

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

5 ORDINANCE No. 2018-0xx
6

7 AN ORDINANCE TO AMEND TITLE 1, ADMINISTRATION, OF THE CITY OF SOUTH
8 FULTON CODE OF ORDINANCES, TO HELP ENSURE HIGH ETHICAL
9 STANDARDS WITHIN THE CITY AND FOR OTHER LAWFUL PURPOSES
10

11 (Sponsored by Rowell, Gumbs & Khalid)
12

13 WHEREAS, the City of South Fulton ("City") is a municipal corporation duly
14 organized and existing under the laws of the State of Georgia;
15

16 WHEREAS, the duly elected governing authority of the City, is the Mayor and
17 Council thereof ("City Council");

18 WHEREAS, pursuant to City Charter Section 1.12(b)(10), the City is authorized
19 to "adopt ethics ordinances and regulations governing the conduct of municipal
20 elected officials, appointed officials, and employees, establishing procedures for
21 handling ethics complaints, and setting forth penalties for violations of such rules and
22 procedures";
23

24 WHEREAS, the governing authority deems it essential to the proper operation of
25 democratic government that is independent, impartial, and responsible to the people;
26 that governmental decisions and policies be made in the proper channels of the
27 governmental structure; and that public office not be used for personal gain or
28 politically-motivated attacks;

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

31 WHEREAS it is the goal of the city that its officials, employees, appointees, and
32 volunteers conducting official city business:

- 33 Serve others and not themselves;
 - 34 Be independent, impartial and responsible;
 - 35 Use resources with efficiency and economy;
 - 36 Treat all people fairly;
 - 37 Use the power of their position for the well-being of their constituents; and
 - 38 Create an environment of honesty, openness and integrity; and
- 39

40 WHEREAS, this ordinance is in the best interests of the health and general
41 welfare of the City, its residents and general public.
42

43 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as
44 follows:

45 **Section 1:** The City of South Fulton Code of Ordinances, Title 1, Administration,
47 Chapter 5, Code of Ethics, is hereby revised to read as follows:

48
49 **TITLE 1. - ADMINISTRATION**

50 **CHAPTER 5. - CODE OF ETHICS**

51 **Sec. 1-5001. - Purpose**

52 The purpose of this code of ethics is to:

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

59 **Sec. 1-5002. - Scope**

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

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

66 **Sec. 1-5003. - Definitions**

67 Solely for the purpose of this code of ethics:

- 68
- 69 a. *City official* or *official*, unless otherwise expressly defined does not include city
70 employees but does mean the mayor, members of the city council, municipal
71 court judges (including substitute judges), city manager, city clerk, city attorney,
72 and all other persons holding positions designated by the city charter, as
73 amended. The term “city official” also includes all individuals, including city
74 employees, appointed by the mayor and/or city council as appropriate to city
75 authorities, commissions, committees, boards, task forces, or other bodies which
76 can or may vote or take formal action or make official recommendations to the
77 mayor and/or city council.
- 78
- 79 b. *City Employee* means any person who is a full-time or part-time employee of the
80 city.
- 81
- 82 c. *Complainant* means any person filing an ethics complaint under this chapter.

83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127

- d. *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter under this chapter 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.
- e. *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.
- f. *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.
- g. *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.
- h. *Substantial interest* means an interest, either directly or through a member of the immediate family, in another person or entity, where:
 - i. 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
 - ii. 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;
 - iii. 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
 - iv. the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

Sec. 1-5004. – Prohibitions

- a. No city 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 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

- 128 disclose for the record such interest prior to any discussion or vote or fail to
129 recuse himself/herself from such discussion or vote as applicable.
130
- 131 c. No city official shall act as an agent or attorney for another in any matter before
132 the city council or other city body.
133
- 134 d. No city official shall directly or indirectly receive, or agree to receive, any
135 compensation, gift, reward, or gratuity in any matter or proceeding connected
136 with, or related to, the duties of his office except as may be provided by law.
137
- 138 e. No city official shall enter into any contract with, or have any interest in, either
139 directly or indirectly, the city except as authorized by state law.
140
- 141 i. This prohibition shall not be applicable to the professional activities of the
142 city attorney in his or her work as an independent contractor and legal
143 advisor on behalf of the city.
144
- 145 ii. This prohibition shall not be applicable to an otherwise valid employment
146 contract between the city and a city official who is not elected (such as, by
147 way of example, a city manager, city administrator or chief of police).
148
- 149 iii. Any official who has a proprietary interest in an agency doing business
150 with the city shall make that interest known in writing to the city council
151 and the city clerk.
152
- 153 f. All public funds shall be used for the general welfare of the people and not for
154 personal economic gain.
155
- 156 g. Public property shall be disposed of in accordance with state law.
157
- 158 h. No city official shall solicit or accept other employment to be performed, or
159 compensation to be received, while still a city official if the employment or
160 compensation could reasonably be expected to impair such official's judgment or
161 performance of city duties.
162
- 163 i. If a city official accepts or is soliciting a promise of future employment from any
164 person or entity who has a substantial interest in a person, entity or property
165 which would be affected by any decision upon which the official might reasonably
166 be expected to act, investigate, advise, or make a recommendation, the official
167 shall disclose the fact to the city council and shall recuse himself/herself and take
168 no further action on matters regarding the potential future employer.
169
- 170 j. No city official shall use city facilities, personnel, equipment or supplies for
171 private purposes, except to the extent such are lawfully available to the public.
172

- 173 k. No city official shall grant or make available to any person any consideration,
174 treatment, advantage or favor beyond that which it is the general practice to grant
175 or make available to the public at large.
176
- 177 l. A city official shall not directly or indirectly make use of, or permit others to make
178 use of, official information not made available to the general public for the
179 purpose of furthering a private interest.
180
- 181 m. A city official shall not use his or her position in any way to coerce, or give the
182 appearance of coercing, another person to provide any financial benefit to such
183 official or persons within the official's immediate family, or those with whom the
184 official has business or financial ties amounting to a substantial interest.
185
- 186 n. A city official shall not order any goods and services for the city without prior
187 official authorization for such an expenditure. No city official shall attempt to
188 obligate the city nor give the impression of obligating the city without proper prior
189 authorization.
190
- 191 o. No city official shall draw travel funds or per diem from the city for attendance at
192 meetings, seminars, training or other educational events and fail to attend such
193 events without promptly reimbursing the city therefore.
194
- 195 p. No city official shall attempt to unduly influence the outcome of a case before the
196 Municipal Court of the City of South Fulton nor shall any city official engage in ex
197 parte communication with a municipal court judge of the City of South Fulton on
198 any matter pending before the Municipal Court of the City of South Fulton.
199
- 200 q. No city official shall knowingly, directly or indirectly, aid or assist any city official,
201 or a city official's partner in substantial interest, in violating this chapter.
202
- 203 r. No city official shall disclose or release any confidential information acquired by
204 virtue of their office unless authorized by law or the city to do so.
205

206 **Sec. 1-5005. - Conflict of interest**
207

- 208 a. A city official may not participate in a vote or decision on a matter affecting an
209 immediate family member or any person, entity, or property in which the official has
210 a substantial interest.
211
- 212 b. A city official who serves as a corporate officer or member of the board of directors
213 of a nonprofit entity must disclose their interest in said entity to the mayor and
214 council prior to participating in a vote or decision regarding funding of the entity by or
215 through the city.
216

217 c. Where the interest of a city official in the subject matter of a vote or decision is
218 remote or incidental, the city official may participate in the vote or decision and need
219 not disclose the interest.

220

221 **Sec. 1-5006. – Board of Ethics**

222

223 The Board of Ethics shall consist of eight (8) residents of the City, with a Chairperson
224 appointed by the mayor, and one appointed by each member of City Council. The Chair
225 shall not vote except to break a tie vote.

226

227 a. All members of the Board of Ethics shall be residents of the city for at least one
228 (1) year immediately preceding the date of taking office and shall remain a
229 resident while serving on the Board.

230

231 b. All members of the Board of Ethics shall serve a concurrent term with their
232 appointed Councilmember.

233

234 c. No person shall serve as a member of the Board of Ethics if the person has, or
235 has had within the preceding one (1) year period, any interest in any contract or
236 contracting opportunity with the city or has been employed by the City; or is
237 employed by another local government doing business with the City.

238

239 d. Members of the Board of Ethics with any permit or rezoning application pending
240 before the city, or any pending or potential litigation against the city or any city
241 official charged in the complaint shall be disqualified from serving on the Board of
242 Ethics for that complaint. An alternate member of the Board of Ethics shall be
243 selected in the same manner as the disqualified individual.

244

245 e. The members of the Board of Ethics shall serve without compensation. The city
246 council shall provide meeting space for the Board of Ethics and, subject to
247 budgetary procedures and requirements of the City, such supplies and
248 equipment as may be reasonably necessary for the Board to perform its duties
249 and responsibilities.

250

251 f. No person shall serve on the Board of Ethics who has been convicted of a felony
252 involving moral turpitude in this state or any other state, unless such person's
253 civil rights have been restored and at least ten years have elapsed from the date
254 of the completion of the sentence without a subsequent conviction of another
255 felony involving moral turpitude.

256

257 g. No person shall serve on the Board of Ethics who is less than 18 years of age,
258 who holds a public elective office, who is physically or mentally unable to
259 discharge the duties of a member of the Board of Ethics, or who is not qualified
260 to be a registered voter in the City of South Fulton.

261

- 262 h. Upon appointment, members of the Board of Ethics shall sign an affidavit
263 attesting to their qualification to serve as a member of the Board of Ethics.
264
- 265 i. Members of the Board of Ethics may be removed by majority vote of the City
266 Council. Any removed member, or member who may no longer serve, voluntarily
267 or by qualification, shall be replaced by the council member who appointed them.
268
- 269 j. Operation and decorum. Four ethics board members shall constitute a quorum.
270 The affirmative vote of a majority of board members present shall be required for
271 any action by the board. The ethics board members shall not direct city staff and
272 shall facilitate all requests of the city council through the city manager or City
273 Attorney. The board of ethics members may submit requests to the city clerk for
274 documents filed in a case and advertisement of their meetings. The city manager
275 may additionally assign a staff member to provide clerical duties for the board.
276 The city attorney is designated to be the legal advisor for the board, except that
277 the city attorney is not authorized to represent the board in any legal action if
278 doing so would create a conflict which would prevent the city attorney from also
279 representing the mayor, the city manager, or city council. Additionally, the board
280 of ethics shall:
281
- 282 (1) Be governed by Roberts Rules of Order; and
 - 283 (2) Submit any proposed policies to the city council for approval.
- 284
- 285 k. *General authority.* The board of ethics shall be empowered to:
- 286 1. Collect evidence and information concerning any complaint and add the
287 findings and results of its investigations to the file containing such complaint;
 - 288 2. Conduct investigations, take evidence, conduct meetings and hold hearings
289 to address the subject matter of a complaint; and
 - 290 3. Postpone, continue and defer hearings and/or meetings under this chapter
291 so long as the deadlines under this chapter are adhered to. The board may
292 extend the deadlines in this chapter for up to 30 days upon exigent
293 circumstances. The board may extend any deadline in this chapter for up to
294 60 days upon both the accused and the complainant's consent.

295 **Sec. 1-5007. - Complaints**
296

297 All complaints against city employees or officials shall be filed with the City Clerk, who
298 shall email it to the accused, Board of Ethics, Mayor and Council City Manager and City
299 Attorney within two business days of receipt. Complaints may be filed only by residents
300 of the City of South Fulton and any complaint filed by any other person shall be
301 dismissed. A complaint filed by a person who no longer resides within the city while the
302 action is pending shall be dismissed.
303

- 304 a. *Form of complaints and subsequent filings.*

- 305 1. *Contents.* All ethics complaints shall be legibly printed on 8 ½ x 11 size paper
 306 and shall include the following:
- 307 i. The complainant’s full name, residential address in the city, email address
 308 and contact number;
 - 309 ii. Identification, by name and title, of the official whom the Complaint is filed
 310 against. A complaint may not include allegations against more than one
 311 official, meaning that a separate complaint must be filed against each
 312 official against whom allegations under this chapter are made;
 - 313 iii. The specific subsections under this chapter of which the accused is alleged
 314 to have violated, including the facts which support the basis for such
 315 allegation;
 - 316 iv. Documents, attached to the complaint as exhibits, if any, supporting the
 317 allegations;
 - 318 v. The name, contact number and mailing address of any specific person
 319 and/or entity referenced in the complaint and/or believed to have personal
 320 knowledge about the matters alleged therein; and
 - 321 vi. A notarized affidavit signed by the complainant in the following form:

322 “STATE OF GEORGIA
 323 COUNTY OF FULTON

324 AFFIDAVIT

325
 326 PERSONALLY APPEARED before the undersigned officer, duly authorized to
 327 administer oaths, came the undersigned complainant, [insert name of complainant],
 328 who after having been duly sworn, states under oath that: 1) the undersigned
 329 complainant is a resident of the City of South Fulton and 2) that the statements in the
 330 foregoing complaint are true and correct to the best of his/her knowledge. The
 331 undersigned complainant further acknowledges that false statements made in this
 332 complaint may result in criminal and/or civil liability, including in a prosecution against
 333 them for false swearing, a felony under Georgia law. See O.C.G.A. 16-10-71.

334 _____
 335 (Signature of complainant)

336
 337 Sworn to and subscribed before me this ____ day of _____, 20 ____.

338
 339 Notary Public”

- 340
 341 2. *Subsequent Submissions to Board.* All subsequent submissions to the board by
 342 the complainant and/or the accused shall be filed with the city clerk. The city
 343 clerk shall email all filings in the matter, within two business days of receipt, to
 344 the complainant, accused, city council, city manager and city attorney, with the

345 exception that the city clerk shall not be required to email documents to the
346 party filing such document;

347 3. *Answer.* The accused may file an answer and/or response to the complaint, but
348 shall not be obligated to do so.

349 b. *Dismissal.*

350 1. By Complainant. A complaint may be voluntarily dismissed at any time by the
351 complainant and/or the complainant's attorney by submitting a writing evidencing
352 such dismissal to the city manager, city attorney and/or city clerk. The city
353 manager and/or city attorney shall submit such writing to the city clerk who shall
354 forward such dismissal to the board, accused, city manager and city council
355 within two business days of receipt. A complaint, and any allegations therein,
356 dismissed a second time by the complaint shall be with prejudice. No further
357 action of the board on the complaint shall be required upon notice of a voluntary
358 dismissal.

359 2. By Board. A complaint that does not meet the standards required by this
360 chapter shall be dismissed by the board of ethics, without prejudice. Repetitive
361 failures to meet the standard imposed by this chapter shall authorize the board of
362 ethics to dismiss the complaint with prejudice. The board shall additionally
363 dismiss, with prejudice, any complaint which is unjustified, frivolous, patently
364 unfounded and/or fails to state facts sufficient to invoke the disciplinary
365 jurisdiction of the city council; provided, however, that the dismissal of such
366 complaint shall not deprive the complainant of any action such person might
367 otherwise have at law or in equity against the city official;

368 c. *Preliminary Review and Hearing.* (1) Within 30 calendar days of the board's receipt
369 of a complaint, the board shall make a determination at a preliminary hearing as to
370 whether the complaint should: 1) proceed for a formal hearing or 2) be dismissed on
371 grounds that it is non-compliant with the requirements of this chapter, unjustified,
372 frivolous, and patently unfounded and/or fails to state facts sufficient to invoke the
373 disciplinary jurisdiction of the city council. The complainant and accused shall each
374 be allowed ten minutes at the preliminary hearing to speak in favor or against the
375 dismissal. The board of ethics shall cause for its decision on the preliminary review
376 to be submitted to the city clerk within two business days of such decision being
377 rendered. The city clerk shall forward the decision to the complainant, accused, city
378 council, city manager, and city attorney within two business days of receipt. A
379 dismissal shall conclude the proceedings on a complaint.

380 d. *Formal Investigation and Hearing.*

381 1. *Formal Hearing.* The board shall render a final written recommendation on the
382 complaint within 60 calendar days of the filing of the complaint, for all
383 complaints that are not dismissed. A formal hearing shall be held by the board
384 prior to making a final recommendation. The complainant and accused shall
385 have the right, but not obligation, at the formal hearing to present testimony,
386 offer evidence and cross-examine available witnesses.

387 2. *Final Recommendation.* The board of ethics shall cause for its final written
388 recommendation to be submitted to the city clerk, within two business days of
389 such decision being rendered. The city clerk shall forward the final written
390 recommendation to the accused, complainant, city council, city manager and
391 city attorney within two business days of his or her receipt. (5) The failure to
392 comply with any of time deadlines in this section shall not invalidate any
393 otherwise valid complaint or in any way affect the power or jurisdiction of the
394 board of ethics or the city council to act upon any complaint.

395 e. *Notice.* The complainant and accused shall be provided with written notice of the
396 preliminary and formal hearings on a complaint under this chapter, by U.S. mail and
397 email, at least 10 calendar days before such hearings occur.

398 f. *Politically Motivated Complaints.* To discourage the filing of ethics complaints solely
399 for political purposes, complaints will not be accepted against a person seeking
400 election as a city official, whether currently serving as a city official or not, from the
401 date qualifying opens for the elected office at issue through the date the election
402 results for that office are certified. The time for filing complaints will not run during
403 this period. Properly filed complaints will be accepted and processed after the
404 election results have been certified.

405
406 g. *Time Limitations.* The board shall promptly dismiss:
407 1. Any complaint which is filed later than one year after a violation of this chapter is
408 alleged to have occurred;
409
410 2. Any complaint that is not filed within six months from the date the complainant
411 knew or should have known of the action alleged to be a violation; and/or
412
413 3. Any complaint which arises out of substantially the same facts or circumstance
414 which have previously served as the basis for a complaint dismissed with
415 prejudice pursuant to this chapter. The time limitation periods under this section
416 shall be measured from the date of the last act occurring in furtherance of the
417 alleged violation. Additionally, no complaints under this chapter shall be filed
418 with, and/or accepted by, the city clerk after the earlier of:

- 419
420 i. the expiration of the term of office of the person complained against; or
421
422 ii. the resignation, death, vacancy, disqualification or withdrawal from office of
423 the person against whom a complaint is filed. The time for any action by
424 the board under this chapter shall be tolled during any period in which the
425 board has not been activated by the city council.

426
427 **Sec. 1-5008. - Appeal**

428
429 Any city official or complainant adversely affected by a decision of the City Council
430 under this Chapter may obtain judicial review of such decision as provided by law.

431 **Sec. 1-5009. - Penalty**

- 432
433 a. The city council shall take action upon the final written recommendation of the board
434 of ethics, within 30 days of receiving such recommendation from the city clerk. The
435 city council may:
436 1. Accept the board's recommendation; or
437 2. Reject the board's recommendation and render an alternative decision.
- 438 b. Any person violating any provision of this article is subject to:
439
440 1. Public reprimand or censure by the City Council; or
441 2. Request for resignation by the City Council.

442
443 *****
444

445 **Section 2.** It is hereby declared to be the intention of the Mayor and Council that: (a)
446 All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were,
447 upon their enactment, believed by the City Council to be fully valid, enforceable and
448 constitutional.

449 (b) To the greatest extent allowed by law, each and every section, paragraph, sentence,
450 clause or phrase of this Ordinance is severable from every other section, paragraph,
451 sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause
452 or phrase of this Ordinance is mutually dependent upon any other section, paragraph,
453 sentence, clause or phrase of this Ordinance.

454 (c) In the event that any phrase, clause, sentence, paragraph or section of this
455 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or
456 otherwise unenforceable by the valid judgment or decree of any court of competent
457 jurisdiction, it is the express intent of the City Council that such invalidity,
458 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
459 render invalid, unconstitutional or otherwise unenforceable any of the remaining
460 phrases, clauses, sentences, paragraphs or sections of the Ordinance.

461 **Section 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby
462 expressly repealed.

463 **Section 4.** The effective date of this Ordinance shall be the date of adoption unless
464 provided otherwise by the City Charter or state and/or federal law.

465
466 **Section 5. Instruction to City Clerk.** Unless vetoed, the City Clerk is hereby
467 directed to forward a copy of this ordinance to the Chief of Police and Municipal Court
468 Judge(s), Solicitor(s) and Public Defender(s).
469

469
470 The foregoing ORDINANCE No. 2018-xxx, adopted on _____ was
471 offered by Councilmember _____, who moved its approval. The motion was
472 seconded by Councilmember _____, and being put to a vote, the result
473 was as follows:

474
475
476
477 William "Bill" Edwards, Mayor
478 Mark Baker, Mayor Pro Tem
479 Catherine Foster Rowell
480 Carmalitha Lizandra Gumbs
481 Helen Zenobia Willis
482 Gertrude Naeema Gilyard
483 Rosie Jackson
484 khalid kamau

	AYE	NAY
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

485
486
487 THIS ORDINANCE adopted this _____ day of _____ 2018. **CITY OF SOUTH**
488 **FULTON, GEORGIA**

489
490
491
492 _____
493 WILLIAM "BILL" EDWARDS, MAYOR
494

495
496 ATTEST:
497
498
499 _____
500 MARK MASSEY, CITY CLERK
501

502 APPROVED AS TO FORM:
503
504
505 _____
506 EMILIA C. WALKER, CITY ATTORNEY
507

508
509