

**UPDATED ETHICS REGULATIONS CODE AMENDMENT AND RESOLUTION**

A Resolution and Amendment to the Code of Ordinances for Madison, Georgia, replacing Section 2-1 and following, a comprehensive Article setting forth updated ethics requirements for all members of the Mayor and Council, Planning Commission, Municipal Court Judge and all City Officials as defined in Exhibit A hereto, so as to (1) encourage high ethical standards in official conduct by City 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 best interest of the City; (3) require disclosure by such Officials of private financial or other interests in matters that affect the City; and (4) serve as a basis for disciplining those who refuse to abide by its terms.

WHEREAS, the City Code of Madison, was adopted by the Mayor and Council and provides that any portion may be amended from time to time; and the Mayor and Council find that the following amendment promotes the health, safety, morals, convenience, order, prosperity and general welfare of the citizens;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council that the Code is hereby amended by adding replacing Section 2-1 and following, a comprehensive Article setting forth updated ethics requirements. it is the policy of the city that its officials, employees, appointees, and volunteers conducting official city business: Serve others and not themselves; Be independent, impartial and responsible; Use resources with efficiency and economy; Treat all people fairly; Use the power of their position for the well being of their constituents; and Create an environment of honesty, openness and integrity. All code sections, ordinances, resolutions, or parts of code sections, ordinances or resolutions in conflict with this Amendment are hereby repealed. This Amendment shall become effective immediately upon passage. This Amendment is deemed to be severable, and if any section, subsection, paragraph, clause or provision of this Amendment shall be adjudged invalid or held unconstitutional, such decision shall not affect the remaining portions of this Amendment.


**ADOPTED AND APPROVED** by the Mayor and Council of the City of Madison, Georgia, on February 14, 2011.

**CITY OF MADISON, GEORGIA**

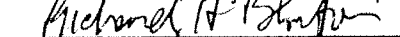
By:



Bruce E. Gilbert, Mayor



Fred Perriman, Mayor Pro Tempore



Richard H. Blanton, Council Member



Lowry W. Hunt, Jr., Council Member



Michael J. Naples, Council Member



Constance A. Booth, Council Member

Attest: Mellie A. Thomas  
Mellie A. Thomas, City Clerk  
[AFFIX CITY SEAL]



## Exhibit A

### Section 2-1 Code of Ethics

**a) Declaration of policy.** It is the policy of the City that the proper operation of government requires that public officials be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a Code of Ethics for all City Officials is re- adopted with updates.

This section has the following purposes: (1) to encourage high ethical standards in official conduct by City Officials; (2) to establish guidelines for ethical standards of conduct for all such Officials by setting forth those acts or actions that are incompatible with the best interest of the City; (3) to require disclosure by such Officials of private financial or other interests in matters that affect the City; and (4) to serve as a basis for disciplining those who refuse to abide by its terms. The provisions of this Article shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns or the conduct of candidates in such campaigns.

**b) Scope of persons covered.** This Code of ethics shall be applicable to all members of the Council, Planning Commission, Municipal Court Judge and all City Officials as defined below (hereinafter sometimes "Covered Persons"). Notwithstanding anything herein to the contrary, state law and the charter of the city shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This Article shall be interpreted to supplement, and not replace, said provisions of state law and the charter.

**c) Definitions.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**1) City Official or Official,** unless otherwise expressly defined, means the Mayor, members of the Council, City Manager, Assistant City Managers, City Clerk, Deputy City Clerks, City Attorney (whether such persons are salaried, hired or elected) and all other persons holding positions designated by the city charter, as it may be amended from time to time.

**2) Entity** means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust, LLC, LLP, LLLP or any other Entity recognized by law through which business may be conducted.

**3) Decision** means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the City Council or Planning Commission, as well as the discussions or deliberations of such council, board, or commission which can or may lead to a vote or formal action by that body.

**4) Discretionary Authority** means the power to exercise any judgment in a Decision or action.

**5) Immediate Family** means spouse, mother, father, brother, sister, son, or daughter of any City Official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.

**6) Remote Interest** means an interest of a person or Entity, including a City Official, who would be affected in the same way as the general public. The interest of a council member in property tax rate, general city fees, city utility charges, or a comprehensive zoning ordinance or similar Decisions is incidental to the extent that the council member would be affected in common with the general public.

**7) Incidental Interest** means an interest in a person, Entity or property which is not substantial and which has insignificant value.

**8) Substantial Interest** means a known interest, either directly or through a member of the Immediate Family, in another person or Entity: (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 or more of the equity or market value of the Entity; or (2) funds received by the person from the other person or Entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$5,000 in payment for goods, products, or nonprofessional services, or 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 the for-profit Entity other than a corporate Entity owned or created by the Council; or (4) the person is a creditor, debtor, or guarantor of the other person or Entity in an amount of \$5,000 or more. Substantial Interest in real property means an interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

#### **d) Standards of conduct**

(1) No Covered Person shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than Official responsibilities.

(2) No Covered Person, in any matter before the council, board or commission in which he has a Substantial Interest, shall fail to disclose for the common good for the record such interest prior to any Decision.

(3) No Covered Person shall act as an agent or attorney for another in any matter before the Council or any board or commission.

(4) No Covered Person 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.

(5) No Covered Person shall enter into any contract with the City except as specifically authorized by law. Any Covered Person who has a substantial interest in an entity doing business with the City shall make known that interest in writing to the Council and City Clerk. (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.

(6) All public funds shall be used for the general welfare of the people and not for personal economic gain.

(7) Public property shall be disposed of in accordance with Georgia law.

(8) No Covered Person shall solicit or accept other employment to be performed or compensation to be received while still a Covered Person, if the employment or compensation could reasonably be expected to impair in judgment or performance of City duties.

(9) If a Covered Person 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 said Covered Person might reasonably be expected to act, investigate, advise, or make a recommendation, said Covered Person shall disclose the fact to the board or commission on which he serves or to his supervisor and shall not participate in any action on matters regarding the potential future employer.

(10) No Covered Person shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(11) No Covered Person 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.

(12) No Covered Person shall disclose any confidential information concerning any person, or any property or governmental affairs of the City, without prior formal authorization of the Council.

(13) No Covered Person shall use or permit the use of confidential information to advance the financial or personal interest of himself or any other person.

(14) No Covered Person shall appoint or vote for the appointment of any person related to him by blood or marriage to fill an office, position, employment or duty when the salary, wages, pay or compensation is to be paid out of public funds.

(15) A Covered Person 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.

(16) A Covered Person shall not order any goods and services for the city without prior official authorization for such expenditure. No city official shall attempt to obligate the city nor give the impression of obligating the city without proper prior authorization.

(17) No Covered Person 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.

(18) No Covered Person shall attempt to influence the outcome of a case before the Municipal Court of the City nor engage in ex parte communication with a municipal court judge on any matter pending before the Municipal Court.

**e) Prohibition of conflict of interest.** A Covered Person may not participate in a Decision on a matter affecting a person, Entity, or property in which said person has a Substantial Interest; in addition, a Covered Person who serves as a corporate officer or member of the board of directors of a nonprofit Entity may not participate in a vote or Decision regarding funding by or through the City of said Entity. Where the interest of a Covered Person in the subject matter of a Decision is Remote or Incidental, the person may participate in the Decision and need not disclose the interest.

**f) Exemptions.** This code shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civil or political organization, or any similar organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of a business enterprise or governmental agency.

**g) Severability.** The provisions of this chapter are severable. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application.

**(h) Ethics Committee.**

- (1) The Mayor and Council shall appoint an Ethics Committee consisting of three (3) persons, to serve without compensation. At least one member is encouraged to be an attorney in good standing with the State Bar of Georgia. All members shall be 21 or older, and residents of the City of Madison registered to vote in Madison, and shall serve a three-year term. No person shall serve who holds a public elective office, or who is physically or mentally unable to discharge the duties of a member.
- (2) Prospective members shall be identified and their names submitted to the Clerk within 30 days of the date on which a vacant position occurs. The Clerk will sound their names at the next regularly scheduled council meeting.
- (3) Nominees shall be subject to an education and employment background check as well as a criminal history check to ensure no felony record, and no misdemeanor convictions involving moral turpitude. Nominees shall execute all releases necessary to accomplish the same.
- (4) The Clerk shall assemble all relevant information and present it to the Mayor and Council contemporaneously with the presentation of the nominee for consideration.
- (5) Members of the Ethics Committee must be approved by at least a four-fifths vote of the Mayor and Council and shall be appointed in staggered term lengths initially in such manner as to permit one term to terminate each year. Upon appointment, members of the Ethics Committee shall sign an affidavit attesting to their qualification to serve.
- (6) The position of a member of the committee shall be deemed vacated:
  - a. Upon the expiration of his or her term;
  - b. Upon the death of a member or the disability or incapacity of a member for more than 90 days;
  - c. Upon the written resignation of the member;
  - d. By the member ceasing to be a resident of the city; or
  - e. Upon removal of the member for good cause by a majority vote of the Mayor and Council.
- (7) Ethics Committee Members shall be prohibited from engaging in city election political activities and from making campaign contributions to candidates in city elections during their terms as Committee members. Violations of this subsection may be punished by removal from committee membership by a majority vote of the Mayor and Council.

**(i) Receipt of Complaints.**

- (1) All complaints shall be verified under oath in front of a notary public, and filed in writing with the City Clerk and referred to the Ethics Committee. All written complaints shall contain a clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law, a reference to the statutory provision(s) allegedly violated, any further information which might support the allegations in the complaint including, but not limited to, name and address of all other persons who have first hand knowledge of the facts alleged in the complaint and any documentary evidence that supports the facts alleged in the complaint.
- (2) The Ethics Committee may require that complaints illegibly or informally drawn be reduced to a complaint in proper form. The Ethics Committee shall in such instance advise the complainant of the defect in the complaint and that the complaint will not be considered unless the defect is corrected.

- (3) Upon receipt of a complaint, the Ethics Committee shall send a copy of the complaint to the accused affording an opportunity to respond to the complaint within seven days in writing if desired. Responses or other documents submitted by the complainant or the accused after the seven-day period may be disregarded during the preliminary investigation.
- (4) Upon receipt of a complaint in proper form and notice to the accused and the passage of more than seven days, the Ethics Committee shall within two weeks of receipt of the original complaint:
  - a. Review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to show there may be probable cause to invoke the disciplinary action, or is to be considered for further investigation.
  - b. Be empowered to dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to show there may be probable cause to invoke the disciplinary jurisdiction of the Mayor and Council; provided, however, that a rejection of such complaint by the Ethics Committee shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the accused.
  - c. Be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint.
  - d. Be empowered to hold hearings after at least 7 days prior notice of the date, time and place thereof, personally hand delivered to the alleged violator. It shall conduct the hearing in accordance with the procedures and regulations it establishes but, in all circumstances, the hearing shall include the taking of testimony and the cross-examination of witnesses. The accused and the complainant shall have the right to be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation. The Ethics Committee shall be empowered to adopt forms for formal complaints, subpoenas, notices, and any other instruments under these rules.
  - e. Make recommendations to the Mayor and Council to invoke disciplinary action as described hereinafter.
  - f. All recommendations by the Ethics Committee shall be taken within thirty (30) days of receipt of the complaint.

**(j) Service of Recommendation; Hearings and Disposition of Complaints.**

- (1) The recommendation by the Ethics Committee shall be reduced to writing and served upon all parties in interest and to the City Clerk and to the Mayor and Council within five (5) days of reaching a recommendation. Service shall be by personal service.
- (2) The Mayor and Council shall take action upon the recommendation of the Ethics Committee at the next regular meeting of Mayor and Council following receipt of the recommendation, by discussing the recommendation from the Committee based on the evidence presented at the hearing, as summarized by the presiding officer of the Committee. Notice thereof shall be personally served upon the complainant and the accused.
- (3) The Mayor and Council shall deliberate in public, and reach a majority decision by public vote.
- (4) The decision of the Mayor and Council shall be tendered to the accused and to the complainant within five (5) days after completion of the hearing.
- (5) Failure to comply with any of the time deadlines in this ordinance shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Ethics Committee or the city council to act upon any complaint.

**(k) Right to Appeal.**

- (1) Any accused or complainant adversely affected by the decision may obtain judicial review of such decision as provided in this Section. Decisions of the Mayor and Council shall be reviewable by the Superior Court of Morgan County upon notice in writing via a Petition for Certiorari granted within thirty (30) days of receipt of notice of the decision of the Mayor and Council. The grant of such petition shall act as a supersedeas, staying the enforcement of the decision appealed from.
- (2) Review by the Superior Court shall be limited to inquiry of whether there was any evidence before the Mayor and Council which supported the decision of the Mayor and Council.
- (3) Provided, however, no action of the Mayor and Council refusing or failing to take action pursuant to this Code of Ethics shall be reviewable by the Superior Court.

**(l) Penalties.**

Any person found to have violated any provisions of this ordinance may be subject to written and oral reprimand or public censure by the Mayor and Council and/or request for resignation by the Mayor and Council.