

# *2012 Newly Elected Municipal Officials Institute*

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## **Ethical Considerations for Newly Elected City Officials**

# Conflicts of Interest: Voting when Personally Interested

- It is improper and illegal for a member of a municipal council to vote upon any question brought before the council in which he is personally interested. § O.C.G.A. 36-30-6.
- Personally interested has been construed by the courts to mean a financial interest.

# Conflicts of Interest: Voting when Personally Interested

- Improperly entering an interested transaction can result in removal from office.
- Consult O.C.G.A. § 45-10-3 for the code of ethics prescribed by the state.
  - Among other acts, this statute prohibits official actions under circumstances in which a public official 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.”

# Conflicts of Interest: Voting when Personally Interested

- If you own a store or business that does business with the city, ask your city attorney about the potential for a conflict of interest!
- The safest practice is to do no business with the city at all.

# Potential Remedies for Conflicts of Interest

- Two main avenues for handling conflicts of interest:
  - Disclose completely any interest that the official might have in the matter
  - Disqualify interested official from participating in vote on the matter

# Potential Remedies for Conflicts of Interest

- Disclosure can be an effective remedy where the conflict of interest is indirect, rather than a direct financial interest
- The more prudent course of action is to disqualify any interested person from voting altogether.

# Conflicts of Interest: Zoning Actions

- Local officials must disclose the nature and extent of any property or financial interest in any real property that will be affected by a rezoning decision.
- This includes disclosing the interests of the official's family, as well as any business entities the official is associated with. O.C.G.A. § 36-67A-2.

# Conflicts of Interest: Zoning Actions

- After disclosing these interests, an official must disqualify himself from voting on the rezoning action and refrain from taking action that may influence the decision.
- Violation of O.C.G.A. § 36-67A-2 is a misdemeanor, punishable by fine and up to 12 months in jail!

# Conflicts of Interest: Redevelopment Powers

- O.C.G.A. § 36-44-21 and O.C.G.A. § 36-61-19 require:
  - Disclosure of any property interest a local official obtained within two years prior to the development project
  - Any official who owns property within the redevelopment district must make a disclosure of that interest in writing to the local redevelopment authority and/or local government
  - The official may not participate in any action that may affect the project.

# Conflicts of Interest: Redevelopment Powers

- Violation of these code sections, as with other violations of conflicts of interest laws, may result in criminal penalties and your being found guilty of “misconduct in office.”
  - See, for example, O.C.G.A. § 36-61-19(c) and O.C.G.A. § 36-44-21(c).

# Model Code of Ethics

- The Georgia Municipal Association has published a booklet that outlines the procedure by which a city may become a “Certified City of Ethics.” (included in your materials.)

# Model Code of Ethics

- The City of Cedartown adopted an ordinance setting forth the ethics standard to which city officials will be held. Highlights include:
  - Unreported campaign contributions not allowed
  - Financial conflicts of interest prohibited
  - Unapproved use of public property prohibited
  - Use of city's confidential information prohibited
  - Use of position to coerce others prohibited
  - Ethics committee created for purpose of receiving ethics complaints
  - City employees prohibited from running for office or assisting with campaigns

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields



CFC Form FD-Local Rev. 3/11

### STATE OF GEORGIA FINANCIAL DISCLOSURE STATEMENT

Original  
 Amendment  
*(Enter Date of Statement Being Amended)*

Date of this Statement: [ ] Covering Calendar Year: [ ]

Name of Public Officer or Candidate: [ ]

Mailing Address: [ ]  
Street or P.O. Box City County State Zip code

Telephone Number: (Office/Home) [ ] (E-Mail) [ ]

Name of City Public Office Held or Sought / Authority / Board / Commission: [ ]

Check One:

- Elected City or County Officer  Candidate for City or County Office

**WHO FILES A FINANCIAL DISCLOSURE STATEMENT:**

Each public officer holding office in Georgia, and each person who qualifies as a candidate for election as a public officer for one of the offices listed below, and all others on the following list.

- (A) Every constitutional officer;
- (B) Every elected state official;
- (C) The executive head of every state department or agency, whether elected or appointed;
- (D) Each member of the General Assembly;
- (E) Every elected county official, every elected county or area school superintendent, and every elected member of a county or area board of education; and
- (F) Every elected municipal officer.

**WHEN TO FILE A FINANCIAL DISCLOSURE STATEMENT:**

**Public Officer:** A Financial Disclosure Statement is filed not before January 1 and not later than July 1 of each year that a public officer holds office (except the year of election). The information to be provided shall be that from the preceding calendar year.

If the public officer chooses not to run for re-election or for another public office no Financial Disclosure Statement need be filed in the year qualifying to succeed him takes place. A public officer shall not be deemed to hold the office in a year in which the public officer holds office for less than 15 days.

**Candidate for Public Office:** A Financial Disclosure Statement covering the period of the preceding calendar year shall be filed no later than the fifteenth day following the date of qualifying as a candidate. Candidates for state wide office file not later than seven days after qualifying for office. Only one Financial Disclosure Statement is required per calendar year.

**Special requirements for State Wide Candidates:** Candidates for a public office elected state wide must file their Financial Disclosure Statements not later than seven days after qualifying or filing a notice of candidacy. State wide candidates must disclose more information than other candidates for public office and the additional disclosure sections required of state wide candidates must be completed in the year of election filing.

**WHERE TO FILE A FINANCIAL DISCLOSURE STATEMENT:**

The commission strongly recommends that local officials should electronically file Financial Disclosure Statements. However, local officials may file their statements by certified mail or statutory overnight delivery.

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

SECTION I  
MONETARY FEES RECEIVED  
(This section to be completed by Public Officers only)

Identify each monetary fee or honorarium accepted from speaking engagements, participation in seminars, discussion panels, or other activities that directly relate to the official duties of, or to the office of the public officer, with a statement identifying the fee or honorarium and the person from whom it was accepted. (You may attach additional sheets of paper if necessary.)

- I received:
- No monetary fee or honorarium.
  - Monetary fee(s) or honoraria as shown below.

Identify Fee or Honorarium And Amount Accepted	Identifying Information of Person from Who Accepted

SECTION II  
FIDUCIARY POSITIONS

Name all fiduciary positions held by the candidate for public office or the public officer at any time during the covered year. (You may expand this section if necessary to include all positions.) A fiduciary position is any position imposing a duty to act primarily for another's benefit as officer, director, manager, partner, guardian, or other designations of general responsibility of a business entity. A fiduciary position may be a paid or unpaid position. A business entity is any corporation, sole proprietorship, partnership, limited partnership, limited liability company, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether profit or nonprofit. (You may attach additional sheets of paper if necessary.)

- I held:
- No fiduciary positions in any business entity.
  - Fiduciary positions in the following business entity(ies).

- IDENTIFY:
1. Title of each position.
  2. Name and address of business entity.
  3. Principal activity of each business entity.

Business entity #1

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Business entity #2

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Business entity #3

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Business entity #4

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Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

### SECTION III DIRECT OWNERSHIP INTERESTS IN BUSINESS ENTITY

Direct ownership interest is the holding or possession of good legal or rightful title of property or the holding or enjoyment of real or beneficial use of the property by any person and includes any interest owned or held by a spouse of the person if such interests held jointly or as tenants in common between the person and spouse.

Identify the name, address and principal activity of any business entity and the office held by and the duties of the candidate for public office or public officer within a business entity any time during the covered year in which a direct ownership interest: (A) Is more than 5 percent of the total interest in the business; or (B) Has a net fair market value of more than \$5,000. (You may attach additional sheets of paper if necessary.)

**I held:**

- No direct ownership interests in any business entity.
- Direct ownership interests in the following business entity(ies).

**IDENTIFY:**

1. Name and address of business entity.
2. Principal activity of business entity.
3. The office held by the candidate or the public officer within the business entity.
4. The duties of the candidate or the public officer within such business entity.

Business entity #1


Ownership Interests  
Check One or Both If Applicable

- Ownership interest is more than 5%
- Ownership interest has a net fair market value of more than \$5,000.00

Business entity #2


- Ownership interest is more than 5%
- Ownership interest has a net fair market value of more than \$5,000.00

Business entity #3


- Ownership interest is more than 5%
- Ownership interest has a net fair market value of more than \$5,000.00

Business entity #4


- Ownership interest is more than 5%
- Ownership interest has a net fair market value of more than \$5,000.00

Business entity #5


- Ownership interest is more than 5%
- Ownership interest has a net fair market value of more than \$5,000.00

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

Vertical sidebar containing navigation icons: document, paperclip, folder, binoculars, pencil.

### SECTION IV DIRECT OWNERSHIP INTERESTS IN REAL PROPERTY

Direct ownership interest is the holding or possession of good legal or rightful title of property or the holding or enjoyment of real or beneficial use of the property by any person and includes any interest owned or held by a spouse of the person if such interests held jointly or as tenants in common between the person and spouse.

Identify each tract of real property in which the candidate for public office or public officer has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value in excess of \$5,000.00. "Fair market" value means the appraised value of the property for ad valorem tax purposes. (You may attach additional sheets of paper if necessary.) Check one box to show the applicable valuation range for each tract. (You may attach additional sheets of paper if necessary.)

- I had:
- No ownership interests with a fair market value in excess of \$5,000.00
  - Ownership interests with a fair market value in excess of \$5,000.00

- IDENTIFY:
1. County where property is located.
  2. State where property is located.
  3. General description of property (give street address or location, size of tract, and nature or use of property).

Property #1

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- The Value of this tract is
- Between \$5,000 and \$100,000
  - Between \$100,000.01 and \$200,000
  - More than \$200,000

Property #2

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- The Value of this tract is
- Between \$5,000 and \$100,000
  - Between \$100,000.01 and \$200,000
  - More than \$200,000

Property #3

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- The Value of this tract is
- Between \$5,000 and \$100,000
  - Between \$100,000.01 and \$200,000
  - More than \$200,000

Property #4

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- The Value of this tract is
- Between \$5,000 and \$100,000
  - Between \$100,000.01 and \$200,000
  - More than \$200,000

Property #5

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- The Value of this tract is
- Between \$5,000 and \$100,000
  - Between \$100,000.01 and \$200,000
  - More than \$200,000

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

### SECTION V SPOUSE'S DIRECT OWNERSHIP INTERESTS IN REAL PROPERTY

Identify each tract of real property in which the filer's spouse has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value in excess of \$5,000.00 (You may attach additional sheets of paper if necessary.) Check one box to show the applicable valuation range for each tract. (You may attach additional sheets of paper if necessary.)

My spouse had:

- No ownership interests with a fair market value in excess of \$ 5,000.00
- Ownership in the following tracts with a fair market value in excess of \$5000,00

IDENTIFY:

1. County where property is located.
2. State where property is located.
3. General description of property (give street address or location, size of tract, and nature or use of property).

Property #1

  
  


The Value of this tract is

- Between \$ 5,000 and \$100,000
- Between \$100,000.01 and \$200,000
- More than \$200,000

Property #2

  
  


The Value of this tract is

- Between \$ 5,000 and \$100,000
- Between \$100,000.01 and \$200,000
- More than \$200,000

Property #3

  
  


The Value of this tract is

- Between \$ 5,000 and \$100,000
- Between \$100,000.01 and \$200,000
- More than \$200,000

Property #4

  
  


The Value of this tract is

- Between \$ 5,000 and \$100,000
- Between \$100,000.01 and \$200,000
- More than \$200,000

Property #5

  
  


The Value of this tract is

- Between \$ 5,000 and \$100,000
- Between \$100,000.01 and \$200,000
- More than \$200,000

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

SECTION VI  
EMPLOYMENT AND FAMILY MEMBERS

Filer's Occupation \_\_\_\_\_  
Filer's Employer \_\_\_\_\_  
Employer's Address \_\_\_\_\_  
Employer's Principal Activity \_\_\_\_\_  
  
Filer's Spouse's Name \_\_\_\_\_  
Spouse's Occupation \_\_\_\_\_  
Spouse's Employer \_\_\_\_\_  
Address of Spouse's Employer \_\_\_\_\_  
Principal Activity of Spouse's Employer \_\_\_\_\_

SECTION VII  
INVESTMENT INTERESTS

List the name of any business or subsidiary thereof or investment (do not list individual stocks and bonds that are held by mutual funds), in which the filer (either individually or with any other legal or natural person or entity) owns a direct ownership interest that:

1. Is more than 5 percent of the total interests in such business or investment, or
2. Has a net fair market value of more than \$5,000.00.

Business or Investment Entity #1  
Name \_\_\_\_\_  
  
Business or Investment Entity #2  
Name \_\_\_\_\_  
  
Business or Investment Entity #3  
Name \_\_\_\_\_  
  
Business or Investment Entity #4  
Name \_\_\_\_\_

SECTION VIII  
KNOWN BUSINESS OR INVESTMENT INTERESTS OF SPOUSE AND DEPENDENT CHILDREN

Identify any business or investment known to the filer in which the filer's spouse or dependent children have a direct ownership interest (either individually or with any other legal or natural person or entity) which interest:

1. is more than 5 percent of the total interest in the business or investment,
2. has a net fair market value exceeding \$10,000.00, or
3. is one in an entity for which the filer's spouse or a dependent child serves as an officer, director, equitable partner, or trustee.

(Do not list individual stocks and bonds that are held by mutual funds.) \*

Business or Investment Entity #1  
Name \_\_\_\_\_  
  
Business or Investment Entity #2  
Name \_\_\_\_\_  
  
Business or Investment Entity #3  
Name \_\_\_\_\_  
  
Business or Investment Entity #4  
Name \_\_\_\_\_

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

SECTION IX  
ANNUAL PAYMENTS RECEIVED  
FROM THE STATE OF GEORGIA  
(This section to be completed by Public Officers only)

Identify all annual payments in excess of \$10,000.00 received by the public officer, or by any business entity identified in Section III above, from the State or any agency, department, commission or authority created by the State, and authorized and exempted from disclosure under O.C.G.A. § 45-10-25.

I received:

- No annual payments in excess of \$10,000.00 from any State entity.
- Annual payments in excess of \$10,000.00 from the below named State entity(ies).

IDENTIFY:

1. Name and address of State entity making the payments.
2. Amount of annual payment.
3. The general nature of the consideration rendered for the payment(s).

State entity source #1


State entity source #2


VERIFICATION BY OATH OR AFFIRMATION

State of Georgia  
County of \_\_\_\_\_

I, the undersigned, being duly sworn (affirm), depose and say that the information in this statement is complete, true, and correct.

Sworn to and subscribed before me on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

My Commission expires \_\_\_\_\_.

\_\_\_\_\_  
Signature of Candidate or Public Officer

PENALTIES: Any person who knowingly fails to comply with or who knowingly violates any of the provisions of the Ethics in Government Act shall be guilty of a misdemeanor.

Please fill out the following form. You cannot save data typed into this form. Please print your completed form if you would like a copy for your records. Highlight Existing Fields

CFC Form FD-PIN 1/11/



**Personal  
Financial Disclosure  
Electronic Filing Access Code**

**Georgia Government Transparency and Campaign Finance Commission**

200 Piedmont Avenue  
Suite 1402 - West Tower  
Atlanta, GA 30334

**PERSONAL IDENTIFICATION NUMBER APPLICATION**

(\*\* All Fields must be completed and legible in order to process application \*\*)

**Filer's Identification - Please Print**

Application Status:

Filer's Name:

Address:

City, State, Zip:

Telephone (Office):  Telephone (Home):

Email Address:

Name of Public Office Held or Sought/Authority/Board:

*I understand this confidential PIN number is assigned to the above filer and only the State Ethics Commission staff and the listed filer will have access to this confidential number.*

**Verification - Must Be Notarized**

State of \_\_\_\_\_, County of \_\_\_\_\_.

**FILER:** I, the undersigned filer do hereby swear or affirm that the information in this application is complete, true, and correct to the best of my knowledge and belief. I acknowledge that any report I submit electronically in the future I shall verify as complete, true, and correct to the best of my knowledge and belief.

SIGNATURE OF FILER: \_\_\_\_\_

NOTARY PUBLIC (sign name): \_\_\_\_\_

PRINT NOTARY'S NAME: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

This document was sworn to or affirmed and subscribed before me on \_\_\_\_\_, 20\_\_\_\_

**For Office Use Only**

FilerID:

Approved By \_\_\_\_\_ Date \_\_\_\_\_

# Mandatory Reporting

- Failure to file your mandatory reports could lead to sanctions, penalties, fines, and being brought before the Commission.
- Under O.C.G.A. § 21-5-3, any gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money, or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person to office, must be reported to the Commission as a contribution.

# Mandatory Reporting

- All contributions—even in-kind contributions, such as friends and neighbors taking out ads, paying to have signs printed, and the like—are governed by the Act and must be reported.

# Georgia Open Records Act Requests

- The Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., requires that the public be allowed to inspect “all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency.”

# Georgia Open Records Act Requests

- When records are requested by a member of the public, either the records or a schedule for producing the records must be produced within three days of receiving the request.
- All non-privileged materials, as defined by the statutes, must be produced.

# Georgia Open Records Act Requests

- Because virtually any non-privileged document created in the course of government is subject to the Act, responding to records requests can become extremely cumbersome and time-intensive.
- As an example, the City of Rockmart recently received several records requests from George Anderson, the executive director of Ethics in Government Group. These requests asked for all documentation concerning several city employees/officials— which, including emails, wound up being a request for several thousand documents!

# Georgia Open Records Act Requests

- A list of items actually requested in the records request to the City of Rockmart:
  - All documentation regarding the City Manager from date hired to present (employed by the city roughly 30 years)
  - All documentation regarding Development Supervisor from date hired to present (several years)
  - All documentation regarding two councilpersons (each in office for between 8 and 10 years)

# Georgia Open Records Act Requests

- When a records request is made, the requested documents must be combed through to make sure that no privileged information is produced to the public. Thus, the records request to the City of Rockmart cost the city several thousand dollars in expenses paid to city employees and city attorneys as they combed through the documents one-by-one.

# Georgia Open Records Act Requests

- Records requests are easily made by the public, as there is no cost to make a request. While the requester must pay for reasonable costs of production, attorneys' time and other costs over and above what is "reasonable" may not be charged to the public.
- Cities thus find themselves in the position of being forced to use taxpayer dollars to respond to a potentially unlimited amount of records requests.

# Georgia Open Records Act Requests

- The best way to prepare for potential records requests is to be organized.
- Have a document destruction/retention schedule as laid out on the Secretary of State's website.
- Organize records into privileged and unprivileged sections so that, when the time comes, the documents can be produced easily without spending excess time considering whether each individual document should be produced.