

DIVISION 2. - CODE OF ETHICS

Sec. 2-111. - Purpose.

The purpose of this code of ethics is to:

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

Sec. 2-112. - Scope.

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

Notwithstanding anything herein to the contrary, state law 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.

Sec. 2-113. - Definitions.

Solely for the purpose of this code of ethics:

- (1) *County official or official*, unless otherwise expressly defined, means the chairman and commissioners of the board of commissioners. The terms "county official" or "official" also include all individuals appointed by the chairman of the board of commissioners and/or board of commissioners as appropriate to county boards, commissions, and authorities, or other bodies which can or may vote or take formal action or make official recommendations to the board of commissioners. The terms do not include other county elected officials, county employees, the county attorney, the executive assistant to the board of commissioners, the comptroller, or department heads or chief executive officers, by whatever names designated, of the various departments of the county.
- (2) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the board of commissioners or other county board, commission, or authority, as well as the discussions or deliberations of a county board, commission, or authority which can or may lead to a vote or formal action by that body.
- (3) *Employee* means any person who is a full-time or part-time employee of the county.
- (4) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter of any county official related by blood, adoption or marriage. The relationship by marriage shall include in-laws. An "in-law" is the sibling of one's spouse, but extends no further.
- (5) *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.
- (6) *Remote interest* means an interest of a person or entity, including a county 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 county fees, county 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.
- (7) *Substantial interest* means an interest, either directly or through a member of the immediate family, in another person or entity, where:
 - a. 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
 - b. The funds received by the person from the other person or entity during the previous 12 months that 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;

- c. 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 board of commissioners; or
- d. The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

Sec. 2-114. - Prohibitions.

- (a) No county official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the county.
- (b) No county official, in any matter before the board of commissioners or other county 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 county official shall act as an agent or attorney for another in any matter before the board of commissioners or other county body.
- (d) No county 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 county official shall enter into any contract with, or have any interest in, either directly or indirectly, the county except as authorized by state law. Any official who has a proprietary interest in an agency doing business with the county shall make that interest known in writing to the board of commissioner via the clerk of the board of commissioners.
- (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 county official shall solicit or accept other employment to be performed, or compensation to be received, while still a county official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of county duties.
- (i) If a county 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 board of commissioners and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
- (j) No county official shall use county facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- (k) No county 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 county 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 county 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 county official shall not order any goods and services for the county without prior official authorization for such expenditure. No county official shall attempt to obligate the county nor give the impression of obligating the county without proper prior authorization.
- (o) No county official shall draw travel funds or per diem from the county for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the county therefore.

Sec. 2-115. - Conflict of interest.

- (a) A county 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 county 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 board of commissioners prior to participating in a vote or decision regarding funding of the entity by or through the county.
- (c) Where the interest of a county official in the subject matter of a vote or decision is remote or incidental, the county official may participate in the vote or decision and need not disclose the interest.

Sec. 2-116. - Board of ethics.

- (a) The board of ethics shall consist of three residents of the county, one appointed by the chairman of the board of commissioners, one appointed by a majority vote of the four post commissioners (excluding the chairman), and the third nominated by the two named board members and confirmed by the board of commissioners. The third member of the board of ethics shall be a member in good standing of the State Bar of Georgia.
- (b) All members of the board of ethics shall be residents of the county for at least one 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-year period, any interest in any contract or contracting opportunity with the county or has been employed by the county.
- (e) Members of the board of ethics with any permit or rezoning application pending before the county, or any pending or potential litigation against the county or any county 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 board of commissioners shall provide meeting space for the board of ethics and, subject to budgetary procedures and requirements of the county, 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 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.
- (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 Gilmer County.
- (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 county governing authority.

Sec. 2-117. - Receipt of complaints.

- (a) All complaints against county officials shall be in writing and filed with the clerk of the board of commissioners, who shall give a copy of the complaint to the chairman of the board of commissioners as well as each member of the board of commissioners. Upon receipt of a complaint

in proper form, the county clerk or the clerk's designee shall forward a copy of the complaint to the county official or officials charged in the complaint within than seven calendar days. In order for a complaint to be reviewed by the board of ethics, it must comply with the following requirements:

- (1) The complaint must be legible and signed under oath;
 - (2) The complaint shall include reference to the specific section of statute, ordinance, or rule alleged to have been violated;
 - (3) The complaint shall contain a short and plain statement of the matters, facts, and issues asserted.
 - (4) In order for the board of ethics to have jurisdiction over an alleged ethics violation, the complaint must be filed with the clerk of the board of commissioners no later than 180 days after the occurrence of the incident giving rise to the alleged violation.
- (b) Upon the filing of a complaint, the board shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded, fails to state facts sufficient to invoke the disciplinary jurisdiction of the board of commissioners, or fails to satisfy the requirement of subsection (a). The board of ethics is empowered to dismiss in writing complaints that it determines are unjustified, frivolous, patently unfounded, fail to state facts sufficient to invoke the disciplinary jurisdiction of the board of commissioners, or fail to meet the filing requirements of subsection (a); 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 county 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.
- (c) 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 board of commissioners; 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 county official.
- (d) The board of ethics is empowered to conduct investigations, to take evidence, to administer oaths, and to hold hearings to address the subject matter of a complaint.
- (e) 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 board of commissioners has not prescribed such forms.
- (f) Findings of the board of ethics shall be submitted to the board of commissioners for action.
- (g) To discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted for filing against a person seeking election as a county official, whether currently serving as a county 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.

Sec. 2-118. - Service of complaint and hearing procedures.

The clerk of the board of commissioners shall cause the complaint to be served upon the county official charged as soon as practicable but in no event later than seven calendar days after receipt of a complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery. Where the board of ethics makes an initial determination that a complaint is unjustified, frivolous, patently unfounded, fails to state facts sufficient to invoke the disciplinary jurisdiction of the board of commissioners, or fails to satisfy the requirement of subsection 2-16(a), the board has discretion to dismiss the complaint without a hearing. Otherwise, a hearing shall be held within 60 calendar days after filing of the complaint. The board of ethics shall conduct hearings in accordance with the procedures and regulations it establishes. When hearings are conducted, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The final decision of the board of ethics

shall be filed with the clerk of the board of commissioners within seven calendar days after completion of the final hearing. At any hearing held by the board of ethics, the county official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses and, to oppose or try to mitigate the allegations. The county 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 board of commissioners to act upon any complaint.

Sec. 2-119. - Right to appeal.

- (a) Any county 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 Gilmer County within 30 days after the filing of the written decision of the board of ethics with the clerk of the board of commissioners. The filing of such application shall act as a supersedeas.

Sec. 2-120. - Penalty.

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

- (1) Public reprimand or censure by the board of commissioners;
- (2) Request for resignation by the board of commissioners; or
- (3) If the county official is an individual appointed by the chairman of the board of commissioners and/or board of commissioners as appropriate, to a county board, commission, or authority, involuntary removal from office at the discretion of the original appointing authority.

Secs. 2-121—2-200. - Reserved.