

ORDINANCE 2006-11

AN ORDINANCE TO AMEND SOUTH FULTON MUNICIPAL CODE TITLE 1, GENERAL ADMINISTRATION

CODE OF ETHICS

BE IT ORDAINED by the City of South Fulton to amend Municipal Code Title 1, General Administration by adding Chapter 6 “Code of Ethics” as follows:

SECTION I. Applicability. This Code of Ethics adopted by Ordinance applies to all full-time and part-time, compensated or non-compensated, elected and appointed officials, employees, and members of any and all boards, authorities, and commissions created by the City of South Fulton, Tennessee. In situations, which a personal interest is also a conflict of interest under state law, the provisions of the state law shall take precedence over the provisions of this Code of Ethics.

SECTION II. Definitions.

1. Personal Interest
 - A. Includes but not limited to any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interest; or
 - B. Includes but not limited to any financial, ownership, or employment interest in a matter to be regulated or supervised; or
 - C. Includes but not limited to any such financial, ownership, or employment interest of the official’s or employee’s spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).
2. Employment Interest
 - A. Includes but not limited to any situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

SECTION III. Disclosure of Personal Interest by Official with Vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official’s vote on the measure. In addition, the official may recuse him/herself from voting on the measure.

SECTION IV. Disclosure of Personal Interest in Non-Voting Matters. An Official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion

when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse him/herself from the exercise of discretion in the matter.

SECTION V. Acceptance of Gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

1. For the performance of an act, or refraining from performance of an act, that he/she would be expected to perform, or refrain from performing, in the regular course of his/her duties; or
2. That might reasonably be interpreted as an attempt to influence his/her action, or reward him/her for past action, in executing municipal business.

SECTION VI. Use of Information.

1. An official or employee may not disclose any information obtained in his/her official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
2. An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for him/herself or any other person or entity.

SECTION VII. Use of Municipal Time, Facilities, etc.

1. An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to him/herself.
2. An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

SECTION VIII. Use of Position or Authority.

1. An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

2. An official or employee may not use or attempt to use his/her position to secure any privilege or exemption for him/herself or other that are not authorized by charter, general law, ordinance or policy of the municipality.

SECTION IX. Outside Employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

SECTION X. Ethics Complaints.

1. The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this ordinance, the city attorney may render an oral or written advisory ethics opinion based upon this ordinance and other applicable law.
 - A. Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this ordinance, or may undertake an investigation on his/her own initiative when he/she acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.
 - B. The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he/she has or will have a conflict of interests in a particular matter.
 - C. When a complaint of a violation of any provision of this ordinance is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.
3. The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
4. When a violation of this code of ethics also constitutes a violation of a personal policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

SECTION XI. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this ordinance is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this ordinance is subject to disciplinary action.

SECTION XII. Severability. If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION XIII. Savings. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION XIV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section XV. **Effective Date.** This ordinance shall take effect after the second reading and after ten days have passed from the first reading of this Ordinance. The City Recorder shall cause this Ordinance to be published in the local newspaper after the first reading of this Ordinance so as to give advance notice of amendment to those that may be affected.

First Reading:_____

Second Reading:_____

ATTEST:_____APPROVED BY:_____
RECORDER MAYOR