethics with any permit or rezoning application pending before the city, or any pending or potential litigation against the city or any city official charged in the complaint shall be disqualified from serving on the Board of Ethics for that complaint. An alternate member of the Board of Ethics shall be selected in the same manner as the disqualified individual.
- (f) The members of the Board of Ethics shall serve without compensation. The city council shall provide meeting space for the Board of Ethics and, subject to budgetary procedures and requirements of the city, such supplies and equipment as may be reasonably necessary for the Board to perform its duties and responsibilities.
- (g) No person shall serve on the Board of Ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.
- (h) No person shall serve on the Board of Ethics who is less than 21 years of age, who holds a public elective office, who is physically or mentally unable to discharge the duties of a member of the Board of Ethics, or who is not qualified to be a registered voter in the City of Stockbridge.
- (i) Upon appointment, members of the Board of Ethics shall sign an affidavit attesting to their qualification to serve as a member of the Board of Ethics.
- (j) Members of the Board of Ethics may be removed by majority vote of the city governing authority.

2.40.070 – Receipt of Complaints.

- (a) All complaints against city officials shall be filed with the city clerk, who will give it to the mayor and council. The mayor and council may require that oral complaints, and complaints illegibly or informally drawn, be reduced to a memorandum of complaint in such form as may be prescribed by the city council. Upon receipt of a complaint in proper form, the city clerk or clerk's designee shall forward a copy of the complaint to the chairman of the Board of Ethics, and to the city official or officials charged in the complaint, within no more than seven (7) calendar days.
- (b) All complaints shall be submitted and signed under oath, shall be legibly drawn, and shall clearly address matters within the scope of this ordinance.
- (c) Upon receipt of a complaint in proper form, the Board shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the city council. The Board of Ethics is empowered to dismiss in writing complaints that it determines are unjustified, frivolous, patently unfounded, or failing to state facts sufficient to invoke the disciplinary jurisdiction of the city council; provided, however, that a

rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official. For complaints that are not dismissed, the Board of Ethics is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigations to the file containing such complaint.

- (d) Upon completion of its investigation of a complaint, the Board of Ethics is empowered to dismiss in writing those complaints which it determines are unjustified, frivolous, patently unfounded, or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the city council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official.
- (e) The Board of Ethics is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.
- (f) The Board of Ethics is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the city council has not prescribed such forms.
- (g) Findings of the Board of Ethics shall be submitted to the city council for action.
- (h) 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.

2.40.080 – Service of Complaint.

The city clerk or Board of Ethics as appointed herein set forth shall cause the complaint to be served on the city official charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, verified complaint. Service may be by personal service, by certified mail, return receipt requested, or by statutory overnight delivery. A hearing shall be held within sixty (60) calendar days after the filing of the complaint. The Board of Ethics shall conduct hearings in accordance with the procedures and regulations it establishes but, in all circumstances, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The decision of the Board of Ethics shall be rendered to mayor and council within seven (7) calendar days after completion of the final hearing. At any hearing held by the Board of Ethics, the city official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven (7) calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses, and to oppose or try to mitigate the allegations. The city official subject to the inquiry shall also have the right but not the obligation of submitting evidence and calling witnesses. Failure to comply with any of the time deadlines in this section of the ordinance shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Board of Ethics or the city council to act upon any complaint.

2.40.090 – Right to Appeal.

- (a) Any city official or complainant adversely affected by the findings or recommendations of the Board of Ethics may obtain judicial review of such decision as provided in this section.
- (b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Henry County within thirty (3) days after the decision of the Board of Ethics. The filing of such application shall act as a supersedeas.

2.40.100 – Penalty.

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

- (a) Public reprimand or censure by the city council; or
- (b) Request for resignation by the city council.

SECTION 2. Intention of the Governing Body. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Stockbridge, Georgia, and the sections of the ordinance may be renumbered to accomplish such intention.

SECTION 3. Approval of Execution. The Mayor is hereby authorized to sign all documents necessary to effectuate this Ordinance.

SECTION 4. Attestation. The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this ordinance, subject to approval as to form by the City Attorney.

SECTION 5. Codification and Severability.

(a) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were upon their enactment believed by the City Council to be fully valid, enforceable and constitutional.

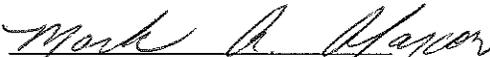
(b) It is hereby declared to be the intention of the City Council that to the greatest extent allowed by law each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the City Council that to the greatest extent allowed by law no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.

(c) In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that to the greatest extent allowed by law all remaining Sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

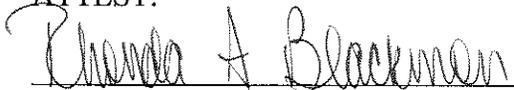
SECTION 6. Repeal of Conflicting Provision. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. Effective Date. This ordinance shall become effective immediately upon its adoption by the City Council and final approval as provided in Section 3.23 of the City's Charter.

SO ORDAINED this 24 day of July, 2013.


MARK A. ALARCON, Mayor

ATTEST:


RHONDA A. BLACKMON, City Clerk (SEAL)

APPROVED AS TO FORM:


WILLIAM J. LINKOUS, III, City Attorney

6898.00001/769121v1