

Ethics Ordinance for the Oconee County Board of Commissioners

Sec. 1.1 – Purpose and Preamble

WHEREAS, the purpose of this ordinance is to establish ethical standards of conduct for county commissioners by setting forth those acts or actions that are incompatible with the best interests of the county and by directing disclosure by such county commissioners of private financial or other interest in matters affecting the county; and

WHEREAS, the proper operation of democratic government requires that county commissioners act in a manner that is impartial and responsive to the people; and

WHEREAS, it is important that government decisions and policy be made through the proper channels of the governmental structure and be transparent to the public; and

WHEREAS, public officials should not use their positions for personal gain and any actions should be free from the appearance of impropriety; and

WHEREAS, by enacting this ordinance it is the intent of the board of commissioners to strengthen the public's confidence in the integrity of county government.

NOW, THEREFORE, the Oconee County Board of Commissioners adopts this ordinance.

Sec. 1.2 – Definitions

- i. The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- ii. *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;
- iii. *Confidential information* means any information that is exempt from disclosure under the open records and open meetings acts;
- iv. *County commissioner* means a member of the county governing authority;
- v. *County official* and *official* means any member of a board or authority appointed by the board of commissioners, the county administrator/manager and assistant administrator/manager, county clerk or any other appointed officer or official of the county.
- vi. *Employee* means all those persons employed on a regular or part-time basis by the county, as well as those persons whose services are retained under the terms of a contract with the county.
- vii. *Family* means the spouse, parents, children, and siblings, related by blood, marriage, or adoption, of a county commissioner; *See also "interest"*
- viii. *Interest* means direct or indirect pecuniary or material benefit accruing to a county commissioner as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county, 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 county commissioner shall be deemed to have an interest in the affairs of: (1) his or her family; (2) any business entity in which the county commissioner is a member, officer, director, employee, or prospective employee; and (3) any business entity as to which the stock, legal ownership, or beneficial ownership of a county commissioner is in excess of five percent of the total

stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the county commissioner; *See also "family"*

- ix. *Remote interest* means the interest of (1) a non-salaried director, officer, or employee of a nonprofit corporation; (2) A holder of less than 5 percent of the legal or beneficial ownership of the total shares of a business; (3) Any person in a representative capacity, such as a receiver, trustee, or administrator; or (4) any person who, by determination of the board of ethics, is deemed to have such an interest. *See also "interest"*

Sec. 1.3 – Interpretation; Severability

- (a.) This ordinance shall be construed broadly to effectuate its purposes and policies and to supplement such existing laws as may relate to the conduct of a county commissioner.
- (b.) The propriety of any official act taken by or transaction involving a county commissioner immediately prior to the time this ordinance shall take effect shall not be affected by the enactment of this ordinance.
- (c.) The provisions of this ordinance are severable, and if any of its provisions shall be held unconstitutional or invalid by a court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions.

PART 2. ETHICAL STANDARDS

Sec. 2.1 – General Ethical Standards

All county commissioners shall:

- (a.) Uphold the Constitution, laws, regulations and ordinances of the United States, the State of Georgia and Oconee County therein and never be a party to their evasion.
- (b.) Put loyalty to the highest moral principles and to county above loyalty to persons, party, or county government department.
- (c.) Give to the performance of his or her duties his or her earnest effort and best thought.
- (d.) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not.
- (e.) Never accept or solicit, personally or for family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- (f.) Make no private promises of any kind binding upon the duties of office.
- (g.) Engage in no business with the government, either directly or indirectly, that is inconsistent with the conscientious performance of governmental duties.
- (h.) Report corruption wherever discovered.
- (i.) Uphold these principles, ever conscious that public office is a public trust.
- (j.) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.
- (k.) Never take any official action in which he or she has a direct or indirect monetary interest.

- (l.) Take steps to avoid the appearance of a conflict of interest, which may exist in the absence of an actual conflict.

Sec. 2.2 – Compliance with Applicable Law

No county commissioner 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.

Sec. 2.3 – Conflict of Interest Transactions

- (a.) No county commissioner shall have an interest in any contract or transaction affected by official acts or actions of the county commissioner, except consistent with the disclosure and abstention provisions set forth in this ordinance.
- (b.) No county commissioner may purchase goods, property, or services of any kind for county purposes from any business entity in which such county commissioner is an employee, or in which he is interested, unless by sanction of the majority of the members of the county commission and unless the goods, property services are provided at the same quality and for a lower price than can be obtained elsewhere.

Sec. 2.4 – Impartiality

- (a.) No county commissioner shall by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her in the performance of any official acts or actions.
- (b.) No county commissioner shall, by virtue of his or her position within the county, except as necessary in the performance of his or her official duties, directly or indirectly influence or attempt to influence the decision of any other officer, official or employee who must act to further any county procurement, policy, contract, matter, or transaction.

Sec. 2.5 – Withholding of Information

No county commissioner shall knowingly withhold any information that would impair the proper decision-making of any of the county's boards, agencies, authorities, or departments.

Sec. 2.6 – Disclosure of Information

- (a.) No county commissioner shall without proper legal authorization disclose confidential information concerning the property, government, or affairs of the county, or use such information to advance the financial or other private interest of himself or herself or others.
- (b.) No county commissioner shall without proper legal authorization disclose confidential information discussed in a properly closed meeting or executive session.

Sec. 2.7 – Incompatible Service

No county commissioner 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.

Sec. 2.8 – Nepotism

- (a.) No county commissioner shall advocate for or cause, directly or indirectly, the hiring, advancement, promotion, or transfer of a member of his or her family to any office or position with the county or a county agency.
- (b.) No county commissioner having authority to appoint or recommend for appointment members of any county board, commission, or authority shall appoint or recommend for appointment a member of his or her family.

Sec. 2.9 – Unauthorized Use of Public Property

No county commissioner shall request or permit the unauthorized use of county owned vehicles and equipment, including but not limited to computers, printers, copiers and related office equipment, wireless hand held devices, telephones, materials, networks, intraoffice mail or property for personal convenience or profit. *De minimis personal use of electronic communication equipment, such as wireless hand held devices and telephones is not prohibited.*

Sec. 2.10 – Political Recrimination and Activity

No county commissioner shall either cause the dismissal or threaten the dismissal from any county position as reward or punishment for any political activity. No county commissioner shall direct any person employed by the county to undertake political activity on behalf of any county commissioner or any other individual, political party, group, or business organization during such time that the employee is required to conduct county business. This section does not prohibit incidental telephone calls made for the purpose of scheduling a county commissioner's county business.

Sec. 2.11 – Organizational Integrity

County commissioners, as policy-makers, shall refrain from unduly interfering in the daily administrative affairs of department supervisors. Commissioners shall not give directions or make suggestions to the department supervisors or other employees on an individual basis. All directions should be made in accordance with the County Organizational Policy.

Sec. 2.12 – Appearance before County Entities

No member of the board of commissioners may appear on behalf of any private person, other than himself or herself, his or her spouse or minor children, before any county department, authority, or board, except before such groups on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.

Sec. 2.13 – Special Treatment

No county commissioner shall grant or receive any special consideration, treatment or advantage for themselves or any other citizen beyond that which is generally available to other citizens in the same or similar circumstances.

Sec. 2.14 – Timely Payment of Taxes and Debts to the County

All county commissioners shall pay and settle, in a timely and prompt fashion, all accounts with the county, including the prompt payment of all taxes.

Sec. 2.15 – Solicitation or Acceptance of Gifts

- (a.) County commissioners shall not accept gifts, gratuities, or loans from organizations, businesses, or individuals with whom he or she has official relationships arising from the business of the county government. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit accepting social courtesies which promote good public relations, or to prohibit obtaining loans from regular lending institutions.
- (b.) 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) Ceremonial gifts or awards;
 - 3) Gifts of advertising value only or promotional items generally distributed to county commissioners;
 - 4) Awards presented in recognition of public service;
 - 5) 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;
 - 6) Meals, beverages, lodging, travel and related expenses that is given in return for participating in an educational program;
 - 7) Courtesy tickets or free admission extended for an event as a courtesy or for ceremonial purposes, given on an occasional basis, and not to include season tickets of any nature;
 - 8) Gifts from families or members of the county commissioner's household;
 - 9) Honorariums or awards for professional achievement;
 - 10) Courtesy tickets or free admission to educational seminars, educational or informational conventions, or similar events; and
 - 11) Donations which are governed by the terms of federal elections laws and the Georgia Ethics in Government Act which governs campaign contributions.

Sec. 2.16 – Disclosure of Interest

- (a.) Any member of the board of commissioners who has an interest in any proposed ordinance, resolution or other action before the board of commissioners shall immediately disclose publicly the nature and extent of such interest.
- (b.) Any county commissioner shall also comply with the provisions of the Unified Development Code of Oconee County who has an "interest," as defined by O.C.G.A. § 36-67A-1, in any proposed ordinance, resolution or other zoning decision shall immediately disclose publicly the nature and extent of such interest and otherwise comply with the Conflict of Interest in Zoning in O.C.G.A. § 36--67A-1.

Sec. 2.17 – Abstention to Avoid Conflicts of Interest

- (a.) Except as otherwise provided by law, no county commissioner shall participate in the discussion, debate, deliberation, vote, or otherwise take part in the decision-making process on any item before him or her in which the county commissioner has a conflict of interest as set forth in this ordinance.
- (b.) In the event of a conflict of interest, the county commissioner shall announce his or her intent to abstain prior to the beginning of the discussion, debate, deliberation, or vote on the item, and shall abstain from casting a vote. The vice-chair shall preside over any part of a meeting in which the chair has a conflict of interest. No commissioner shall abstain from voting on any matter except for the purpose of avoiding a conflict of interest or as otherwise provided or required by law.

Sec. 2.18 Misuse of the Power of Office

A county commissioner shall not intentionally use the power of his or her office or official title or position for his or her own personal gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the misuse of the power of office prohibited by this section.

Sec. 2.19 – Coercion

No county commissioner shall intimidate, threaten, coerce, take action against, , or attempt to intimidate, threaten, coerce, or take action against any employee, county commissioner or official for the purpose of interfering with that person’s discretion in the regular discharge of his or her official duties.

Sec. 2.20 – Improper Influence

No county commissioner shall influence or attempt to influence any county commissioner, official or employee to violate the standards of ethical conduct set forth in this ethics ordinance or elsewhere in the law.

PART 3: VIOLATIONS

Sec. 3.1 – County Commissioners

County commissioners are subject to any one or combination of the following penalties and actions for a violation of this ordinance:

- a. Written warning, censure, or reprimand;
- b. Repayment to the county of any unjust enrichment;
- c. Requested resignation.
- d. Referral to the proper criminal authorities if criminal prosecution is warranted.

Sec. 3.2 – Protection for Reporting Violations

No county commissioner shall use or threaten to use their position or any power or authority related to that position to discourage, restrain, or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the board of ethics information relating to an ethics violation or investigation. No county commissioner shall use or threaten to use any official

authority or influence to effect any action as a reprisal against anyone who reports, initiates a complaint, or otherwise brings to the attention of the board of ethics information relating to a board investigation or an ethics violation.

ENFORCEMENT

PART 4. BOARD OF ETHICS

Sec. 4.1-Ethics Complaints Involving County Commissioners

- a) Any person may initiate a complaint of a violation of this ethics ordinance against a county commissioner by submitting to the county clerk a written, verified and sworn complaint under penalty of perjury. The complaint shall be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the complainant or the affiant if different that the complainant is competent to testify to the matters stated therein. All documents referred to in the complaint or any affidavit shall be attached to the complaint.
- (b) A complaint shall be filed within six months of the date the alleged violation is said to have occurred, or in the case of concealment or nondisclosure within six months of the date the alleged violation should have been discovered after due diligence. A complaint filed more than six months after the alleged violation occurred or was discovered shall not be considered.
- (c) A Special Master shall be designated by board of commissioners. The Special Master shall be an attorney other than the county attorney and shall be responsible for carrying out the duties specified herein. The Designation of a Special Master shall be made within 30 days of the effective date of this ordinance.
- (d) Upon receipt of the complaint, the county clerk shall immediately deliver such complaint to the county attorney and to all parties named in the complaint. The county attorney shall review the complaint to determine if it involves a county commissioner.
- (e) In the event that the complaint involves a county commissioner, the county attorney shall immediately forward the complaint directly to the Special Master who shall review the complaint to determine if it meets the technical requirements set forth in Section 4.1 (a) and (b) of this ordinance. If the complaint fails to meet these requirements, the Special Master shall notify the person or persons who filed the complaint and they shall have 10 days to correct and re-file the complaint with the Special Master. In making the determinations required herein, the Special Master shall have the authority to request additional information from the complainant, the county commissioner named in the complaint or any other party the Special Master deems to have relevant information. If the Special Master determines that material facts for which a remedy can be given exists, then the Special Master shall forward a copy of the complaint with that determination to the county commissioner named in the complaint and to the members of the boards of ethics, once it has been appointed pursuant to Sections 4.4 and 4.5 of this ordinance. If the Special Master determines that material facts for which a remedy can be given do not exist, then the Special Master shall forward that determination to the complainant, the county clerk, the county attorney and the county commissioner named in the complaint.
- (f) Upon receipt of notice from the Special Master that the complaint contains material facts for which a remedy can be granted, the county commissioner named in the complaint may reply to the complaint within 30 days unless such time for reply is extended by the board of ethics upon a showing of good cause. The response of the county commissioner shall be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is

competent to testify to the matters stated therein. All documents referred to in the complaint or any affidavit shall be attached to the complaint.

- (g) If the Special Master determines that the complaint provides material facts for which a remedy can be given, and after the time for the filing of a response by the complained against county commissioner has passed, the ad hoc board of ethics shall schedule a formal hearing to consider the complaint. The board of ethics shall notify all involved parties in writing of the time and place of the hearing, which hearing shall not be held sooner than ten days following notice of same.

Sec. 4.2 Hearings

- (a) Hearings shall be public, and all parties shall have the opportunity to be heard, to summon witnesses, and to present evidence. Persons alleged to have violated this ethics ordinance shall have the right to be represented by counsel at their own expense.
- (b) At the conclusion of the hearing, the board of ethics shall deliberate upon its findings in public and shall determine its findings by majority vote. Findings that a violation of this ethics ordinance has occurred shall be based upon clear and convincing evidence. The board of ethics' decision shall be reduced to writing and provided to the parties; the decision shall be final; provided, however, that the decision shall be subject to review by writ of certiorari to the Superior Court.
- (c) All ethics complaints involving county commissioners shall be heard by the board of ethics.

Sec. 4.3 Unavailability of the Special Master

The board of commissioners shall have the authority to appoint an alternative Special Master in the event that the Special Master cannot fulfill his or her duties as provided in this ordinance.

Sec. 4.4 – Creation and Composition of Ad Hoc Board of Ethics

In the event that the Special Master determines that an ethics complaint that has been filed with his or her office that provides material facts for which a remedy can be given, a five member ad hoc board of ethics shall be appointed by the Special Master, the Oconee County Probate Judge and the Oconee County Chief Magistrate, after soliciting applications and recommendations from the citizens of Oconee County. The ad hoc board of ethics shall be a temporary board. Except as provided in Sec 4.6 of this ordinance, all appointments shall serve until all actions regarding the ethics complaints for which they have been created have been resolved. Upon completing its duties the board shall stand dissolved.

Sec. 4.5 – Qualifications of Members of the Ad Hoc Board of Ethics

A person is eligible to be appointed as a member of the ad hoc board of ethics if the person:

- 1) Resides in the county and is a registered voter;
- 2) Is not an employee or official of the county or any municipalities within the county and has not been an employee or official of the county during the three months immediately preceding his or her appointment, and is not the spouse, parent, child, or sibling of an employee, official, or county commissioner of the county;
- 3) Is not the employee of any political party;

- 4) Does not hold any elected or appointed office and is not a candidate for office of the United States, this state, or the county, and has not held any elected or appointed office during the three months immediately preceding his appointment.

Sec. 4.6 – Terms and Vacancies

If any vacancy occurs during the term of service a new member shall be appointed in the same manner as set out hereinabove. If at any time during their service on the ad hoc board of ethics a member becomes ineligible to serve he or she shall be automatically removed and a new member shall be appointed in the same manner as set out hereinabove. Ethics board members may be reappointed to serve subsequent terms to hear future complaints. Once a board is impaneled, he or she will serve until action on the complaint for which they have been called has been completed.

Sec. 4.7 – Removal of Member

The Special Master may remove a member of the board of ethics on the grounds of neglect of duty or misconduct in office in violation of this ordinance.

Sec. 4.8 – Organization and Internal Operating Regulations

- (a.) Members of the board of ethics shall not be compensated.
- (b.) The board of ethics shall elect one of its members to act as chair and one of its members to act as vice-chair. The board shall determine by majority vote when it shall be meet and the number of meetings necessary to resolve the complaint. The meetings of the board of ethics shall be duly publicized, and shall be otherwise conducted in accordance with open meeting requirements under state law.
- (c.) Four members of the board of ethics shall constitute a quorum for the transaction of business and for voting purposes. The chair shall be entitled to the same voting rights as the other members.
- (d.) Any official action concerning complaints shall be made in accordance with Section 4.2 of this ordinance.

Sec. 4.9 – Duties and Powers

The ad hoc board of ethics shall have the following duties and powers:

- 1) Receive and hear complaints of violations of standards required by this ordinance.
- 2) Take such action as provided in this ordinance as deemed appropriate because of any violation of this ordinance as provided in Part 3 of this ordinance.
- 3) Perform any other function authorized by this ordinance.

Sec. 4.10- Voting

Each member of the ad hoc board of ethics, including the chairman, shall vote on every issue that comes before the ad hoc board of ethics except for issues in which the member has cited a conflict of interest. The passage of any board action shall require the affirmative vote of a majority of the members of the board.

Sec. 4.11– Staffing and Expenses

Subject to budgetary constraints and procedures, the ad hoc board of ethics shall be provided sufficient meeting space and other reasonable supportive services by the county governing authority to carry out its duties required under this ordinance. The Special Master shall designate a county employee who shall serve as the filing clerk for the board of ethics and who shall be authorized to receive all filings before the board of ethics, to publish notices of all meetings upon request of the board of ethics’ chair, and to serve as the recording clerk for the board of ethics. The board of commissioners shall provide adequate funding for this purpose.

Sec. 4.12 – Counsel

The ad hoc board of ethics may petition the board of commissioners for appointment of counsel on a case-by-case basis to assist it in carrying out its responsibilities or to act as a hearing official. Any such appointed counsel shall be approved by the Special Master and shall serve at the pleasure of the board of ethics.

Sec. 4.13 – Adherence to Ethics Ordinance

The ad hoc board of ethics shall be governed by and subject to this ordinance as if a member of the board of commissioners. If a member of the board of ethics has a conflict of interest or must disqualify himself or herself under this ethics ordinance or by law, the Special Master shall either appoint a new member from the recommendations that he or she received who were not initially chosen to serve on the board or shall request additional recommendations from the recommending groups or individuals who do not currently have a member on the board

Sec. 4.14 – Limitation of Liability

No member of the ad hoc board of ethics, or any person acting on behalf of the board of ethics, shall be liable to any person for any damages arising out of the enforcement or operation of this ordinance, except in the case of willful or wanton conduct. This limitation of liability shall apply to the county, the members of the board of ethics, the employees of the board of ethics, and any person acting under the direction of the board of ethics.

Sec. 4.15 – Effective Date

This ordinance shall go into effect upon its adoption.

Adopted this 7th day of June, 2016.

OCONEE COUNTY BOARD OF COMMISSIONERS

BY: *Melvin Davis*
Melvin Davis, Chairman

Jim Duke
Jim Duke, Member

W.E. Wilkes
W.E., “Bubber” Wilkes, Member

Member Absent (family emergency)
Mark Saxon, Member

Attest:

Jane I. Greathouse
Jane I. Greathouse, County Clerk