

PASSED: 3-6-2006

ORDINANCE NO. 2006-001

**AN ORDINANCE ADOPTING A CODE OF ETHICS FOR THE TOWN OF MAYSVILLE, GEORGIA; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

BE IT ORDAINED by the Town Council of Maysville, Georgia as follows:

**Section 1. Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agency* means the city council, and all other agencies, authorities, boards, commissions, committees, departments, and offices of the city, without exception.

*Appointee* means any person duly appointed by the city council to serve on any authority, board, committee, subcommittee, agency, body, or in any other office or position.

*Business* means a corporation, a partnership, a limited liability company, a sole proprietor, or any other person or organization carrying on an enterprise for profit.

*Business relationship* means an agreement between parties designed to result in an enterprise for profit to those parties.

*Censure* means a public expression of severe criticism or reproach.

*Confidential information* means any information, which by law or practice is not available to the general public.

*Contract* means any lease, claim, account, or demand against or agreement with any person, whether express or implied, executed or executory, verbal or in writing.

*Employee* means any person holding an employment position with the Town.

*Employment* means any rendering of services on request, whether paid or unpaid.

*Formal reprimand* means an action taken against a person or entity found to be in violation of the ethics ordinance, issued in writing to the person or entity, chastising the person or entity for the violation. The record of said formal reprimand shall be inserted into the minutes of the Town council.

*Immediate family* means spouse and children.

*Interest* means any direct or indirect pecuniary or material benefit accruing to a public officer 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 within the Town. This does not, however, include those 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. Examples of interest include, but are not limited to, situations involving:

(a) Any person in the immediate family of the official, employee, appointee, or volunteer;

(b) Any person or business with whom a contractual relationship (either written or implied) exists, whereby he may receive a payment or other benefit, including an agreement for employment; and

(c) Any business in which he is an officer, director, employee, prospective employee or substantial shareholder (owning or controlling in excess of five percent of the total stock or total legal and beneficial ownership).

*Official* means any official, officer, appointee, volunteer, or member of the government of the Town who is not an employee, whether elected or appointed, whether paid or unpaid, whether permanent, temporary or alternate.

*Official act or action* means any executive, legislative, administrative, appointive or discretionary act of any official or employee of the Town or any agency of the Town.

*Official town business* means work, action, attendance, or other legitimate participation in any event or activity sanctioned by the governing authority of the Town.

*Paid* means the receipt of, or right to receive, a salary or commission, percentage, brokerage or contingent fee.

*Participate* means to take part in official acts, actions or proceedings personally as an official employee through approval, disapproval, decision or the failure to act or perform a duty.

*Person* means any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid, including any official or employee.

*Property* means any property, whether real or personal, tangible or intangible, including currency and commercial paper.

*Reprimand* means an expression of disapproval, either public or private.

*Transaction* means the conduct of any activity that results in or may result in an official act or action of the Town.

*Volunteer* means a non-paid person engaging in official city business with the approval of the governing authority.

**Section 2. Prohibitions.**

1. Gifts and favors.

(a) No official or employee shall accept any gift, loan, reward, favor or services that may reasonably tend to improperly influence him or her in the discharge of their official duties. This limitation is not intended to prohibit the acceptance of articles of negligible value, which are distributed generally, nor to prohibit officials or employees from accepting loans from regular lending institutions. It is particularly important that employees and officials guard against relationships, which might be construed as, or give the appearance of favoritism, coercion, unfair advantage or collusion.

(b) Nothing in this article shall prohibit any official or employee from accepting a gift on behalf of the city, provided that the person accepting the gift shall promptly report the receipt of such gift to the city council, which shall have the gift added to the inventory of the property of the city.

2. Public contracts. The city shall not enter into a contract involving services or property with any official or employee or with a business in which the official or employee has an interest. This section shall not apply in the case of:

(a) The designation of a bank or trust company as a depository for city funds;

(b) The borrowing of funds from any bank or lending institution, which offers the lowest available rate of interest in the community for such loan;

(c) Contracts entered into in accordance with the O.C.G.A. § 16-10-6;

(d) Contracts entered into under circumstances that constitute an emergency provided that a written record explaining the emergency is inserted by the mayor into the city council minutes as soon as is practicable but no later than 15 days after the contract is entered into.

(e) Contracts entered into with an official or employee, or with a business in which the official or employee has an interest, provided that such contract is:

i. Awarded through a process of public notice and competitive bid;

ii. Disclosure of the nature of such member's interest is made prior to the time a bid is submitted; and

iii. After this section is complied with, a waiver of the prohibition contemplated by this section is adopted by the town council

3. Use of city property. No official or employee shall use or permit the use of any city property, services, personnel, labor or other thing of value for personal gain or for any purpose other than the official business of the city. Any parties violating this provision shall be required to pay to the city a sum equal to the value of the benefits received, and shall likewise be deemed to have violated the provisions of this article.

4. Prohibited actions of elected officials.

Neither the Mayor nor any member of the town council shall:

(a) By conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of official acts;

(b) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for him/herself or another person if it could reasonably be considered to influence the member in discharge of official duties;

(c) Disclose or otherwise use confidential information acquired by virtue of his/her official position for his/her or another person's private gain;

(d) Use his/her official position to attempt to secure privileges that are not available to the general public;

(e) Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of official duties.

(f) Engage in any activity or transactions that is prohibited by law now existing or hereafter enacted which is applicable to him/her by virtue of being an elected official of the city;

(g) Use his/her position to request or require an employee to:

i. Do clerical work on behalf of the member's family, business, social, church or fraternal interest when such work is not furthering a City interest;

ii. Perform any work outside the employee's normal course of municipal employment;

iii. Purchase goods or services to be used for personal, business, or political purposes; and

iv. Work for the member personally without paying the employee just compensation;

(h) Use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself/herself or persons having an interest.

5. Conflicts.

(a) The Mayor and any member of the Council shall disclose the nature of any interest or benefit he or she has at the time such matter is presented to the Mayor and Council for discussion and/or action. Such disclosure shall be recorded into the minutes of the meeting and become part of the public record. Following any disclosure made pursuant to this Code of Ethics, the member shall not participate in any ex-parte communications with other members regarding the matter at hand.

(b) Neither the Mayor nor any member of the Council shall participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any agenda item, any official act or action in which he or she has a conflict of interest.

(c) To avoid the appearance of impropriety, after the Mayor or any member of the Council is determined to have a conflict of interest or a potential conflict of interest in any matter, the person shall leave his or her regular seat and not return to it until deliberation and action on the matter is completed.

**Section 3. Ethics Committee.**

(a) The Mayor and Council shall appoint an Ethics Committee consisting of three (3) persons. All members shall be residents of the Town of Maysville and shall serve a three-year term. Members of the Ethics Committee must be approved by at least a four-fifths vote of the Mayor and Council and shall be appointed initially in such manner as to permit one term to terminate each year. The members of the Ethics Committee shall serve without compensation.

(b) (i) All complaints against any person pursuant to this Ordinance shall be filed in writing with the City Clerk and referred to the Ethics Committee in such form as may be prescribed by the Ethics Committee.

(ii) Upon receipt of a complaint in proper form, the Ethics Committee shall:

1. Review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary action or is to be considered for further investigation.

2. Be empowered to dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the Mayor and Council; provided, however, that a

rejection of such complaint by the Ethics Committee shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the respondent government servant.

3. Be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint.

4. Be empowered to conduct probable cause investigations, to take evidence, and hold hearings.

5. Make recommendations to the Mayor and Council to invoke disciplinary action. The Mayor and Council shall take action upon the recommendation of the Ethics Committee at the next regular meeting of Mayor and Council following receipt of the recommendation.

6. All actions taken by the Ethics Committee shall be taken within thirty (30) days of receipt of the complaint. The decision by the Ethics Committee shall be reduced to writing and served upon all parties at interest within five (5) days of reaching a decision.

**Section 4. Penalties.**

Any person who knowingly violates any provision of the Code of Ethics provided in this Ordinance shall be subject to public reprimand or censure by the town council of the Town, and may also be subject to any other penalties allowed by law.

**Section 5. Right to Appeal.**

Decisions of the Mayor and Council pursuant to this Code of Ethics shall be reviewable by the Superior Court of Jackson County upon notice in writing filed within thirty (30) days of receipt of notice of the decision. Review by the Superior Court shall be limited to inquiry of whether there was any evidence before the Mayor and Council which supported the decision of the Mayor and Council. Provided, however, no action of the Mayor and Council refusing or failing to take action pursuant to this Code of Ethics shall be reviewable by the Superior Court.

**Section 6. Repeal of Conflicting Ordinances.**

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

**Section 7. Severability of Paragraphs.**

If any portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionally shall not affect or impair the remaining portions unless it clearly appears that

other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

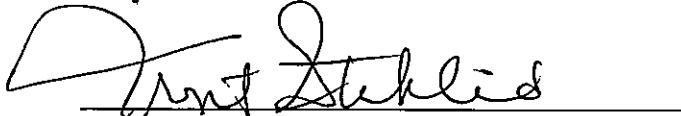
**Section 8. Effective Date.**

The effective date of this ordinance shall be March 6, 2006, upon passage.

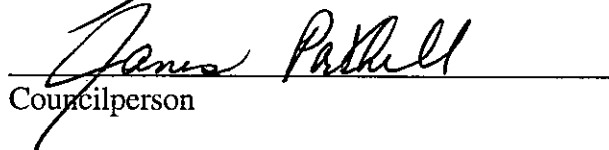
SO ORDAINED this 6<sup>th</sup> day of March, 2006.

MAYSVILLE TOWN COUNCIL

By:   
Mayor

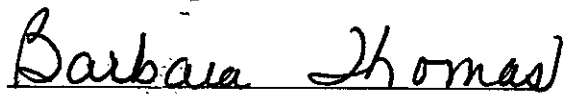
  
Councilperson

  
Councilperson

  
Councilperson

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Councilperson

Attest:

  
Town Clerk