



AGENDA
ETHICS COMMISSION - ANNUAL MEETING
February 22, 2024 at 3:00 PM

Call to Order

Oath of Office

1. Oath of Office
 - Nancy Frankenhauser
 - Ben Goggins
 - Dee Matkowski
 - Mark Reed
 - Ruth Wilson

Approval of Minutes

2. Minutes - September 28, 2022

Old Business

New Business

3. Bi-Laws and Ordinance

Adjournment

**Ethics Commission Minutes
Meeting September 28, 2022**

Members Present: Mark Reed, Vice Chair; Demery Bishop, Nancy Frankenhauser, Ben Goggins, Rev. June Johnson, and Henry Trout.

Mark Reed, Vice Chair called the meeting to order at 4:00pm.

Approval of Minutes: Ben Goggins made a motion to approve the minutes of February 17, 2022.
Nancy Frankenhauser seconded. Vote was unanimous 6 – 0

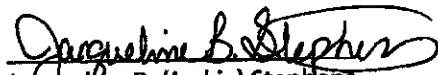
New Business: Mark Reed referred to the Ethics Complaint submitted to the Commission for review.
Ben Goggins made a motion to adjourn to Executive Session to review ethics complaint.
June Johnson seconded. Vote was unanimous 6 – 0

Ben Goggins made a motion to reconvene.
Nancy Frankenhauser seconded. Vote was unanimous 6 – 0

Ben Goggins made a motion to dismiss ethics complaint.
Nancy Frankenhauser seconded. Vote was unanimous 6 – 0

Nancy Frankenhauser made a motion to adjourn.
Demery Bishop seconded. Vote was unanimous 6 – 0

Meeting adjourned at 4:45 PM


Jacqueline B. (Jackie) Stephens
Interim Recording Secretary

Sec. 2-106. Code of ethics for city officials.

(a) *Generally.*

- (1) The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed.
- (2) All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them. Ga. Const. art. I, § 2, ¶ 1.
- (3) The people of this state have the inherent right of regulating their internal government. Government is instituted for the protection, security, and benefit of the people; and at all times they have the right to alter or reform the same whenever the public good may require it. Ga. Const. art. I, § 2, ¶ 2.
- (4) The people have a right to expect that every public official will conduct himself in a manner that will tend to preserve public confidence in and respect for the government he represents.
- (5) Such confidence and respect can best be promoted if every public official, whether paid or unpaid, and whether elected or appointed, will uniformly:
 - a. Treat all citizens with courtesy, impartiality, and equality under the law; and
 - b. Avoid conflicts between their private self-interest and the public interest.

(b) *Purpose.*

- (1) It is the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials and employees is adopted.
- (2) This code has the following purposes:
 - a. To encourage high ethical standards in official conduct by city officials;
 - b. To establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interest of the city;
 - c. To require disclosure by such officials of private financial or other interest in matters that affect the city; and
 - d. To serve as a basis for disciplining those who refuse to abide by its terms.
- (3) The provisions of this section shall not apply to political contributions, loans, expenditures, reports or regulations of political campaigns or the conduct of candidates in such campaigns.

(c) *Scope of persons covered.* The provisions of this code of ethics shall be applicable to all members of the city council, planning and zoning commission, board of zoning appeals, all advisory commissions, and committee members and all employees of the city.

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

City official shall be any person who is an elected official of the City of Tybee Island and anyone appointed by the mayor and council of the city to any board, commission, authority, or position of the city. City official shall not include paid employees of the city who come under the city manager's control or the city manager, city attorney, city clerk, or a municipal court judge. A paid employee under the control of the city manager, the city manager, the

city clerk, the city attorney and the municipal court judges shall be held to the same ethical standards as a "city official."

Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.

Discretionary authority means the power to exercise any judgment in a decision or action.

Entity means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.

Immediate family means spouse, mother, father, brother, sister, son, or daughter of any city official or employee.

Incidental interest means an interest in a person, entity or property which is not a substantial interest and which has insignificant value.

Remote interest means an interest of a person or entity, including a city official, who would be affected in the same way as the general public. The interest of a councilmember in the property tax rate, general city fees, city utility charges, or a comprehensive zoning ordinance or similar decision incidental to the extent that the councilmember would be affected in common with the general public.

Substantial interest means a known interest, either directly or through a member of the immediate family, in another person or entity:

- (1) The interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity;
- (2) Funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000.00 in salary, bonuses, commissions or professional fees of \$5,000.00 in payment for goods, products or nonprofessional services, or ten percent of the recipient's gross income during that period, whichever is less;
- (3) The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council; or
- (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

Substantial interest in real property means an interest in real property which is an equitable or legal ownership with a market value of \$5,000.00 or more.

(e) *Standards of conduct.*

- (1) Not the mayor, councilmember, city employee, nor member of any board or commission shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than official responsibilities.
- (2) Not the mayor, councilmember, city employee, nor member of a board or commission, in any matter before the council, board or commission in which he has a substantial interest, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.
- (3) Not the mayor, councilmember, city employee, nor member of a board or commission shall act as an agent or attorney for another in any matter before the city council or any board or commission.

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- (4) Not the mayor, councilmember, city employee, nor commissioner shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
 - (5) Not the mayor, councilmember, city employee, nor member of any board or commission shall enter into any contract with the city except as specifically authorized by statute. Any councilmember or member of a board or commission who has a proprietary interest in an agency doing business with the city shall make known that interest in writing to the city council and the city clerk.
 - (6) All public funds shall be used for the general welfare of the people and not for personal economic gain.
 - (7) Public property shall be disposed of in accordance with state law.
 - (8) No city official shall solicit or accept other employment to be performed or compensation to be received while still a city official or employee, if the employment or compensation could reasonably be expected to impair judgment or performance of city duties.
 - (9) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the board or commission on which he serves or his supervisor and shall take no further action on matters regarding the potential future employer.
 - (10) No city official shall use city facilities, personnel, equipment or supplies for private purposes except to the extent such are lawfully available to the public.
 - (11) No city official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- (f) *Prohibition of conflict of interest.* A city official may not participate in a vote or decision on a matter affecting a person, entity, or property in which the official or employee has a substantial interest.
- (g) *Exemptions.* This code shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society 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.
- (h) *Penalty.*
- (1) Any persons violating any provisions of this policy are subject to:
 - a. Written and oral reprimand by the council, board, commission or committee of which said violator is a member.
 - b. A fine greater than \$100.00 but less than \$500.00 to be imposed by the council.
 - c. Request for resignation by the council, board, committee or commission of which the violator is a member.
 - (2) Each council, board, commission or committee shall have authority to establish rules and regulations to impose said penalties.

(Code 1983, § 2-1-18; Ord. No. 2021-07 , § II(Att.), 3-11-2021)

Editor's note(s)—An Ord. of Sept. 27, 2007, § 1.01, states that "the Code of Ethics for City Officials" (Code Title 2 (Government and Administration), Chapter 2 (Mayor and City Council) Section 18) is hereby repealed except that it will continue to be in effect for the purpose of governing the conduct of city officials and employees

whose official duties terminated before the enactment of this ordinance." See Ch. 23 for the Code of Ethics and Compliance.

Tybee Island Ethics Commission Bylaws

Creation and Purpose

- A. Pursuant to Ethics Ordinance section 4.01 there has been created the Ethics Commission, an agency of the City of Tybee Island. By creating the Commission, Council intends to:
- a) Enhance the public's confidence in the integrity of City government and management; and
 - b) Provide a facilitative and advisory resource that assists the City Council, the City Manager and others to implement, administer and enforce the Ethics Ordinance.
- B. As used within these bylaws, "Commission" means "the Ethics Commission" or any subset of the Ethics Commission acting on behalf of the whole Commission.

Article I Membership

Section 1. Appointment of Members:

The Mayor and Council of the City of Tybee Island, Georgia shall appoint members.

Section 2. Membership:

The Ethics Commission is to composed of seven (7) voting members who participate in Commission matters on an as-needed basis.

- (1) Upon appointment to the Commission, a person must have resided in the City of Tybee for at least one year, be registered to vote in city elections and have signed a Statement of Qualification
- (2) For the duration of service on the Commission a member must:
 - a) Reside in the City of Tybee Island; and
 - b) Be registered to vote in city elections; and
 - c) Not hold any other elected office or become a candidate for elected office of The United States, this state, this county, or this City;
 - d) Not be a city employee;
 - e) Exhibit strong moral character and good citizenship;
 - f) Be fit to serve as a public servant (section 2.09.)
- (3) It is the responsibility of any appointed or prospective Commission member to disclose interests, business relationships or other memberships that may interfere with impartial participation in Commission work and activity.

Section 3. Terms of Service:

- (1) Council intends for Commission members to serve two-year "staggered" terms so that four (4) member terms expire during odd-numbered years and three (3) member terms expire during even-numbered years.
- (2) Members having odd position numbers are to serve terms expiring on the day before the annual meeting in odd-numbered years after 2007. Members having even-numbers are to serve terms expiring on the day before the annual meeting in even-numbered years after 2008.

Section 4. Attendance:

- (1) A member who fails to attend two (2) consecutive regular meetings or four (4) regular meetings of the Ethics Commission in a one (1) year period, (February to last regular meeting of January) without prior notice to the Secretary and/or Chair, shall either resign or become subject to a recommendation to Mayor and Council for dismissal from the Ethics Commission. The Chair, with the concurrence of three (3) members, may recommend to Mayor and Council that the vacancy be declared and that the vacant position be filled by appointment.

**Article II
Meetings of the Members**

Section 1. Location of Meetings:

All meetings of the Commission shall be held at a place within Tybee Island, Georgia as may be from time to time fixed by the Chair and shall be stated in the notice of the meeting posted at Tybee Island City Hall. All meetings shall comply with the Georgia Open Records and Meetings Law.

Section 2. Annual Meeting:

Annual meetings of the Commission shall be held in February. At each such meeting, the members shall, by a majority vote, elect officers.

Section 3. Special Meetings:

The presiding officer or a majority of the voting members may call additional meetings on an as-needed basis.

Section 4. Notice of Meetings:

Written notice of all regular meetings stating the place, day and hour shall be delivered not less than seven (7) or more than thirty (30) days before the date of the meeting and shall be posted at Tybee City Hall.

Section 5. Business of Meetings:

The business of the meeting shall be so stated in a meeting agenda. Members shall have an opportunity to modify the agenda by making a request to the chair at the opening of the meeting.

Section 6. Quorum:

A quorum shall constitute no less than four of the voting membership. The secretary shall call the roll to confirm the presence of a quorum as a regular part of the agenda.

Section 7. Majority:

If a quorum is present, the affirmative vote of a majority of the members entitled to vote and represented at the meetings shall be the act of the members.

Section 8. Voting:

The Ethics Commission shall conduct meetings by Robert's Rules of Order. A simple majority shall prevail except in the cases of bylaws amendments and removal.

**Article III
Officers**

Section 1. Officers:

- (1) At each annual meeting the voting panel is to elect two (2) Principal members to serve as a chairperson and vice-chairperson of the Commission. These officers are to serve as such until the next annual meeting. If for some reason the voting panel fails to elect a chair or vice-chair at an annual meeting, the incumbent may remain in office until a successor is properly elected by the principal members.
- (2) An incumbent may be re-elected to serve as an officer.
- (3) If the chair or vice-chair leaves office before the term of office expires but remains on the Commission, the voting panel is to elect a Principal member to serve in the office until the next annual meeting.
- (4) If an office becomes vacant because of a principal position vacancy, the voting panel is to elect a replacement officer after the principal position is filled by Council appointment.

Section 2. Additional Officers and Agents:

The Ethics Commission may appoint other such officers, as it shall deem necessary. Such officers and agents shall hold their respective offices and perform such duties as shall be determined from time to time by the membership.

Section 3. Salaries and Expenses:

The officers shall receive no compensation. Should an officer(s) of the Ethics Commission be called upon by the City of Tybee Island to represent the Board at a conference, meeting, or other official occasions, the officer shall be reimbursed for expenses as defined in the City's personnel policy.

Section 4. Removal/Vacancies:

City Council may remove a member at any time, at will, with or without cause. Each vacated commission position is to be filled by City Council appointment based on majority vote or other method adopted by Council. (see Ethics Ordinance Section 4.08 for details)

Section 5. Chair:

The Chair shall be the chief executive officer of the Ethics commission and shall preside at all meetings of the members, shall have general and active management of the business of the Commission, and shall see that all orders and resolutions of the Commission are carried into effect. He/she shall be the liaison to the Tybee Island elected officials, the City Manager and represent the Island at-large.

Section 6 Vice- Chair:

The Vice-Chair, in the absence or disability of the Chair, shall perform the duties and exercise the powers of the Chair.

Article IV

Section 1. Duties and Powers:

The Ethics Commission has the duty and authority to:

- (1) Establish (and amend as needed) bylaws, policies and procedures consistent with the Ethics Ordinance that govern internal organization and conduct of Commission affairs;
- (2) Schedule and hold Commission meetings as needed to discharge duties;
- (3) Receive and consider complaints that this code was violated;
- (4) Interpret the Ethics Ordinance as it applies to violation and other issues in order to reach opinions as to whether certain actions, behaviors, or conduct constitute violation of this Ordinance;
- (5) Formally present or deliver the Commission's opinions to Council;
- (6) Publish opinions and other documents related to the Ethics Ordinance;
- (7) Make proposals or recommendations to the City Council for the adoption of any revisions or amendments to this Ethics Ordinance;
- (8) Engage in training activities;
- (9) Issue advisory opinions as provided in the Ethics Ordinance;
- (10) Initiate any investigation or perform any other function determined by the Commission to be essential to fulfilling its purpose or discharge duties established within the Ethics Ordinance

Section 2: Limitations:

- (1) The Ethics Commission is to be an advisory body with semi-judicial authority.
- (2) Each member of the Commission has a special responsibility to identify and acknowledge conflicting interests (section 3.06) in Commission matters and abide by the rules of recusal when they have conflicting interests in a pending commission decision.
- (3) Members of The Board must not individually or collectively interfere with the performance of duties by city staff.

Section 3: Administration and Support:

- (1) The City Manager is to assign a capable staff member to serve as recording secretary and to make available appropriate and sufficient meeting space.
- (2) The Clerk of Council or designee is to serve as the filing clerk for the Commission, receive complaints and publish notices of Ethics Commission meetings upon request of the Commission's presiding officer.
- (3) The Clerk of Council and the City Manager are to provide other support requested by the Commission and approved by Council.

Section 4: Counsel:

- (1) The City Attorney is to serve as the Commission's legal advisor except in circumstances where doing so would result in the City Attorney's conflicting interests in a complaint involving a Council member as a respondent, complainant, or otherwise.
- (2) If the Commission requires legal services that the City Attorney cannot provide or is not available to provide, the Commission is to be represented and assisted in carrying out its responsibilities by an attorney appointed by the Ethics Commission with

confirmation by City Council. A person serving as Commission attorney is subject to the Ethics Ordinance

Articles V
General Provisions

Section 1. Limitation of Liability:

To the fullest extent permitted by law, no member of the Ethics Commission, or any person acting on behalf of the Ethics Commission, is to 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 is to apply to the City, the members of the Ethics Commission and any person acting under the direction of the Ethics Commission

Section 2. By-Law Amendments:

These by-laws may be altered, amended or repealed. New by-laws may be adopted by an affirmative vote of two-third of the members of the Ethics Commission after 30 days written notice of the meeting and notice stating the changes to the members. The changes shall also be filed with the Clerk of Council.

Approved: April 23, 2012

Chair

Recording Secretary

Date:

Revised 04/23/2012

Chapter 23 ETHICS¹

ARTICLE I. GENERAL

Sec. 23-1. Definitions.

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

City official shall be any person who is an elected official of the City of Tybee Island and anyone appointed by the mayor and council of the city to any board, commission, authority, or position of the city. City official shall not include paid employees of the city who come under the city manager's control or the city manager, city attorney, city clerk, or a municipal court judge. A paid employee under the control of the city manager, the city manager, the city clerk, the city attorney and the municipal court judges shall be held to the same ethical standards as a "city official."

Government or city shall be construed to mean the City of Tybee Island, Georgia government.

Immediate family shall apply to blood or marital relationships of the city official, including a city official's spouse, children, parents and siblings and shall further include any member of an official's household.

(Ord. No. 54-2011, (Attach.), 7-28-2011; Ord. No. 05A-2017, § 1, 7-13-2017)

Sec. 23-2. Acceptance of gifts.

With exception of campaign contributions which shall be reported in accordance with Georgia Laws, no city official shall solicit or accept directly or indirectly anything of value from any person, corporation, or group which has, or is seeking:

- (1) To obtain, contractual or other business or financial relationships with the City of Tybee Island;
- (2) Where in exchange for the thing of value one seeks to have a city official exercise a matter of discretion in his or her favor; or
- (3) Where in exchange for the thing of value one seeks to have or has interests which may be affected by the performance or nonperformance of the official duty of the city official, accomplished, defeated, deferred or otherwise acted upon.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

¹Editor's note(s)—Ord. No. 54-2011, adopted July 28, 2011, repealed former Ch. 23, Arts. I, II, in its entirety and enacted new provisions as set out in the attachment to said ordinance. Former Ch. 23 pertained to similar subject matter and derived from Ord.(4) of Dec. 11, 2008.

Sec. 23-3. Intent.

It is the intent of this section that city officials avoid any action whether or not specifically prohibited by section 23-2 which might result in, or create the appearance of, the following:

- (1) Using public office for private gain;
- (2) Impeding government efficiency or economy; or
- (3) Affecting adversely the confidence of the public in the integrity of the government; or
- (4) Purposefully or intentionally violating laws involving moral turpitude as defined by Georgia law.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-4. Financial interests of members.

City officials may not:

- (1) Have direct or indirect financial interests that conflict substantially with their responsibilities and duties as government servants; or
- (2) Engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained from their office. Aside from these restrictions, city officials are free to engage in lawful financial transactions to the same extent as private citizens.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-5. Use of public property.

A city official shall not use city government property of any kind for other than officially approved activities, nor direct employees to use such property for the personal purposes of such official.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-6. Use of confidential information.

A city official shall not directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-7. Coercion by city official.

A city official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or her or persons within his or her immediate family, or those with whom an official has business or financial ties.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-8. Voting in matters of personal interest.

A city official shall not participate in any matter and shall recuse him/herself on an ordinance or amendment in a meeting that would directly affect his or her private business, business interests, property; nor such interests of his or her immediate family.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-9. Unauthorized purchases.

A city official shall not order any goods and services for the City of Tybee Island, nor obligate the city funds for any payment, without prior official authorization for such an expenditure.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-10. Meetings of the council.

Meetings of the council shall be conducted in accordance with O.C.G.A., Tit. 50, Ch. 14, as amended, and O.C.G.A. § 36-80-1, as amended, as it applies to municipalities.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-11. City attorneys used for private business.

A city official shall not use the attorney or attorneys who are under retainer by the City of Tybee Island for personal or private business without paying just compensation.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-12. Unauthorized use of public employees.

A city official shall not use his or her superior position to request or require an employee to:

- (1) Do clerical work on behalf of his or her family, business, social, church or fraternal interests;
- (2) Purchase goods and services to be used for personal, business, or political purposes;
- (3) Work for him or her personally without offering just compensation; and/or
- (4) Perform work allegedly for the benefit of the city without prior official authorization.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-13. Travel expenses.

A city official shall not draw per diem or expense monies from the City of Tybee Island to attend a seminar, convention, or conference and then fail to attend the seminar, convention, or conference without refunding the pro-rata unused per diem or expense monies of the city. This not to include cancellation fee(s) for good cause.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-14. Presumption.

In reference to acts or omissions on which the city attorney has given an opinion, an official acting consistently with the opinion shall be presumed to be acting in accordance with the obligations imposed under the ethics ordinance and not in violation thereof, however the final determination as to whether or not a violation has occurred is to be determined by the ethics commission and/or city council as otherwise provided.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-15. Penalties.

The code of ethics to be observed by city officials are set forth herein, and any violation thereof, shall subject the offender to disciplinary action which may include censure and either public or private reprimand. Power to administer a greater punishment shall include power to administer the lesser. Further, in cases involving intentional acts, the general penalties of the Code of Tybee Island may be used as disciplinary action for violations of the code of ethics.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Secs. 23-16—23-30. Reserved.

ARTICLE II. ETHICS COMMISSION

Sec. 23-31. Creation and composition.

- (a) There is hereby created the ethics commission, an agency of the City of Tybee Island. By creating the commission, council intends to:
 - (1) Enhance the public's confidence in the integrity of city government and management; and
 - (2) Provide a facilitative and advisory resource that assists the city council, the city manager and others to leverage, implement, administer and enforce this code.
- (b) The commission is to be composed of seven. Members of the commission are to be appointed by city council as set forth in this chapter.
- (c) As used within this chapter, "commission" means "the ethics commission" or any subset of the ethics commission acting on behalf of the whole commission.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-32. Duties and powers.

- (a) The ethics commission has the duty and authority to:
 - (1) Establish (and amend as needed) bylaws, policies and procedures consistent with this Code that govern internal organization and conduct of commission affairs;
 - (2) Schedule and hold commission meetings as needed to discharge duties;
 - (3) Receive and consider complaints that this code was violated;

- (4) Interpret this code as it applies to complaints of violation and other issues in order to reach opinions as to whether certain actions, behaviors, or conduct constitute violation of this code;
 - (5) Formally present or deliver the commission's opinions to council;
 - (6) Make proposals or recommendations to the city council for the adoption of any revisions or amendments to this ethics code;
 - (7) Publish opinions and other documents related to this code;
 - (8) Engage in training activities;
 - (9) Issue advisory opinions as provided in this chapter;
 - (10) Initiate any investigation or perform any other function determined by the commission to be essential to fulfilling its purpose or discharging duties established within this code.
- (b) Members of the commission are subject to this code. Each has special responsibility to identify and acknowledge any conflict of interest in commission matters and abide by the rules of recusal when he/she has a conflict of interest in a pending commission decision.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-33. Member qualifications.

- (a) Upon appointment to the commission, a person must have resided in the city for at least one year, be registered to vote in city elections and have signed a statement of qualification.
- (b) For the duration of service on the commission a member must:
 - (1) Reside in the City of Tybee Island;
 - (2) Be registered to vote in city elections;
 - (3) Not hold any other elected office or become a candidate for elected office of the United States, this state, this county, or the city;
 - (4) Not be a city employee; and
 - (5) Exhibit strong moral character and good citizenship.
- (c) Statement of qualification:

STATEMENT OF QUALIFICATION: I, _____, have interest in serving on the Tybee Island Ethics Commission. I meet the qualifications set forth in the Ethics Code.	
I have resided in the City of Tybee Island for at least one year.	
I am registered to vote in City elections.	
I do not hold elected City office.	
I am not a candidate for elected office of the United States, this state, this county, or this City.	
Signed _____	Date _____

- (d) Statements of qualification are to be retained by the clerk of council as official city records.
- (e) As a member of a city agency having semi-judicial function, a person is to take an oath of office before each term of service as a commission member. The mayor is to administer the oath. A written representation of the oath is to be signed by the appointee and retained by the clerk of council as an official city record.
- (f) If member becomes disqualified, he or she must resign from the commission.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-34. Terms of service.

- (a) Those members of the commission currently serving as of the adoption of this chapter shall continue to serve under their original appointment and for the full term thereof.
- (b) Council intends for commission members to serve two "staggered" terms.
- (c) Members having odd position numbers are to serve terms expiring on the day before the annual meeting in odd-numbered years. Members having even numbers are to serve two-year terms expiring on the day before the annual meeting in even-numbered years.
- (d) Removal of members of the ethics commission other than by resignation or expiration of term shall be for cause as determined by the mayor and council following a public hearing. As used herein, "cause" shall include but not be limited to, failure to attend meetings of the ethics commission on a regular basis; when there is a recommendation from the ethics commission for conduct allegedly reasonably calculated to result in the ethics commission, the city or the city council being held up to ridicule; while a member, conviction of a crime which is a felony or misdemeanor involving moral turpitude or dishonesty, or of an ordinance violation involving moral turpitude or dishonesty; a lack of qualification as determined by the ethics commission and/or the mayor and council; and conduct or circumstances determined by the mayor and council to justify removal in the best interest of the city. There is no property right in an appointment and the existence of cause as grounds for removal is not to be considered as creating any property right in the appointed position, nor is the existence of any hearings or procedures to be deemed or considered as creating any property right.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-35. Voting.

- (a) "Voting panel" means the group of commission members entitled to participate in a commission matter.
 - (1) When the commission is not in session (i.e., meeting), the voting panel is composed of members.
 - (2) During a commission meeting or hearing and for a particular matter, the voting panel is composed of Members in attendance.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-36. Meetings.

- (a) Except as allowed or required by state law, all meetings of the ethics commission are to be open to the public, publicized as required by state law and compliant with all requirements imposed by the Georgia open records and meetings laws.
- (b) The ethics commission is to hold an annual meeting in February.
- (c) The presiding officer or a majority of the voting panel may call additional meetings on an as-needed basis.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-37. Appointments and nominations.

(a) *Appointments to fill vacancies.*

- (1) Each vacated commission position is to be filled by council appointment based on majority vote or other method adopted by council.
- (2) No person appointed to serve on the first commission or any commission thereafter is to be considered "the appointee" of a particular council member.

(b) *Annual appointments.* This topic does not encompass mid-term vacancies.

- (1) On the day before the annual meeting in 2009 and on each such day thereafter, the terms of five members expire. At the last regular council meeting in January of each year after 2008, council is to appoint five members to fill the positions with expiring terms.
- (2) Members associated with expiring terms may be reappointed.
- (3) The mayor is to assign odd position numbers to the members appointed during odd-numbered years. Likewise, the mayor is to assign even position numbers to members appointed during even numbered years.
- (4) Commission bylaws or policies are to give guidance to situations and circumstances that are not covered in preceding items of this topic.

(c) *Mid-term vacancies.*

- (1) When any member vacates or announces intention to vacate a commission position before the associated term of service expires, the presiding officer is to request council to appoint a member to the position. The request may be accompanied by nominations from the voting panel.
- (2) A person appointed by council to fill a vacated position assumes the status, position number and the unexpired portion of the term associated with the former member.

(d) *Nominations.*

- (1) Any person interested in serving on the commission may nominate themselves by submitting a completed qualification form to the clerk of council. This applies to incumbent members occupying commission positions with approaching term expiration dates.
- (2) Council may solicit additional nominations for commission membership from the general public, from council members or from the ethics commission. The clerk of council is to contact such nominees for the purpose of determining their interest and/or to have them sign a statement of qualification.
- (3) Council intends that the appointment process not interfere with the effectiveness of the commission. Ideally, at any point in time, there will be several nominees so that, when necessary, the appointment process will be expedited.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-38. Officers.

- (a) At each annual meeting after February 2009, the voting panel is to elect two members to serve as chairperson and vice-chairperson of the commission. These officers are to serve as such until the next annual meeting. If for some reason the voting panel fails to elect a chair or vice-chair at an annual meeting, the incumbent may remain in office until a successor is properly elected by the members.

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- (b) An incumbent may be re-elected to serve as an officer.
 - (c) If the chair or vice-chair leaves office before the term of office expires but remains on the commission, the voting panel is to elect a principal member to serve in the office until the next annual meeting.
 - (d) If an office becomes vacant because of a principal position vacancy, the voting panel is to elect a replacement officer after the principal position is filled by council appointment.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-39. Compensation, expenses and staffing.

- (a) Members of the ethics commission are not to be compensated.
- (b) A member may request the city for reimbursement of reasonable expenses incurred as a direct result of performing commission duties.
- (c) The city manager is to assign a capable staff member to serve as recording secretary and to make available appropriate and sufficient meeting space.
- (d) The clerk of council or designee is to serve as the filing clerk for the commission, receive complaints and to publish notices of ethics commission meetings upon request of the commission's presiding officer.
- (e) The clerk of council and the city manager are to provide other support requested by the commission and approved by council.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-40. Counsel.

- (a) The city attorney is to be the legal advisor for the ethics commission except in circumstances where doing so would result in the city attorney's conflict of interest in a complaint involving a council member as respondent, complainant, or otherwise.
- (b) If the commission requires legal services that the city attorney cannot provide or is not available to provide, the commission is to be represented and assisted in carrying out its responsibilities by an attorney appointed by the ethics commission and confirmed by council. A person serving as commission attorney is subject to this code.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-41. Limitation of liability.

To the fullest extent permitted by law, no member of the ethics commission, or any person acting on behalf of the ethics commission, is to be liable to any person for any damages arising out of the enforcement or operation of this ethics code except in the case of willful or wanton misconduct. This limitation of liability is to apply to the city, the members of the ethics commission and any person acting under the direction of the ethics commission.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-42. Advisory opinions.

- (a) The commission may render an advisory opinion based on a real or hypothetical set of circumstances and the commission's interpretation of this code as it applies to the circumstances.

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- (b) An advisory opinion is to be rendered only in response to a written request (from a city official) that fully describes the circumstances and the question to be answered. The request must be signed.
 - (c) A member of the commission may submit a request for an advisory opinion.
 - (d) Such advisory opinions are to be formulated during formal commission meetings and are to be made part of the commission's open records.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-43. Complaints.

(a) *In general.*

- (1) For this code to be most effective, the public and city officials must have access to a fair, expedient, effective and evolving complaint process that is not encumbered by the need to amend this code. To that end, the commission is to develop, publish and maintain a complaint policy that explains procedures to be followed, timeframes to be honored and the roles, responsibilities and rights of the complainant, city official alleged to have violated this code and members of the commission.
- (2) The policy may include steps, options or requirements beyond the general provisions contained in this chapter. If, at any point in time, such policy does not address the requirements of a particular complaint, the commission is to make formal adjustment to the policy to ensure the fair and appropriate handling of the complaint and such complaints thereafter. As the complaint policy evolves, revisions are subject to the approval of the city attorney and/or city council. The essential components of the complaint policy are outlined in the following provisions of this section.

(b) *Restraints.* The policy is to specify the restraints, if any, that apply to the commission, the complaint and/or the person against whom a complaint is filed (the respondent).

(c) To discourage the filing of ethics complaints solely for political purposes, complaints may not be accepted against any person, whether currently serving as a city official or not, from 90 days prior to the beginning of the qualifying process for the elected office at issue through the date the election results for that office are certified. The time for filing complaints will not run during this period. Properly filed complaints will be accepted and processed after the election results have been certified.

(d) *Submission and qualification.*

- (1) A person (complainant) alleging that a city official (respondent) violated any provision of this code may submit a written and signed complaint declaration to the clerk of council. The declaration, a written statement made under penalty for false swearing, must meet the qualifications described in the complaint policy.
- (2) The clerk of council's office is to deliver the declaration of complaint to the presiding commission officer who thereafter communicates the complaint to commission members.
- (3) Subsequently commission members, in a manner consistent with the complaint policy, are to determine if the complaint qualifies for further action.
- (4) A disqualified complaint declaration is to be returned to the complainant and otherwise dealt with in a manner consistent with the complaint policy.
- (5) A disqualified declaration may be corrected by the complainant and resubmitted as de novo declaration.

(e) *Qualified complaints against city officials.*

- (1) The commission has the responsibility to investigate, hear, validate, and dispose of complaints against city officials in a manner consistent with this code and the complaint policy.

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- (2) The commission is to inform (by registered mail) the respondent of the complaint and of a reply due date and a case review date. The complaint and other pertinent documents are to be attached to this correspondence.
 - (3) The complaint policy is to provide details for handling a case for which the respondent agrees that he or she has violated this code.
 - (4) Unless the respondent's reply agrees that a violation occurred, there is to be a case review to determine whether specific substantiated evidence from a credible source(s) exists to support a reasonable belief that there was a violation of this code. The case is to be dismissed unless a majority of the voting panel agrees that such evidence exists. The complaint policy is to provide details for closing a dismissal.
 - (5) If the case is not dismissed, the commission is to hold a hearing at a public meeting for the purposes of reaching a complaint opinion (decision) as to whether or not the respondent violated the code. The hearing is to be conducted in accordance with those conventionally associated with hearings at public meetings. The complainant and the respondent are to have the opportunity to be heard and to have witnesses at the hearing.
 - (6) After the hearing, voting panel members are to reach a decision (complaint opinion) as to whether or not the respondent violated this code. Such decision is to be based on:
 - a. Preponderance or greater weight of the evidence presented at the hearing; and
 - b. The declarations submitted by the complainant and respondent; and
 - c. Panel member's conscientious and compliant interpretation and application of this code to the evidence.
 - (7) The complaint opinion is to be documented consistent with the complaint policy. This documentation is to include a statement of remedial or consequential actions that the commission deems appropriate. Such actions may be applicable to the respondent or to the complainant. Consequences for a city official may include, but are not limited to, private warning, training on the subject of the violation, public warning or reprimand, public censure and/or apology and/or restitution. Consequences for a malicious or frivolous complaint from a person other than a city official may include misdemeanor charges.
 - (8) The documented opinion is to be forwarded to clerk of council who will distribute the opinion to council members, the complainant, the respondent and the city attorney in preparation for a final and concluding action on the part of council.
- (f) A person (complainant) alleging that the city manager, the city attorney, the city clerk, or a municipal court judge violated any provision of his code may submit a written and signed complaint to the mayor and council. The mayor and council shall consider such complaint and follow the procedure for investigation and holding a hearing in the same or similar fashion as the ethics commission as set forth in subparagraphs (e)(1)—(7) hereinabove.

Complaints against a city employee under the control of the city manager shall be forwarded to the city manager for his or her review and consideration with the city manager following the procedure for investigation and holding a hearing in the same or similar fashion as the ethics commission as set forth in subparagraphs (e)(1)—(8) hereinabove.

(Ord. No. 54-2011, (Attach.), 7-28-2011; Ord. No. 05A-2017 , § 1, 7-13-2017)

Sec. 23-44. Final and concluding action on complaint cases.

Final and concluding decisions for complaint cases are to be made at the final council meeting of each month. Advisory opinions related to such decisions are to be listed as main agenda items for this meeting. The city attorney is to develop and implement a process for council to consider the opinions.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-45. Right to appeal.

Any final decision by the city council pursuant to this code of ethics shall be reviewable by the Superior Court of Chatham County. The review by the superior court shall be limited to an inquiry to whether there was any evidence before the city council which supported the decision of the city council. Provided however, no action of the city council refusing or failing to take action pursuant to this code of ethics shall be reviewable by the superior court.

(Ord. No. 54-2011, (Attach.), 7-28-2011)

Sec. 23-46. Legal fees.

The city council may direct the payment of legal fees for a city official who successfully defends an ethics complaint up to a maximum of \$5,000.00 upon a determination that the city official acted in good faith and that the services of an attorney were appropriate and reasonably necessary under the circumstances.

(Ord. No. 05A-2017 , § 1, 7-13-2017)

