



ESTABLISHED 2006

ETHICS COMPLAINT FORM

Pursuant to Article Five of the City of Milton, Georgia Ethics Ordinance, No. 10-09-76 (“Ethics Ordinance”), this form **MUST** be used to report alleged violations of any portion of the Ethics Ordinance. Failure to provide the information requested could result in the dismissal of the complaint. Please type or print legibly in ink.

When completed, the form must be submitted to the City Clerk whose office is located at: Milton City Hall, Suite 107F, 13000 Deerfield Parkway, Milton, Georgia 30004. (In the event the City Clerk is the subject of this Complaint, the Complaint must be submitted to the City Manager, whose office is located at Milton City Hall, Suite 107F, 13000 Deerfield Parkway, Milton, Georgia 30004. Ethics Ordinance, Article 5, Section 1(A))

COMPLAINANT INFORMATION

Name: _____

Mailing Address: _____

Phone: _____

Email: _____

ALLEGED VIOLATOR

(Note: A separate ethics complaint must be filed for each person alleged to have engaged in any activity violating the Ethics Ordinance even if the allegations arise from the same factual basis. Ethics Ordinance, Article 5, Section 1(E))

Name: _____

Title: _____

ALLEGED VIOLATIONS

Identify each of the specific provisions of the Ethics Ordinance alleged to have been violated by the Alleged Violator named above. (Ethics Ordinance, Article 5, Section 1(B).)

A. _____

B. _____

C. _____

D. _____

E. _____

F. _____

(If additional specific provisions are alleged to have been violated, please attach a supplemental list identifying the additional specific provisions)

For each of the specific provisions identified above (and in any supplemental list attached to this Complaint), provide a separate statement of all relevant facts, including the dates and/or time periods upon which the alleged violation occurred. (Note: Ethics Complaints must be filed within six (6) months of the date the alleged violation is said to have occurred, or in the case of concealment or nondisclosure, within six (6) months of the date the alleged violation was or should have been discovered by the Complainant after due diligence. Ethics Ordinance, Article 5, Section 1(C))

The statement may be typed or printed in the space provided below, or it may be included in a separate attached document. If more than one specific provision of the Ethics Ordinance is alleged to have been violated, either this page may be copied and attached or additional pages may be attached in order to describe each of the sections alleged to have been violated separately.

(NOTE: Each fact included in the statement must be supported by affidavits based on personal knowledge and that affirmatively show that the individual providing the affidavit is competent to testify to the matters stated therein. (Ethics Ordinance, Article 5, Section 1(B))

Provision Alleged to Have Been Violated: _____

Date(s) of Alleged Violation: _____

Facts Supporting Alleged Violation: _____

WITNESSES:

Identify the name, address, and phone number of any persons who may be called as witnesses to substantiate, corroborate or prove the allegation(s) contained in this Complaint, if any.

Witness Name: _____

Witness Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Witness Name: _____

Witness Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Witness Name: _____

Witness Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

SUPPORTING MATERIALS:

List all materials (including documents, recordings, transcripts, affidavits, etc.) that may be relied on to support and prove the alleged violation(s) identified above. If extra pages are needed, copy this page and attach it to this Complaint. Attach a copy of all listed materials to this Complaint.

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____
- 10 _____
- 11 _____
- 12 _____
- 13 _____
- 14 _____
- 15 _____
- 16 _____
- 17 _____
- 18 _____
- 19 _____
- 20 _____

(Note: If the City Clerk determines that this Complaint fails on its face to comply with Article 5, Section 1 of the Ethics Ordinance, and notifies the Complainant in writing of a defect via certified mail, return receipt requested, the Complainant shall have five (5) business days from receipt of the notification of defect from the City Clerk to cure any defects that may be cured and re-submit the ethics complaint. If an ethics complaint is not re-submitted within the allotted time period, the City and the City Clerk shall take no further action on the ethics complaint. Ethics Ordinance Article 5, Section 2(a)(1))

SIGNATURE

(Must Be Notarized – Ethics Ordinance Article 5, Section 1(B))

I have read the ethics complaint and aver that the facts contained therein are true to the best of my knowledge and belief, and I am aware that the Ethics Ordinance authorizes the imposition of penalties against me for filing a frivolous complaint, including without limitation, payment of costs and attorney’s fees associated with the handling and processing of the ethics complaint, and/or all other penalties applicable under the law.

Complainant’s Signature

Date

NOTARY PUBLIC:

Sworn to and subscribed before me this

_____ day of _____, 20_____.

(Notary Seal)

STATE OF GEORGIA
COUNTY OF FULTON

CITY OF MILTON ETHICS ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MILTON, TO ESTABLISH THE CODE OF ETHICS FOR THE CITY OF MILTON; TO FURTHER AND INCORPORATE THE POLICIES AND LAWS OF THE STATE OF GEORGIA RELATING TO ETHICAL STANDARDS; TO CREATE THE BOARD OF ETHICS AND PROVIDE FOR BOARD MEMBERSHIP, DUTIES, AND RESPONSIBILITIES; TO PROVIDE FOR THE DISPOSITION OF ETHICS COMPLAINTS; TO ENSURE COMPLIANCE WITH ETHICAL STANDARDS; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph II thereof, that the General Assembly may provide by law for the self-government of municipalities;

WHEREAS, O.C.G.A. § 36-35-3(a) authorizes cities to enact clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government;

WHEREAS, the governing authority of the City of Milton, to wit, the Milton City Council, desires to exercise its authority in adopting this Ordinance;

WHEREAS, it is essential to the proper operation of republican government that public officials be independent and impartial, that governmental decisions and policy be made in the proper channels of the governmental structure, that public office not be used for private gain other than the remuneration provided by law, and that there be public confidence in the integrity of government;

WHEREAS, the attainment of one or more of these ends is impaired whenever there exists a conflict between the private interests of a City Official or an Employee and his duties as such;

WHEREAS, the public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of City Officials and Employees in situations where conflicts exist;

WHEREAS, it is also essential to the proper operation of government that those best qualified be encouraged to serve the government. Accordingly, legal safeguards against conflicts of interest must be designed so as to not unnecessarily or unreasonably impede the recruitment and retention by the government of those men and women who are best qualified to serve it;

WHEREAS, an essential principle underlying the staffing of our government structure is that its City Officials and Employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests and other interests, except where conflicts with the responsibility of such City Officials and Employees to the public cannot be avoided;

WHEREAS, the purposes behind this Ordinance are shared by all republican governments – to insure that public officials be independent, impartial, and responsible to the people they represent, that governmental decisions and policies be made within the proper channels of the governmental structure, that public office not be used for personal gain, and, especially, that the public have confidence in the integrity of its government and its officials.

WHEREAS, in recognition of these goals and principles, it is the policy of the Milton City Council to institute, establish, promote, and to ensure compliance with the standards of ethical conduct for all of the City of Milton’s officers and employees; and

WHEREAS, it is a further policy of the City Council that the proper administration of the City of Milton’s government and the promotion and compliance with the standards of ethical conduct for the City of Milton’s officers and employees would be best served by the creation of a Board of Ethics;

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED BY THE CITY COUNCIL OF MILTON, GEORGIA AS FOLLOWS:

ARTICLE ONE: GENERAL PROVISIONS

Section One. Short Title.

This Ordinance shall be known as “The City of Milton Ethics Ordinance,” and may be cited and referred to as such.

Section Two. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning provided herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

- (A) "Agency" means the City Council and all other agencies, authorities, boards, commissions, committees, departments, and offices of the City, without exception.
- (B) "Board of Ethics" means the City of Milton Board of Ethics as formed and described herein.
- (C) "Business Entity" means any business of whatever nature regardless of how designated or formed, whether a sole proprietorship, partnership, joint venture, association, trust, corporation, limited liability company, or any other type of business enterprise, and whether a person acting on behalf of, or as a representative or agent of, the business entity.
- (D) "City Official" means the Mayor of the City of Milton, the Milton City Council, any member of a board, commission, or authority appointed by the Council, the City Manager, and any other elected or appointed officer of the City of Milton.
- (E) "Confidential Information" means any information that, by law or practice, is not reasonably available to the public.
- (F) "Council" means the Milton City Council, which includes any person who is elected to the Council and the Mayor.
- (G) "Employee" means all those persons employed on a regular or part-time basis by the City, as well as those persons whose services are retained to fill positions within the City government under the terms of a contract with the City.
- (H) "Family" means the spouse, parents, children, brothers and sisters, related by blood or marriage, cousins, aunts, and uncles of a City Official or Employee.
- (I) "Government or City" shall be construed to mean the City of Milton, Georgia government.
- (J) "Governing Authority" or "member of the Governing Authority" means the Mayor or any Councilmember of the City.
- (K) "Interest" means direct or indirect pecuniary or material benefit accruing to a City 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 City, except for such contracts or transactions which, by their terms and by the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. The term "interest" shall not include any remote interest.

For purposes of this Ordinance, a City Official or Employee shall be deemed to have an interest in the affairs of:

- (1) His or her family;
 - (2) Any business entity in which the City Official or Employee is a member, officer, director, employee, or prospective employee;
 - (3) Any business entity as to which the stock, legal ownership, or beneficial ownership of a City Official or Employee is in excess of five percent (5%) of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the City Official or Employee.
- (L) "Official Act" or "Official Duties" means any legislative, administrative, appointive, or discretionary act of any City Official or Employee of the City or any agency, board, authority, or commission thereof.
- (M) "Remote interest" means an interest of a person or entity, including a City Official or Employee, who would be affected in the same way as the general public. For example, the interest of a council member in the property tax rate, general city fees, city utility charges, or a comprehensive zoning ordinance or similar decisions is deemed remote to the extent that the council member would be affected in common with the general public.
- (N) "Volunteer" means a nonpaid person engaging in official City business with the approval of the governing authority.

ARTICLE TWO: CODE OF ETHICS FOR MUNICIPAL SERVICE GENERALLY

This Article Two is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-1, as it may be amended from time to time.

Any person in City service shall:

Section One.

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department.

Section Two.

Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.

Section Three.

Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.

Section Four.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Section Five.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

Section Six.

Make no private promises of any kind binding upon the duties of office, since an employee has no private word that can be binding on public duty.

Section Seven.

Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

Section Eight.

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

Section Nine.

Expose corruption wherever discovered.

Section Ten.

Uphold these principles, ever conscious that public office is a public trust.

**ARTICLE THREE: CODE OF ETHICS FOR CITY OFFICIALS
AND DEPARTMENT DIRECTORS**

This Article Three is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-3, as it may be amended from time to time.

All City Officials and Department Directors shall:

Section One.

Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, the City of Milton, and all governments therein and never be a party to their evasion.

Section Two.

Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration.

Section Three.

Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

Section Four.

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

Section Five.

Expose corruption wherever discovered.

Section Six.

Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties.

Section Seven.

Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties.

Section Eight.

Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.

Section Nine.

Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

**ARTICLE FOUR: SPECIFIC PROVISIONS RELATED TO CONFLICT
OF INTEREST TRANSACTIONS AND DISCLOSURES**

The following provisions related to conflict of interest transactions and disclosures are intended to supplement and elaborate upon the Code of Ethics set forth in Articles Two and Three above, as well as Section 2.15 of the Milton City Charter, and all such provisions shall be read and interpreted in accordance therewith.

Section One. Compliance with Applicable Law.

No City Official or Employee shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office or employment. Other provisions of law or regulations shall apply when any provisions of this Ordinance shall conflict with the laws of the State of Georgia or the United States, except to the extent that this Ordinance permissibly sets forth a more stringent standard of conduct. The laws of the State of Georgia or the United States shall apply when this Ordinance is silent.

Section Two. Conflict of Interest Transactions.

- (A) No City Official or Employee shall engage in any business or transaction or have a financial or other monetary interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties, except consistent with the disclosure and abstention provisions set forth herein. Additionally, no City Official or Employee shall vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.
- (B) The City of Milton shall not enter into any contract involving services or property with a City Official or Employee or with a business entity in which the City Official or an Employee has an interest. Provided that the

disclosure and abstention provisions set forth herein are followed, this paragraph shall not apply to the following:

- (1) The designation of a bank or trust company as a depository for City funds;
- (2) The borrowing of funds from any bank or lending institution which offers competitive rates for such loans;
- (3) Contracts entered into with a business which employs a consultant, provided that the consultant's employment with the business is not incompatible with this Ordinance;
- (4) Contracts for services entered into with a business which is the only available source for such goods or services; and
- (5) Contracts entered into under circumstances that constitute an emergency situation, provided that a record explaining the emergency is prepared by the Council and submitted to the City Manager (or his/her equivalent) to be kept on file.

Section Three. Financial Disclosures.

Financial disclosures shall be governed by federal and state law as it may be amended from time to time, and this Ordinance shall not require any additional financial disclosure reports to be filed other than those required by federal and state law.

Section Four. Zoning Application Disclosures.

All disclosures with regard to zoning applications shall be governed in their entirety by the Conflict of Interest in Zoning Actions provisions contained in O.C.G.A. § 36-67A-1, et seq., as it may be amended from time to time.

Section Five. Disclosures Related to Submission of Bids or Proposals for County Work or Contract.

Persons submitting bids or proposals for City work who have contributed \$250.00 or more to a City Official must disclose on their bid or proposal the name of the City Official(s) to whom the contribution was made and the amount contributed. Such a disclosure must also be made prior to a request for any change order or extension of any contract awarded to the person who submitted the successful bid or proposal.

Section Six. Withholding of Information; Confidential Information.

No City Official or Employee shall knowingly withhold any information that would impair the proper decision making of the Council or any of the City's boards, agencies,

authorities, or departments. No City Official or Employee shall disclose confidential information concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others.

Section Seven. Incompatible Service.

No City Official or Employee shall engage in or accept private or public employment or render service for any private or public entity, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless public disclosure is made. Except as authorized by law, no member of the City Council shall hold any other elective office or other City employment during the term for which he or she is elected.

Section Eight. Unauthorized Use of Public Property.

No City Official or Employee shall request or permit the unauthorized use of City-owned facilities, vehicles and equipment, including but not limited to, computers, pagers, and cellular telephones for personal benefit, convenience or profit, except in accordance with policies promulgated by the City Council and except to the extent such are lawfully available to the public.

Section Nine. Political Recrimination and Activity.

- (A) No City Official or Employee, whether elected or appointed, shall either cause the dismissal or threaten the dismissal from any City position as a reward or punishment for any political activity. No City Official or Employee shall direct any person employed by the City to undertake political activity on behalf of such City Official or Employee, any other City Official or Employee, or any other individual, political party, group, or business organization, during such time that the Employee is required to conduct City business. This section does not prohibit incidental telephone calls, emails, letters, and other forms of communication made for the purpose of scheduling a City Official's daily City business.
- (B) City Officials and Employees of the City are encouraged to exercise their right to vote, but no City Official or Employee shall make use of government time or equipment to aid a political candidate, party, or cause. No Employee shall be hired, promoted, favored, or discriminated against with respect to employment because of his or her political opinions or affiliations.
 - (1) Seeking elective office. An Employee seeking elective office within the City may, upon declaring candidacy, either resign or submit a request in writing to the City Manager (or his/her equivalent) for a

leave of absence without pay from the date of his or her announcement through the duration of the campaign or announcement of the election results. In the alternative, the Employee seeking elective office within the City may continue to work for the City, provided, however, that the Employee shall not engage in election activities during his or her City working hours or with use of City equipment. If elected to office, the Employee shall immediately, upon the date of election, be separated from employment with the City upon written request and approval of the City Manager (or his/her equivalent).

- (2) Political campaign involvement. An Employee or City Official (except for Elected Officials) may not be involved in any political activity in his or her official capacity that would constitute a conflict of interest, including active participation in any aspect of any political campaign for any office in City of Milton Government. Nothing in this paragraph shall be construed to limit any Elected Official from supporting any candidate in an election in his/her official capacity, provided that the Elected Official does not utilize City equipment, property, or funds in support of such candidate.
- (3) Solicitation of contributions. An Employee or City Official (except for Elected Officials) may not knowingly solicit, accept, or receive political contributions from any person, to be used in support of or opposition to any candidate for office in the City.

Section Ten. Appearance Before City Entities.

No City Official or Employee shall appear on behalf of any private person other than himself or herself, his or her spouse, or his or her minor children, before any City agency, commission, authority or board. However, a member of the City Council may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations, provided that such member of the City Council shall comply with all internal operating rules and regulations of the particular group and shall not interfere with or delay the activities of the group.

Section Eleven. Timely Payment of Debts to the City and Fiscal Responsibility.

All City Officials and Employees shall pay and settle, in a timely and prompt fashion, all accounts between them and the City of Milton, including the prompt payment of all taxes and shall otherwise demonstrate personal fiscal responsibility.

Section Twelve. Solicitation or Acceptance of Gifts.

- (A) City Officials and Employees shall not accept gifts, gratuities, or loans from organizations, business concerns, or individuals with whom he or she has official relationships based upon business of the City government or with whom the City Official or Employee has knowledge that the organization, business concern, or individual is interested, directly or indirectly in any manner whatsoever, in business dealings with the City. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit employees from accepting social courtesies which promote good public relations, or to prohibit employees from obtaining loans from regular lending institutions. It is particularly important that inspectors, contracting officers, and enforcement officers guard against relationships which might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.
- (B) Consistent with the provisions set forth in Articles Two and Three and Section 12(A) above, there shall be no violation of this Ordinance in the following circumstances:
- (1) Meals and beverages given in the usual course of entertaining associated with normal and customary business or social functions.
 - (2) An occasional gift from a single source of \$101.00 or less in any calendar year.
 - (3) Ceremonial gifts or awards.
 - (4) Gifts of advertising value only or promotional items generally distributed to public officials.
 - (5) Awards presented in recognition of public service.
 - (6) Reasonable expenses of food, travel, lodging and scheduled entertainment for a meeting that is given in return for participation in a panel or speaking engagement at the meeting.
 - (7) Gifts from relatives or members of the City Official or Employee's household.
 - (8) Awards for professional achievement unrelated to City business.

- (9) Monetary fees or honorariums from a single source of \$101.00 or less for any speaking engagement, participation in a seminar, discussion panel, or other activity which directly relates to the official duties of the City Official or Employee.
- (10) Courtesy tickets or free admission to educational seminars, educational or information conventions, or other similar events.

Section Thirteen. Disclosure of Interest.

Any member of the Council who has a financial or personal interest in any proposed legislation or action before the Council shall immediately disclose publicly the nature and extent of such interest.

Any other City Official or Employee who has a financial or personal interest in any proposed legislation or action before the Council and who participates in discussion with or gives an official opinion or recommendation to the Council in connection with such proposed legislation or action shall immediately disclose publicly the nature and extent of such interest.

Section Fourteen. Exemptions.

This Ordinance shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society, labor union, 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.

Section Fifteen. Abstention to Avoid Conflicts of Interest.

- (A) Except as otherwise provided by law, no City Official or Employee shall participate in the discussion, debate, deliberation, vote, or otherwise take part in the decision-making process on any item before him in which the City Official or Employee has a conflict of interest as set forth above. In addition, a City Official or Employee 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 the entity. Where the interest of a City Official or Employee in the subject matter of a vote or decision is a Remote Interest, the City Official or Employee may participate in the vote or decision and need not disclose the interest.
- (B) To avoid the appearance of impropriety, if any City Official or Employee has a conflict of interest or has an interest that he or she has reason to believe either violates this Ordinance or may affect his or her official acts or actions in any matter, the City Official or Employee shall immediately

leave the meeting room, except that if the matter is being considered at a public meeting, the City Official or Employee may remain in the meeting room.

- (C) In the event of a conflict of interest, the City Official or Employee shall announce his or her intent to abstain prior to the beginning of the discussion, debate, deliberation, or vote on the item, shall not participate in any way, and shall abstain from casting a vote.

ARTICLE FIVE: ETHICS COMPLAINTS

Section One. Ethics Complaints

- (A) Any person may file an ethics complaint alleging a violation of any of the provisions of this Ordinance by and Employee or City Official by completing and submitting to the City Clerk the Ethics Complaint Form adopted by the City Council. The person filing an ethics complaint shall be referred to in this Article as the "Complainant." In the event the City Clerk is the subject of an ethics complaint, all duties of the City Clerk in this Article shall be undertaken by the City Manager.
- (B) The ethics complaint shall, at a minimum, identify the specific provisions of the Ordinance alleged to be violated, shall be supported by affidavits based on personal knowledge, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit shall be attached to the affidavit. Every ethics complaint shall be signed and notarized, and shall contain the following statement:

"I have read the ethics complaint and aver that the facts contained therein are true to the best of my knowledge and belief, and I am aware that the Ethics Ordinance authorizes the imposition of penalties against me for filing a frivolous complaint, including without limitation, payment of costs and attorney's fees associated with the handling and processing of the ethics complaint, and/or all other penalties applicable under the law."
- (C) An ethics complaint shall be filed within six (6) months of the date the alleged violation is said to have occurred, or in case of concealment or nondisclosure, within six (6) months of the date the alleged violation was or should have been discovered by the Complainant after due diligence.
- (D) No action may be taken on any ethics complaint which arises out of substantially the same facts or circumstances which have previously served as the basis for an ethics complaint pursuant to this Ordinance.

- (E) A separate ethics complaint shall be filed for each person alleged to have engaged in any activity violating this Ordinance even if the allegations arise from the same factual basis. The person alleged to have violated this Ordinance shall be referred to in this Article as the "Respondent."

Section Two. Processing Ethics Complaints

- (A) Upon receipt of an ethics complaint, the City Clerk shall, within five (5) business days from receipt of the ethics complaint, determine whether the ethics complaint on its face satisfies the requirements of Section One of this Article.
- (1) If the ethics complaint does not meet the requirements set forth in Section One of this Article, the City Clerk shall notify the Complainant in writing of the defect(s) via certified mail, return receipt requested. Thereafter, the Complainant shall be afforded five (5) business days from receipt of the notification of defect from the City Clerk to cure any defects that may be cured and re-submit the ethics complaint. If an ethics complaint is not re-submitted within the allotted time period, the City and the City Clerk shall take no further action on the ethics complaint.
- (2) If the City Clerk finds that the ethics complaint does meet the requirements of Section One of this Article on its face, the ethics complaint will be processed pursuant to the provisions of this Article.
- (B) Upon confirmation by the City Clerk that the ethics complaint meets the requirements of Section One of this Article on its face, the City Clerk shall promptly forward a copy of the ethics complaint by certified mail, return receipt requested, to the City Official or Employee against whom the ethics complaint was filed.
- (C) Upon confirmation by the City Clerk that the ethics complaint meets the requirements of Section One of this Article on its face, the City Clerk shall promptly begin the process of randomly selecting an Ethics Panel as provided in Section Four of this Article.
- (D) The Respondent shall respond to the ethics complaint within thirty (30) days of receipt of the ethics complaint from the City Clerk. The Respondent's response shall be supported by affidavits based on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit shall be attached to the affidavit. The Respondent shall verify the response by his or her signature thereon, which shall be

notarized.

- (E) Within sixty (60) days of the determination by the City Clerk that the ethics complaint meets the requirements of Section One of this Article, unless such time is extended by the Ethics Panel convened to hear the ethics complaint upon good cause shown, the Ethics Panel shall convene a meeting to conduct an initial review of the ethics complaint to determine whether specific, substantiated evidence from a credible source(s) exists in the ethics complaint to support a reasonable belief that there has been a violation of this Ordinance.
- (F) If after reviewing the ethics complaint the Ethics Panel determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this Ordinance or determines that no violation occurred as a matter of applying the facts alleged and accepted as true to the terms of the Ordinance, the Ethics Panel shall dismiss the ethics complaint without further proceedings. Such dismissal shall be entered in writing stating the basis therefor.
- (G) If the Ethics Panel determines that specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this Ordinance by the Respondent, the Ethics Panel shall set a hearing for consideration of the allegations of the ethics complaint ("ethics hearing"). Written notice of the ethics hearing, containing the time, date, and place of such hearing, shall be sent to the Complainant and the Respondent by the City Clerk by certified mail, return receipt requested.

Section Three. Ethics Hearings

- (A) All ethics hearings shall be conducted so as to insure the requirements of due process for the Respondent. At the ethics hearing, the Complainant and Respondent shall be entitled to make opening statements, testify, present witnesses and evidence, and make a closing statement after the submission of all evidence. The Complainant and Respondent shall not be required to testify unless subpoenaed to do so. Both the Complainant and the Respondent shall be allowed to question any witness that testifies.
- (B) The Respondent and the Complainant shall be entitled to be represented by legal counsel at all stages of consideration of an ethics complaint, including at the ethics hearing.
- (C) The Ethics Panel may not call witnesses or tender evidence of its own accord; however, members of the Ethics Panel may question any witnesses that are called to testify by either the Respondent or the

Complainant.

- (D) Any final determination resulting from the ethics hearing shall include written findings of fact and conclusions of law. In reaching its decision on the ethics complaint, the Ethics Panel shall decide if clear and convincing evidence presented at the ethics hearing establishes a violation of this Ordinance.

Section Four. Ethics Panel

- (A) Each Ethics Panel shall be constituted for the sole purpose of considering a single ethics complaint.
- (B) Each Ethics Panel shall consist of three randomly selected members from a list maintained by the City Clerk.
- (C) The City Clerk shall maintain a list of not less than nine (9) nor more than fifteen (15) qualified individuals from which to draw members of Ethics Panels. The City Clerk shall confirm the qualifications and willingness to serve of the members of the Ethics Panel not less than once per year.
- (D) Individuals shall be deemed qualified to serve on the Ethics Panel for so long as they:
 - (1) Are attorneys at law in good standing with the State Bar of Georgia;
 - (2) Have at least five (5) years experience in the practice of law, with no less than three (3) of those years dedicated to general civil litigation practice;
 - (3) Do not reside or maintain an office within the city limits of the City of Milton, Georgia;
 - (4) Are not, and have never been, an Employee or City Official, and are not the spouse, parent, child, or sibling of an existing or former Employee or City Official; and
 - (5) Have no, and the members of their immediate family have no, business or contractual relationship with the City of Milton, have not provided monetary or in-kind campaign contributions to sitting City Council members, and otherwise have no conflict of interest in providing service on the Ethics Panel.
- (E) Upon the City Clerk determining that an ethics complaint meets the requirements of Section One of this Article on its face, the City Clerk shall promptly draw names randomly from the list of qualified individuals and

contact the individual to determine their availability to serve on the Ethics Panel. The drawing of names by the City Clerk shall be witnessed by at least one other member of the City staff or City Attorney to ensure the integrity of the selection process. Upon selection of three qualified individuals who are available to serve on the Ethics Panel, the City Clerk shall prepare a document identifying Panel membership and both the Clerk and the staff member or City Attorney that witnessed the selection process shall attest on that document to the legitimacy of the selection process.

- (F) No person shall be qualified to serve on more than one (1) Ethics Panel at any given time unless all other qualified individuals are either serving on an Ethics Panel or have expressed their unavailability to so serve. Service on an Ethics Panel shall be deemed to have terminated upon the entry of the written dismissal or decision of the Ethics Panel after the conclusion of an ethics hearing.
- (G) An individual shall cease to be qualified immediately upon the third consecutive refusal (whether by choice or unavailability) to serve on an Ethics Panel after being randomly drawn from the list and contacted by the City Clerk to serve.

Section Five. Organization and Internal Operating Regulations.

- (A) Each Ethics Panel shall elect a chairperson and vice chairperson to serve during the pendency of the Ethics Panel.
- (B) Members of the Ethics Panel shall be paid a per diem for each meeting or hearing they are required to attend. If a hearing lasts multiple days, then the Ethics Panel attorney shall receive a separate per diem for each day of hearing attendance. The per diem shall be the same for each Ethics Panel attorney and shall be approved by the City Council.
- (C) The City Council shall provide meeting space for the Ethics Panel. Subject to budgetary procedures and requirements of the City, the City shall provide the Ethics Panel with such supplies and equipment as may be reasonably necessary to perform its duties and responsibilities. The City Clerk shall serve as Recording Secretary to the Ethics Panel.
- (D) Subject to budgetary procedures and requirements of the City, the City Attorney shall be available to assist the Ethics Panel in carrying out its responsibilities or to act as an ethics hearing administrator, whose duties shall be limited to conducting the ethics hearing as directed by the Ethics Panel. In the event the City Attorney has a conflict of interest in acting as an ethics hearing administrator on a particular case, the Ethics Panel may petition the City Council for appointment of counsel on a case-by-case

basis. Any such appointed counsel shall be approved by the City Council, shall perform services at an approved hourly rate, and shall serve at the joint pleasure of the Ethics Panel and the City Council.

- (E) The Chairperson shall be entitled to the same voting rights as the other members of the Ethics Panel.

Section Six. Removal of Members.

The City Council may remove a member of the Ethics Panel on grounds of neglect of duty or misconduct in office. For purposes of this Section, an Ethics Panel member that, without good cause, misses two (2) scheduled Ethics Panel meetings during the handling of a single case shall be deemed to have neglected their duty such that no further evidence demonstrating neglect need be shown. Before initiating the removal of a member from the Ethics Panel, the City Council shall give the member written notice of the reason for the intended action, and the member shall have the opportunity to reply. Thereafter, the City Council shall afford such member an opportunity for a hearing before the City Council. Upon removal of a member by the City Council, the City Clerk shall promptly undertake the same process as set forth in Section Four (E) to designate a replacement member of the Ethics Panel, and the selection process shall be subject to the same witnessing protocol as set forth in Section Four (E).

Section Seven. Resignation of Member.

If a member of the Ethics Panel decides to resign prior to the final resolution by the Ethics Panel of an ethics complaint, the member's resignation shall be submitted in writing to the City Clerk who shall forward the resignation to the City Council, the Mayor, and the other members of the Ethics Panel. A resignation shall be deemed effective upon submission to the City Clerk and cannot be revoked. Upon receipt of the resignation, the City Clerk shall promptly undertake the same process as set forth in Section 4(E) to designate a replacement member of the Ethics Panel, and the selection process shall be subject to the same witnessing protocol as set forth in Section Four (E).

Section Eight. Duties and Powers.

The Ethics Panel shall have the following duties and powers:

- (A) To establish any procedures, rules, and regulations governing its internal organization and conduct of its affairs, provided that such procedures, rules, and regulations do not conflict with any provision contained herein;
- (B) To consider and hear complaints of violations of this Ordinance;

- (C) To administer oaths;
- (D) To issue subpoenas only when requested to do so by the Complainant or the Respondent in accordance with Section Eleven of this Ordinance;
- (E) To recommend such action as provided in this Ordinance as deemed appropriate because of any violation of this Ordinance; and
- (F) To perform any other function authorized by this Ordinance.

Section Nine. Custodian of Records.

The City Clerk shall serve as legal custodian of the Ethics Panel records, and shall accept, file, maintain, and administer, in accordance with all applicable laws, any information related to the purposes of this Ordinance.

Section Ten. Limitation of Liability.

No member of the Ethics Panel, or any person acting on behalf of the Ethics Panel, shall be liable to any person for any damages arising out of the enforcement or operation of this Ethics Ordinance, except in the case of willful or wanton misconduct. This limitation of liability shall apply to the City, the members of the Ethics Panel, the City Clerk, the City Attorney, and any person acting under the direction of the Ethics Panel.

Section Eleven. Subpoenas

- (A) Any request for a subpoena made by a party to the Ethics Panel shall be made at least five (5) business days prior to the ethics hearing date, and shall state the names and addresses for whom the subpoenas are to be issued and the date and time for the witnesses to appear. Any party requesting a subpoena shall also notify the opposing party in writing as to whom the subpoenas will be issued. A failure to provide such notification or to timely request a subpoena under this Paragraph may result in a waiver of the right to subpoena such witness.
- (B) The Ethics Panel adopts O.C.G.A. § 45-20-9(c), which states:
 - “ Subpoenas shall be issued without discrimination between public and private parties. When a subpoena is disobeyed, any party may apply to the superior court of the county where the ethics hearing is being held for an order requiring obedience. Failure to comply with such order shall be cause for punishment as for contempt of court. The costs of securing the attendance of witnesses, including fees and mileage, shall be computed and assessed in the same manner as prescribed by law in civil cases in the superior court. Once

issued a subpoena may be quashed by the Ethics Panel or any administrative law judge if it appears that the testimony or documents sought are cumulative, that the testimony or documents sought are not relevant, that the testimony or documents sought are not material, that to respond to the subpoena would be unduly burdensome, or that for other good reasons basic fairness dictates that the subpoena should not be enforced.”

- (C) It is intended that O.C.G.A. § 24-10-24 shall apply to require twenty-five dollars (\$25.00) per diem as a witness fee for any witnesses who are not City Employees. City Employees shall not be entitled to receive a witness fee during hours in which they are being paid by the City for performance of job duties. Additionally, if a witness resides outside the City, O.C.G.A. §24-10-24 will apply to require the twenty-five dollars (\$25.00) per diem witness fee and twenty cents (\$0.20) per mile for travel expenses as a condition for appearance. Consistent with O.C.G.A. § 24-10-24, any subpoenas issued on behalf of the City will not require payment of the above-stated fees. If applicable, O.C.G.A. § 12-10-27 shall govern issuance of subpoenas to off-duty law enforcement officers.
- (D) The Complainant and the Respondent shall be individually responsible for costs of securing the attendance of any subpoenaed witness, including the costs of fees and mileage as applicable, and shall be individually responsible for service of any subpoena.

Section Twelve. Disciplinary Action

- (A) Upon a determination that an Employee has violated this Ordinance, the Ethics Panel shall recommend to the Mayor and the City Council that the City impose any combination of one or more of the following penalties and actions:
 - (1) No further action;
 - (2) Written warning or reprimand;
 - (3) Suspension without pay;
 - (4) Termination of employment; and
 - (5) Repayment to the City of any unjust enrichment.
- (B) Upon a determination that a City Official has violated this Ordinance, the Ethics Panel shall recommend to the Mayor and the City Council that the

City impose any combination of the following penalties and actions:

- (1) No further action;
 - (2) Written warning, censure, or reprimand;
 - (3) Request for resignation from office;
 - (4) Removal from office to the extent provided by Georgia law; and
 - (5) Repayment to the City of any unjust enrichment.
- (C) The City Council shall retain the discretion to determine whether any recommendation presented by the Ethics Panel under subsections (A) and (B) shall be imposed. In exercising this discretion, the City Council shall not be bound by the recommendation of the Ethics Panel and may impose any combination of the penalties listed in the relevant section. This discretion shall not entitle the City Council to override a determination by the Ethics Panel that a violation has occurred.
- (D) In addition to any other remedy provided herein, upon determination of a violation of this Ordinance, the Ethics Panel may recommend to the Mayor and the City Council in writing that any contract, bid, or change order that was the subject of the violation be cancelled or rescinded. The City Council shall retain the discretion to determine whether such a cancellation or rescission would be in the best interest of the City and shall not be bound in any way by a recommendation of the Ethics Panel.
- (E) In addition to any other remedy provided herein, the Ethics Panel may also forward its written decision to the Fulton County District Attorney's Office and/or the Office of the Governor for appropriate action.

Section Thirteen. Judicial Review

- (A) Any party against whom a decision of the Ethics Panel is rendered may obtain judicial review of the decision by writ of certiorari to the Superior Court of Fulton County. The application for the writ shall be filed within thirty (30) days from the date of the decision of the City Council with respect to the punishment to be imposed. If the Ethics Panel dismisses the ethics complaint or finds no violation to have been proven by clear and convincing evidence after an ethics hearing, the writ shall be filed within thirty (30) days of the written dismissal or decision. Judicial review shall be based upon the record. No party shall be entitled to a *de novo* appeal.
- (B) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final

upon all parties.

Section Fourteen. Ex Parte Communications.

- (A) After an ethics complaint has been filed and during the pendency of an ethics complaint before the Ethics Panel, no member of the Ethics Panel may communicate directly or indirectly with any party or other person about any issue of fact or laws regarding the ethics complaint, except as follows:
 - (1) The members of the Ethics Panel may obtain legal advice from the City Attorney and may discuss the ethics complaint with any City staff provided by the City Council to assist the Ethics Panel; and
 - (2) The members of the Ethics Panel may discuss the ethics complaint at a lawfully conducted meeting.
- (B) If any person attempts to communicate with an Ethics Panel member regarding an ethics complaint pending before the Ethics Panel, the Ethics Panel member shall report the substance of the communication to the Ethics Panel on the public record at the next meeting or hearing of the Ethics Panel.
- (C) No Ethics Panel member shall undertake an independent investigation of any complaint or matter before the Ethics Panel.

Section Fifteen. Confidentiality of Board of Ethics Information.

No member of the Ethics Panel, nor any public servant who has access to any confidential information related to the functions or activities of the Ethics Panel, shall divulge that information to any person not authorized to have it.

Section Sixteen. Wrongful Use of this Ordinance.

- (A) The purpose of this Ordinance is to endeavor to maintain a high standard of ethical behavior by City Officials and Employees. This will be most effective when City Officials, Employees, and citizens work together to set and maintain high ethical standards.
- (B) In order to accomplish this purpose, ethics complaints shall be based on fact and have the intent to improve the ethical climate of the City.
- (C) A wrongful use of this Ordinance shall occur if and when a frivolous, false, or politically motivated ethics complaint is filed in a negligent, reckless, or purposeful manner without a basis in law or fact and for purpose other than reporting a violation of this Ordinance.

- (D) An ethics complaint is not frivolous if the Complainant reasonably believes that facts exist to support the claim and either reasonably believes that under those facts the ethics complaint is valid under this Ordinance or acts upon the advice of counsel sought in good faith and given after full disclosure of all relevant facts within his/her knowledge and information.
- (E) In deciding if an ethics complaint is a wrongful use of this Ordinance, the Ethics Panel shall consider the following, without limitation:
 - (1) The timing of the ethics complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, when the ethics complaint was filed, and the date of any pending election in which the Respondent is a candidate or is involved with a candidacy, if any;
 - (2) The nature and type of publicity surrounding the filing of the ethics complaint, and the degree of participation by the Complainant in publicizing the fact that an ethics complaint was filed;
 - (3) The existence and nature of any relationship between the Respondent and the Complainant before the ethics complaint was filed;
 - (4) If Respondent is a candidate for election to office, the existence and nature of any relationship between the Complainant and any candidate or group opposing the Respondent.
 - (5) Whether the Complainant knew or reasonably should have known that the allegations in the ethics complaint were groundless; and
 - (6) The Complainant's motives in filing the complaint.
- (F) Allegations of a violation of this Section shall be raised by the Respondent as part of the Respondent's response to an ethics complaint.
- (G) Allegations of a violation of this Section shall be considered by the Ethics Panel considering the ethics complaint that is alleged to be a violation of this Section. Evidence supporting and opposing the allegations of a violation of this Section shall be presented at the same ethics hearing conducted with respect to the ethics complaint that is alleged to be a violation of this Section.
- (H) Upon a finding by the Ethics Panel that clear and convincing evidence of a violation of this Section was presented at the ethics hearing, the Ethics Panel shall recommend to the Mayor and the City Council that the City

impose any combination of the following penalties and actions:

- (1) Public reprimand;
- (2) Criminal prosecution for perjury; and
- (3) Payment of costs and attorney's fees associated with the handling and processing of the ethics complaint. For purposes of this subsection, the term 'costs' shall include the staff time dedicated to processing the ethics complaint as well as copy costs and other directly attributable administrative expenses. For purposes of this subsection, the phrase 'attorney's fees' shall include the reasonable fees of the attorney retained, if any, by the subject of the ethics complaint as well as any fees necessary to be paid to the Ethics Panel attorneys.

ARTICLE SIX: MISCELLANEOUS

Section One. Severability.

If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

Section Two. Repealer.

All Ordinances or parts of ordinances in conflict herewith are held repealed, including without limitation, the previously existing City of Milton Ethics Ordinance.

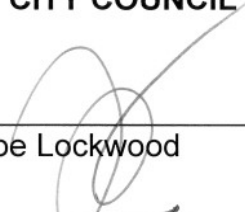
Section Three. Effective Date.

This Ordinance shall become effective immediately upon its passage by the Mayor and Council of the City of Milton.

[SIGNATURES ON FOLLOWING PAGE]

This 20th day of September, 2010.

MILTON CITY COUNCIL



Mayor Joe Lockwood



Councilwoman Karen Thurman



Councilwoman Julie Zahner Bailey



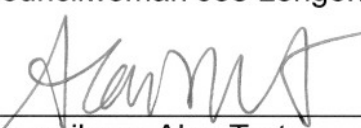
Councilman William C. Lusk



Councilman Burt Hewitt



Councilwoman Joe Longoria



Councilman Alan Tart

Attest:



Sudie AM Gordon, City Clerk

