

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2014-288

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, PART II, CHAPTER 70 "PERSONNEL" BY DELETING THE EXISTING ARTICLE II "CODE OF ETHICS", AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE II "CODE OF ETHICS"; TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE CLAYTON COUNTY

BOARD OF COMMISSIONERS AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting the existing Part II, Chapter 70 "Personnel", Article II "Code of Ethics", and substituting in lieu thereof a new Article II "Code of Ethics" to read as follows:

"Sec. 70-61. Declaration of Policy.

It is essential to the proper government and administration of the county that the county's officials and employees covered by this article be, and give the appearance of being, independent and impartial, that public service not be used for private gain, and that there be public confidence in the integrity of the County government. 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 officials or employees, the public interest requires that the County protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of the officials and employees covered by this article in situations where a conflict may exist. 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 set forth in this article must be interpreted and understood as to not unreasonably

frustrate or impede the desire or inclination of those best qualified to seek and serve in public office. To that end, the officials and employees noted in this article should not, except as otherwise provided by law, be denied the opportunity available to all other citizens to acquire and maintain private, economic and other interests, except where a conflict of interest appears. The policy and purpose of this article, therefore, is to make clear those standards of ethical conduct that shall apply to the officials and employees noted in this article in the discharge of their official duties, to comport with the object of protecting the integrity of County government, and to prescribe only such essential restrictions as will not impose barriers repugnant to conscientious public service.

Sec. 70-62. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust or other legal entity.

Business transaction means to convey, acquire, or lease (for compensation or by gratuity) any personal property, real property, or provide services (for compensation or by gratuity) on behalf of oneself or any third party as an agent, broker, dealer, or representative.

Confidential information means any information which by law is not subject to disclosure under the Georgia Open Records Act, the Freedom of Information Act, or otherwise is unavailable to the public pursuant to any other state or federal law.

Employee means any County employee under the jurisdiction of the Board of Commissioners **exempt from the civil service system**. Those employees which are not exempt from the civil service system are expected and required to follow the Civil Service Rules and Regulations.

Family means a person who is related to an official or employee as spouse or as any of the following whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

Gift means the transfer of anything of economic value which could, to a reasonable person, have influence on the performance of the official or employee's duties, regardless of form, without consideration. "Gift" also means a subscription, membership, discount on personal services, loan, forgiveness of debt, advance or deposit of money, or anything of value, conveyed or transferred.

Interest means any financial interest or personal interest or any other direct or indirect pecuniary or material benefit held by or accruing to an official 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 any remote interest. For purposes of this Code of Ethics, the term “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 / Entity employing or retaining the services of the officer or employee, or to the family of the officer or employee; and, the term “personal interest” means any interest arising from relationships between the officer or employee and members of his or her 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:

- a) Any person in his or her family.
- b) Any Person / Entity 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
- c) Any business in which he or she is a director, officer, employee, prospective employee or substantial shareholder.

Official means members of the Board of Commissioners, other elected or appointed County officials, and members of any County board or authority. The Clayton County Sheriff, Tax Commissioner, Clerk of Superior Court and Probate Court Judge as elected constitutional officers are specifically excluded from this definition.

Person / Entity means any individual, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, trust, or other legal entity.

Transact means to conduct or carry on business.

Sec. 70-63. **Impartiality.**

No official or employee, by such official’s or employee’s conduct, shall give the impression he or she could be improperly influenced by any Person / Entity, or give the impression that any Person/Entity could unduly benefit from such official’s or employee’s favor in the performance of the official’s or employee’s acts or actions, or that such official or employee is affected unduly by the kinship, rank, position or association with any Person / Entity.

Sec. 70-64. **Acquiring an interest.**

No official or employee shall influence, accept or acquire an interest in any business transaction if such an interest in any business transaction is affected directly or indirectly by his\her official act or actions.

Sec. 70-65. Abstention.

An official or employee who has a relationship with a Person / Entity or an interest in a matter which may be affected by such official's or employee's official acts or actions, or by the official acts or actions of the County, shall disclose the relationship or interest and shall abstain from participating in such official acts or actions affected thereby including engaging in any discussions or debates regarding same. That relationship or interest shall be disclosed by such official or employee prior to there being taken any official act or actions or immediately upon such official or employee becoming aware of the relationship or interest.

Sec. 70-66. Representation.

- a) No official or employee shall appear on his or her own behalf, or represent, or appear on behalf of any Person / Entity, whether paid or unpaid, concerning any contract, matter or transaction which is or may be the subject of an official act or action of the County, except in the regular discharge of their official duties. No official or employee shall otherwise use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or other Person /Entities; provided, however, that this subsection shall not prohibit an official or employee from appearing on his or her own behalf, concerning any contract, matter or transaction, unless such official or employee knows or should know that the contract, matter or transaction is under his or her official responsibility.
- b) No official or employee shall represent any Person / Entity or business, whose interests are in conflict with the interest of the County, in any proceeding or litigation in which the county or any agency of the county is a party, or in any action, proceeding, or litigation in which the complainant is the County or any agency of the county.
- c) The restrictions set forth in this section shall be in effect for a period of two years after the voluntary / involuntary 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. 70-67. Incompatible employment.

No official or employee shall solicit, request, or accept employment with, or render services to, any Person / Entity, business, or professional association when doing so is adverse to and incompatible with the discharge of his or her official duties.

Sec. 70-68. Nepotism.

- a) No official or employee shall exert influence, directly or indirectly, concerning the hiring, advancement, promotion, or transfer of a member of his or her family to any office or position with the County or a County agency.
- b) No official or employee having authority to appoint or nominate for appointment members of any county board, commission, or authority shall appoint or nominate for appointment a member of his or her family.

Sec. 70-69. Confidential information.

Except as required by the state's Open Records Act (O.C.G.A. §50-18-70 et seq.) or other properly enacted statutory authority, no official or employee shall disclose or otherwise use confidential information acquired by virtue of his or her position with the county, for his, her, or another Person / Entity private gain, or in order to advance his or her financial or personal interests or the financial or personal interests of any Person / Entity or business, under any circumstances.

Sec. 70-70. Disclosure.

- a) Any official or employee subject to this Code of Ethics, whether for himself/herself or on behalf of any business in which such official or employee, or any member of his/her family has an interest, who transacts business with the County, or any board or authority of the County, shall disclose such transaction. Such disclosure shall be submitted prior to January 31st of each year to the Clerk of the Board of Commissioners on such forms as shall be prescribed by the Board of Ethics or upon knowledge that said transaction exists. The disclosure shall include an itemized list of the previous year's transactions with the dollar amount of each transaction reported and totaled. Such disclosure statement shall be deemed a public record. Additionally, prior to entering into any transaction with the County, or any board or authority of the county, for him/herself or on behalf of any business in which such official or employee, or any member of his/her family has any interest, such official or employee shall disclose his/her membership on a County board or authority, or his/her position of employment with the County to the clerk of the Board of Commissioners. In the event that there is nothing to disclose the form shall be marked to indicate not applicable and submitted in the same manner as described above. The Clerk of the County Commission shall file a report with the Board of Ethics no later than February 15th of each year detailing any noncompliance. At the same time notice shall be sent via certified mail to any noncompliant Official, Employee or Appointed Board Member that they are required to comply immediately. In addition to the provisions of Sec 70-76, any appointed Board Member who is noncompliant as of March 1st each year shall be suspended from participation in any board activity until they are in full compliance.

- b) Any person who fails to file a disclosure statement as required in subsection (a) of this section shall be subject to recourse as provided for in section 70-76.

Sec. 70-71. Rewards or Gifts.

- a) No employee or official shall accept any gift, favor or reward other than his/her regular salary, or as provided for by Georgia law, for any service rendered as an employee or official of Clayton County Georgia.
- b) The following shall not be deemed a violation of the standards of this section:
 - 1. Legitimate salary, benefits, fees, commissions, or expenses associated with an official's or employee's privately owned business;
 - 2. An award, plaque, certificate, memento, or similar nontransferable item given in recognition of the official's or employee's civic, charitable, political, professional or public service;
 - 3. Food, beverages, and registration at group events to which all similarly situated officials or employees are invited;
 - 4. Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a County government related meeting which are provided to an official or employee so that he or she may participate or speak at the meeting;
 - 5. A commercially reasonable loan made in the ordinary course of business;
 - 6. Promotional items distributed to officials or employees generally;
 - 7. A gift from a member of the official's or employee's family; or
 - 8. Food, beverage, or expenses afforded officials or employees, and members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

Sec. 70-72. Zoning.

All officials subject to the provisions of O.C.G.A §36-67A-2 et seq. shall make the disclosures herein required and shall be subject to the penalties therein stated. In addition, any official required to make the disclosures set forth in such provisions of O.C.G.A 36-

67A-2 et seq. shall be prohibited from participating in the zoning matter in which such official or employee has a direct or indirect interest. A violation of the provisions of the O.C.G.A §36-67A-3 et seq. shall also constitute a violation of this article.

Sec. 70-73. Campaign Contributions.

The provisions of this article shall not apply to campaign contributions made to an official in compliance with or authorized by the State Campaign Contributions (O.C.G.A. §21-5 Article 2 et seq.) and Financial Disclosure Action (O.C.G.A. §21-5- Article 3 et seq.)

Sec. 70-74. Theft/Misuse of County Assets.

The assets of Clayton County may only be used for business purposes and such other purposes as are approved by the Clayton County Board of Commissioners.

- a) No elected or appointed official, employee, officer or director may take, make use of, or knowingly misappropriate the assets of Clayton County, for personal use, for use by another, or for an improper or illegal purpose.
- b) No elected or appointed official, employee, officer or director is permitted to remove, dispose of, or destroy anything of value belonging to Clayton County without the consent of the Clayton County Board of Commissioners, including both physical items and electronic information. Failure to abide by published record retention policies also constitutes a violation of this section.
- c) No elected or appointed official, employee, officer or director may make use of, or knowingly misappropriate the official time of another employee for anything other than official business.
- d) No elected or appointed official, employee, officer or director may make use of, or knowingly misappropriate the use of any Clayton County facility, for personal use, for use by another, or for any improper or illegal purpose.

Sec. 70-75 Duty to Report.

- a) Each elected or appointed official, employee, officer and director is responsible for promptly reporting any circumstances that such person believes in good faith may constitute a violation of this Code, or applicable law, regulations and rules. While self-reporting a violation will not excuse the violation itself, the extent and promptness of such reporting will be considered in determining any appropriate sanction, including dismissal. The Board of Ethics will investigate any matter which is reported and will recommend any appropriate corrective action.

- b) In the event that a reporting individual feels unable to disclose their identity, anonymous reports may be made. However, it should be noted that anonymous reporting will hinder the conduct of any investigation and may make it more difficult for the Board of Ethics to protect the interests of the reporting individual.

Neither the Board of Commissioners nor any official or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Board of Ethics information relating to an ethics violation or investigation.

Sec.. 70-76 Sanctions;

Employees subject to the provisions of the Code of Ethics are subject to one or more of the following penalties for a breach of this code of ethics:

- written warning or reprimand;
- suspension without pay;
- termination of employment;
- recovery of value transferred or received by the County;
- cancellation of the contract or rejection of the bid or offer;
- administrative sanction not to exceed \$1,000.00 per violation.

County officials are subject to one or more of the following penalties and action for breach of this Code of Ethics:

- written warning or reprimand;
- removal from office in accordance with and as provided by local or Georgia law;
- recovery of value transferred or received by the county;
- cancellation of the contract or rejection of the bid or offer;
- disqualification or suspension from consideration of an award of County contract for a period of up to five (5) years;
- administrative sanction not to exceed \$1,000.00 per violation.

Contractors, Vendors, Suppliers and individuals found culpable in any breach of the Code of Ethics are subject to one or more of the following penalties and action:

- recovery of value transferred or received by the County;
- cancellation of the contract or rejection of the bid or offer;
- disqualification or suspension from consideration of an award of County contract for a period of up to five (5) years;
- permanent disqualification from award of any county contract for any subsequent repeated breach.

If the Board of Ethics finds evidence of criminal wrongdoing the matter shall be referred to the District Attorney of Clayton County or other such appropriate prosecutorial office for review.

Sec. 70-77. Construction; Application.

- (a) The provisions of this Code of Ethics shall be construed liberally to effectuate the purposes and policies provided for herein and to supplement such existing laws as may relate to the conduct of the persons made subject to this Code of Ethics.
- (b) To the extent that this Code of Ethics governs the conduct or activities of officials or employee, the same shall not have retroactive application.

Sec. 70-78. Conflict.

To the extent any provision of this Code of Ethics conflicts with the Code of Ethics for Government Service, generally, or any other laws or regulations of the United States or the State of Georgia, such provision of this article shall be void and otherwise of no force or effect.

Sec. 70-79. Board of Ethics; Creation; Duties.

- (a) Creation.

There is hereby created a body to be known as the Clayton County Board of Ethics. The purpose of this Board is the interpretation and enforcement of the Clayton County Code of Ethics, processing complaints of alleged violations, conducting special inquiries and public hearings to examine possible violations of the Code of Ethics, and determining, recommending and monitoring effective remedial/enforcement actions.

- (b) Membership.

A person is eligible to serve as a member of the Board of Ethics if that person, while serving:

1. Is at least 21 years old and a registered voter in Clayton County with a Clayton County residence of at least four (4) years;
2. Is not an employee of Clayton County or a relative or a business associate of any member of the Clayton County Board of Commissioners or any other elected or appointed official at present or within the last four (4) years;
3. Does not serve on any other board or authority with members appointed by the Board of Commissioners and has not served on any such board or authority for at least seven (7) years;

4. Does not hold any elected or appointed office and is not a candidate for any office in the governments of the United States, the State of Georgia, or Clayton County;
5. Has not sponsored any fundraising effort for a financial contribution of more than \$100.00 to the political campaign of any current member of the Clayton County Board of Commissioners;
6. Is not a relative of a person who sponsored any fundraising effort for a financial contribution of more than \$100.00 to the political campaign of any current member of the Clayton County Board of Commissioners; and
7. Has agreed to undergo an annual criminal background check and has not been charged with or convicted of a felony or any crime involving moral turpitude.

The Board of Ethics shall consist of the following seven members to be appointed as follows:

- i. One member to be appointed by the Clayton County Chamber of Commerce;
- ii. One member to be appointed by the Clayton County Bar Association;
- iii. One member to be appointed by Clayton County NAACP;
- iv. One member to be appointed by Clayton County Council of Mayors;
- v. One member to be appointed by the Clayton State University, Office of the President;
- vi. One member to be appointed by the Chairman of the Clayton County Board of Commissioners;
- vii. One member to be appointed collectively by the Clayton County Board of Commissioners. The appointment of this member shall rotate between all Commission Districts (beginning with District 1 and continuing thereafter in consecutive numerical order) on January 1st of each year.

Note: Representatives of the above groups participating in the selection process must be residents of Clayton County.

(c) Chair.

At the first meeting of the Board of Ethics in each calendar year, a Board Chair shall be elected from among its members.

(d) Compensation.

Regular members of the Board of Ethics shall be paid a per diem at the rate of \$100.00 for every day of official business completed. The Chair shall be paid at the rate of \$125.00 for every day of official business completed.

(e) Meetings.

The Board of Ethics shall meet no less than is required to conduct the business of the Board, which for the first year following its creation in no event shall be less than once a month. All meetings of the Board of Ethics shall be held at the offices of the Clayton County Commission. At the first meeting of the Board of Ethics the members shall select a day and time for all regularly scheduled meetings. Pursuant to the Georgia Open Meetings Act, any and all meetings of the Board of Ethics shall be properly advertised and open to the public.

(f) Terms of Office.

The Board of Ethics shall serve staggered tenures except as otherwise indicated in this subparagraph. Initial members of the board appointed by groups 1, 3 and 5 shall serve two year terms. Initial members appointed by groups 2, 4 and 6 shall serve four year terms. Members appointed by group 7 shall serve a term of one year. Subsequent terms of office shall all be four year terms except for members appointed by group 7, whose subsequent terms of office shall be one year. The member elected as Chair of the Board will serve only one year as such regardless what length term this individual is serving.

(g) Training.

The Board of Commissioners shall provide for a mandatory training program for persons who are elected or reelected to the Board of Commissioners, employees newly hired or promoted to a position subject to this Code of Ethics and to persons who are newly appointed to the Board of Ethics. Such training shall be completed within 60 days of such election, reelection, employment or appointment. The training program shall include an explanation of the prohibitions contained in this Code of Ethics and the practices and procedures contained in Sec. 70-80. The board may contract with an institution of the University System of Georgia or any certified institution or individual qualified to perform such training, and the cost shall be borne by the Clayton County Board of Commissioners. No appointed member of the Board of Ethics shall be eligible to participate in any function of the Board until he or she has completed such training program.

(h) Board Member Removal Policy.

Unless otherwise provided by law, members of the Board of Ethics may be removed by order of the Board of Commissioners for: (i) misfeasance, malfeasance, nonfeasance, (ii) failure to attend three successive meetings of the Board of Ethics without good and sufficient cause, (iii) abstention from voting other than for reasons constituting disqualification to the satisfaction of a majority of a quorum of the Board of Ethics on a recorded vote, (iv) upon conviction of any felony or misdemeanor involving moral turpitude, or (v) upon a finding of a violation of any Georgia or local law pertaining to ethics for members of a board or authority pursuant to the procedures applicable to those laws.

(i) Vacancies.

Any vacancy on the Board of Ethics occurring before the end of the term of the departing member shall be filled with an individual who meets the criteria listed in subsection (b) Membership, and has been chosen by the organization responsible for appointing the departing member.

(j) Duties.

The duties of the Board of Ethics shall be:

- 1) To ensure that those employees who report suspected ethics code violations receive effective whistleblower protections to prevent and effectively address reprisal that threatens their employment status or pension security.
- 2) To establish procedures, rules, and regulations for its internal organization and the conduct of its affairs, consistent with the provisions of the county Code of Ethics.
- 3) To render advisory opinions, not more than 30 days after receiving a request to do so, with respect to the interpretation and application of the County ethics code, for any County official, employee or citizen who requests such an advisory opinion. All such requests must be in writing. The Board of Ethics will limit any such advisory opinions to matters which have not yet occurred and will refrain from issuing advisory opinions in any manner which could create a pre-judgment of facts it may later be required to review upon the filing of an ethics complaint. Advisory opinions of the Board of Ethics are binding on the Board with regard to any subsequent complaint concerning the person who sought the opinion and acted in good faith based on that opinion, unless material facts were omitted or misstated in the request for the advisory opinion.
- 4) To conduct meetings and hearings open to the public.
- 5) To prescribe forms necessary to carry out any function prescribed by this code of ethics.

- 6) To make available to the public and County officials and employees both regular and special reports on the status of compliance with the County Code of Ethics and actions recommended and completed where noncompliance is found.
- 7) To receive complaints, investigate, and hold hearings to determine whether violations of the County Code of Ethics have taken place.
- 8) To issue findings and recommend and monitor corrective actions where necessary in response to allegations of violations of this Code of Ethics.
- 9) To hold hearings and issue reports when activities or situations raise questions about compliance with the County Code of Ethics.
- 10) To recommend to the Board of Commissioners revisions to the County Code of Ethics when advisable.
- 11) To collect data regarding compliance with all Disclosure requirements as listed in Sec.70-70 and issue reports of non-compliance.
- 12) To recuse himself or herself, either upon the motion of the Charged Official or Employee, or upon the motion of the individual initiating the Complaint, or upon his or her own motion, in the event the Complaint involves the member's appointing Commissioner.

(k) Undue influence.

Neither the Board of Commissioners nor any County official or employee shall engage in any conduct which constitutes interference with or improper influence on any member of the Board of Ethics in the performance of their responsibilities as outlined in the County Code of Ethics.

(l) Administrative and Legal Support.

The Board of Ethics shall be supported by the Personnel Department and by independent legal counsel. In the event that a complaint is filed against a member of the Personnel Department or any employee or official having authority over the Personnel Department the Board of Ethics shall have the authority to engage outside independent support services at the County's expense. The Clayton County Board of Commissioners shall by means of a Request for Qualifications establish a pool from which the Board of Ethics may select legal counsel and personnel services when such services cannot be provided by the Personnel Department for the aforementioned reasons.

(m) Funding.

The Board of Ethics shall be fully funded. The Clayton County Commission shall authorize the Chief Financial Officer to amend the budget where necessary to reflect an appropriate revenue source and expense.

Sec. 70-80. Complaint Process

- (a) All Constitutional Officers are exempt from coverage by this Code. Allegations of ethics violations committed by Constitutional Officers shall be filed with the Georgia Government Transparency and Campaign Finance Commission's Website: <http://ethics.georgia.gov/>.
- (b) This code, shall not apply to officials or employees who are cooperating with an investigation by local, state or federal law enforcement authorities during the course of overt or covert criminal activity.
- (c) Any Person / Entity may initiate a complaint of a violation of the County Code of Ethics by submitting to the County Clerk a written, sworn complaint under penalty of perjury, on an official form provided by the Board of Ethics. All complaints must be filed in a timely manner but not more than 60 calendar days from when the complainant first becomes aware/suspects a possible violation has occurred. All complaints shall include all available supporting evidence and documents.
- (d) In accordance with constitutionally afforded rights to due process Complaints may **not** be filed anonymously.
- (e) The County Board of Ethics may hold public hearings on its own initiative when questions of compliance with the County Code of Ethics arise.
- (f) All complaints shall be acknowledged, investigated and receive appropriate disposition without undue delay.
- (g) Any individual who files a complaint alleging violation of the County Code of Ethics may be required to appear before the Board of Ethics.
- (h) All evidence and documents submitted as part of a Code of Ethics violation complaint shall become public record and property in accordance with the Open Records Act. The Board of Ethics may proceed with processing a complaint based on material and evidence whether the complainant opts out of the process or not.
- (i) Within 30 days of receipt of a complaint or initiation of an investigation on its own initiative, the Board of Ethics shall meet to review the complaint to determine the complaint's credibility and whether the complaint states an offense which, if proven true, constitutes a violation of the Code of Ethics. Such meeting shall not be open

to the public and no additional documents, statements, testimonies or other evidence shall be considered as part of this closed meeting. If, after reviewing the complaint, the Board of Ethics by majority vote determines that no good and sufficient cause exists for a determination that a violation exists, the Board of Ethics may dismiss the complaint and shall report said dismissal to the Board of Commissioners, subject of the complaint and the complaining party.

- (j) Upon initial review of the complaint, if the Board of Ethics determines that good and sufficient cause exists for a determination that a violation has occurred, the Board of Ethics shall conduct a formal public hearing. A Hearing Officer shall be retained by the county to assist the Board of Ethics with the proper conduct of the hearing. The Hearing Officer must be an attorney licensed to practice in the State of Georgia and shall be compensated in an amount as approved by the Board of Commissioners. The Board of Ethics shall, no later than 30 days prior to the hearing, notify the Official or Employee charged with a violation of the date, time, and place for the hearing by certified and regular mail. The Board of Ethics shall also cause a copy of the complaint and any related charges to be sent to the charged Official or Employee at such time the date, time and place for the hearing are sent.
- (k) At the hearing, the Board of Ethics shall hear sworn testimony from all witnesses it deems relevant. Formal rules of evidence shall not apply, but the Board of Ethics shall have the authority to exclude witnesses or testimony which it deems irrelevant. The case for the complainant shall be presented to the Board of Ethics by its independent legal counsel.
- (l) The Board of Ethics shall have the power to compel the appearance and testimony of witnesses and the production of records by subpoena, and to take testimony under oath. Clayton County shall bear the costs of issuing subpoenas and the cost of having a court reporter present to record all Hearing procedures. Any matters related to enforcing or quashing subpoenas may be submitted to the Superior Court of Clayton County. The Board of Ethics shall request the issuance of subpoenas on behalf of any party and for the appearance of any party or documents as provided by law. Hearings shall be open to the public and shall comply with all state and federal open meetings and open records laws.
- (m) The Official or Employee charged with a violation shall have the following rights:
 - 1) To be represented by counsel at their own expense;
 - 2) To view all evidence and be provided with an opportunity to interview all witnesses no less than 20 days prior to the hearing to prepare a defense;

- 3) To subpoena, through the Board of Ethics, any relevant documents or witnesses. A party desiring the issuance of a subpoena shall at least ten days before the hearing request the Board of Ethics to issue the subpoena which shall be served by certified mail;
 - 4) To cross examine all witnesses testifying at the hearing;
 - 5) To view any evidence in the possession of the Board of Ethics; and
 - 6) To present any evidence and testimony in his or her defense.
- (n) If the Board of Ethics by majority vote determines that clear and convincing evidence shows that the accused Official or Employee committed the offense for which he or she is accused, the Board shall issue written findings with recommendations for imposition of sanction as provided for in Sec. 74-75.
- (o) The Board of Ethics shall notify the Board of Commissioners and the accused Official or Employee of any recommended action within five days of its decision by sending a certified letter to the Chairman and Vice Chairman of the Board of Commissioners, the accused Official or Employee, and the accused Official's or Employee's attorney, if any. The accused Official or Employee shall provide the Board of Ethics with an address to which the Board of Ethics' decision may be mailed, and notice of the decision shall be deemed to have been delivered on the day it was posted to such address.
- (p) If the Board of Commissioners confirms removal of an appointed board or authority member from office, the appointed board or authority member shall lose all voting privileges and other privileges as a member; however, a properly filed appeal of a decision of the Board of Ethics shall act as supersedeas.
- (q) The decision of the Board of Commissioners shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the Superior Court of Clayton County. The Board of Commissioner's designee shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the Clerk of the Superior Court a record of the proceedings before the board, the decision of the Board and the notice of the Board's final actions. All appeals shall be to the Superior Court of Clayton County.

Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 3. If this Ordinance in whole or in part is determined to be unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

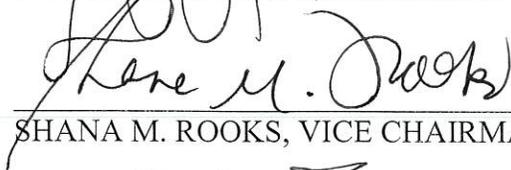
Section 4. This Ordinance shall become effective immediately upon its approval by the Board of Commissioners.

SO ORDAINED, this the 18 day of November, 2014.

CLAYTON COUNTY BOARD OF COMMISSIONERS



JEFFREY E. TURNER, CHAIRMAN



SHANA M. ROOKS, VICE CHAIRMAN



MICHAEL EDMONDSON, COMMISSIONER



SONNA GREGORY, COMMISSIONER



GAIL B. HAMBRICK, COMMISSIONER

ATTEST:


Sandra T. Davis, CLERK