

**ORDINANCE NO. 2020-ORD-9**

**AN ORDINANCE TO DELETE CHAPTER 3-002 AND CREATE A NEW ORDINANCE TO BE DESIGNATED AS "CODE OF ETHICS", AND TO PROVIDE FOR THE CODE OF ORDINANCES, CITY OF SOCIAL CIRCLE, GEORGIA TO PROVIDE A NEW CODE OF ETHICS AND CONDUCT TO GOVERN THE ETHICS OF ELECTED AND APPOINTED OFFICIALS OF THE CITY; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the duly elected governing authority of the City of SOCIAL CIRCLE, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and,

**WHEREAS**, the duly elected governing authority of the City of SOCIAL CIRCLE, Georgia is the Mayor and Council thereof; and

**WHEREAS**, the governing authority deems it essential to the proper operation of democratic government that the public officials be, and give the appearance of being, independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; and that public office not be used for personal gain; and

**WHEREAS** such measures are necessary to provide the public with confidence in the integrity of its government.

**WHEREAS** it is the policy of the city that its elected officials, commission, board and authority appointees, and its appointed officials while conducting city business guide their ethics and conduct to achieve the following standards:

1. Serve others and not themselves;
2. Be independent, impartial and responsible;
3. Use resources with efficiency and economy;
4. Treat all people fairly;
5. Use the power of their position for the well-being of their constituents; and
6. Create an environment of honesty, openness and integrity.

**NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY THAT A NEW CODE OF ETHICS AND CONDUCT IS APPROVED AND ADOPTED TO HAVE THE FOLLOWING TERMS AND PROVISIONS:**

**SECTION 1.** That the Code of Ordinances of the City of SOCIAL CIRCLE, Georgia is hereby amended by deleting the existing Code of Ethics as contained in the General Code of the City of Social Circle Section 3-002 and in its place, adopts and ordains the following provision:

### **SECTION ONE – CODE OF ETHICS**

**1. Principal policies.** The public trust requires public servants to fulfill their duties faithfully and honestly and to subordinate any personal interest which conflicts with the public interest. A public servant is a trustee of the people and should strive to further the general welfare and not use public office or position to unethically improve his or her own private standing. The principal policies that form the foundation of this code of ethics are as follows:

- (A) The trust of citizens in their government is cultivated when individual public servants act with integrity and when the public is aware that its servants act with integrity.
- (B) The constitutions, laws and regulations of the United States and the State of Georgia and ordinances of the City of Social Circle should be upheld as a minimum standard of conduct.
- (C) The most effective way to eradicate unethical practices is consistently to act with the highest moral principles and react appropriately to the ethical decisions of others.
- (D) City of Social Circle officials should exercise sound judgment and apply ethical principles in making decisions that in any manner reflect upon their elected office.
- (E) All citizens should be treated with courtesy, impartiality and equality.

**2. Intent.**

It is the intent of this code of ethics that City of Social Circle officials shall not knowingly engage in any activity that is incompatible with the proper discharge of their official duties or which would tend to impair their judgment or actions in the performance of their official duties. Furthermore, City of Social Circle officials should avoid any action that might result in or create the appearance of,

- (A) Using public office or position in an unethical manner for private gain,

- (B) Impeding City of Social Circle efficiency or economy, or
- (C) Affecting adversely the confidence of the public in the integrity of those who conduct the affairs and business of the City of Social Circle.

### 3. Definitions.

As used in this section, the following words shall have the meaning ascribed to them below [unless otherwise required by context]:

- (A) Benefit means anything of monetary value that a reasonably prudent person would recognize as being likely to be intended to influence a City of Social Circle official or employee in the performance or non-performance of an official action.
- (B) Immediate family means spouse, child, parent or sibling of a City of Social Circle official.
- (C) City of Social Circle official means the mayor, city council members, appointed officials, members of appointed boards, commissions and authorities.
- (D) Incidental interest means an interest in a person, entity or property which is not a substantial interest as defined herein and which has insignificant value.
- (E) Remote interest means an interest of a person or entity, including a city official, which would be affected in the same way as the general public. For example, the interest of an official in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.
- (F) Substantial interest means an interest, either directly or through a member of the immediate family, in another person or entity, where:
  - i. 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; or
  - ii. the funds received by the person from the other person or entity during the previous 12 months either equal or exceed
    - (a) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services, or
    - (b) ten percent of the recipient's gross income during that period, whichever is less;

(c) the person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the mayor and city council; or

(d) the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

(G) Acceptance of gifts. City of Social Circle officials shall not solicit or accept, directly or indirectly, any benefit or payment from any person, corporation or group that has, or is seeking to obtain, a contractual or other business or financial relationship with the City of Social Circle.

(H) Substantial interests. City of Social Circle officials may not:

- i. Have a substantial interest that conflicts with their responsibilities and duties as trustees of the public good, or
- ii. Directly or indirectly engage in financial transactions as a result of, or primarily relying upon, confidential information obtained in the course of their office or received due to their position.

(I) Use of public property. A City of Social Circle official shall not use City of Social Circle property of any kind for other than officially approved activities, nor shall he or she direct a City of Social Circle employee to use such property for other than official purposes.

(J) Use of confidential information. A City of Social Circle official shall not directly make use of, or permit others to make use of, for the purpose of furthering a private interest, City of Social Circle information not made available to the general public.

(K) Coercion. A City of Social Circle official shall not use his or her position in any way to coerce, or give the appearance of coercing:

- i. Another person to provide any benefits to him or her or to his or her immediate family as defined herein, or
- ii. A City of Social Circle employee, an appointed official of the City of Social Circle, or a contract employee to provide any benefit to him or her or to his or her immediate family as defined herein, or
- iii. Any judge in the outcome of matters before the court.

(L) Purchases. A City of Social Circle official shall not order any goods or services for the City of Social Circle or on behalf of City of Social Circle without proper authorization in compliance with the City of Social Circle Code.

- (M) Conflicts of interest. In accordance with the Charter, no elected official, appointed officer, or employee of the City of Social Circle, or any authority or agency to which the Charter applies shall represent private interests, other than his or her own, in any action or proceeding against City of Social Circle or any portion of its government; or vote or otherwise actively participate in the negotiation or the making of any contract between the City of Social Circle government and any business or entity in which he or she has a substantial interest. No city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city except as authorized by state law.
- i. This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.
  - ii. This prohibition shall not be applicable to an otherwise valid employment contract between the city and a city official who is not elected (such as, by way of example, a city manager or chief of police).
  - iii. Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city clerk.
- (N) City of Social Circle employees. A City of Social Circle official shall not use a City of Social Circle employee for personal or private business during regular business hours or during the employee's scheduled shift.
- (O) Travel expenses. A City of Social Circle official shall not draw per diem or expense money from City of Social Circle to attend a seminar, convention, conference or similar meeting and then fail to attend the seminar, conference, convention or similar meeting.
- (P) Commitments. A City of Social Circle official shall not act or create the appearance of acting on behalf of the City of Social Circle by promising to authorize or prevent any future official action of any nature, without proper authorization.
- (Q) False statements. No City of Social Circle official shall make a false or materially misleading statement or in any manner commit fraud in relation to any City of Social Circle or public business.
- (R) Disclosure. A City of Social Circle official or employee shall disclose the nature of any substantial interest he or she has in a matter 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.
- (S) Deliberation and vote prohibited. No City of Social Circle official shall participate in a City of Social Circle Council Committee or Council meeting during 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 substantial interest. Provided, however, that such elected official shall not be precluded from addressing a council committee or the mayor and council during the discussion of any agenda item or any official act or action in the same manner as a member of the general public. Where the interest of a city official in the subject matter of a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

- (T) Duty to leave meeting. To avoid the appearance of impropriety, after any member of the commission is determined to have a substantial interest or a potential substantial interest in any matter, they shall leave their regular seat as a member of the mayor and city council or council committee and not return to it until deliberation and action on the matter is completed. Provided, however, that such elected official shall not be precluded from addressing a council committee or the mayor and council during the discussion of any agenda item or any official act or action in the same manner as a member of the general public.
- (U) Ethics hearing officer. The ethics hearing officer shall be any present or retired judge of a state or city court who serves or served Walton or Newton County including: Municipal Court, Probate Court, Magistrate Court, State Court or Superior Court. The ethics hearing officer shall serve a one-year term and shall be appointed each year at the annual organizational meeting of the Mayor and City Council. The ethics hearing officer shall serve without compensation and may be removed for cause by a majority vote of the mayor and city council. If the hearing officer is removed for cause, the council shall appoint a replacement to serve the remainder of the term.
- (V) Receipt of complaints. All complaints against a City of Social Circle official shall be filed in writing with the city clerk to be referred to the ethics hearing officer in such form as may be prescribed by the ethics hearing officer. Upon receipt of a complaint in proper form, the ethics hearing officer shall:
- i. Review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary action or is to be considered for further investigation.
  - ii. Be empowered to dismiss those complaints that are unjustified, frivolous, patently unfounded or that fail to state facts sufficient to constitute a violation of this article; provided, however, that a rejection of such complaint by the ethics hearing officer shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the City of Social Circle official;
  - iii. Be empowered to collect evidence and information concerning any complaint and to add to the findings and results of its investigation to the file containing such complaint;

- iv. Be empowered to conduct probable cause investigations, to take evidence and hold hearings. The ethics hearing officer shall give the City of Social Circle official notice and an opportunity for a hearing;
- v. Be empowered to recommend to the mayor and city council that any City of Social Circle official found to have violated any provision of this article receive a reprimand, censure or be requested to resign his or her office.
- vi. Be empowered to refer a complaint to the appropriate law enforcement agent or agency for investigation and possible prosecution;
- vii. Take action within 60 days of receipt of the complaint. The decision by the ethics hearing officer shall be reduced to writing and served upon all parties at interest within five days of reaching a decision.
- viii. The ethics hearing officer shall in a public hearing before the mayor and city council to present argument and evidence to justify the recommendation contained in paragraph (5) above and make a recommendation of the proper penalty to be imposed. The mayor and council shall have the final authority to act on or reject the recommendation within 30 days of the presentation by the hearing officer.

(W) Penalties. Upon majority vote of the mayor and council, any violation of this code of ethics shall subject the offender to disciplinary action including reprimand, censure, or a request to the offending City of Social Circle official that he or she resign their office.

(X) Right to appeal. Any City of Social Circle official adversely affected by a disciplinary action taken by the mayor and council may appeal the decision to the Walton County Superior Court in accordance with the laws of the State of Georgia. Provided, however, that no action of a decision maker refusing or failing to take action pursuant to this code of ethics shall be reviewable by the superior court.

(Y) Election tolling. To discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted against a person seeking election as a city official, whether currently serving as a city official or not, from the date qualifying opens 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.

**SECTION 2.** Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 3.** The City Clerk shall cause this Ordinance to be codified in the City of Social Circle's Code of Ordinances in such a way as to be clear and consistent with its purpose.

**SECTION 4.** This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Social Circle, Georgia.

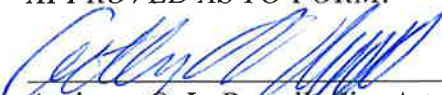
SO ORDAINED this 16<sup>TH</sup> day of June 2020.

  
\_\_\_\_\_  
David Keener, Mayor

ATTEST:

  
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Susan M. Roper, City Clerk

APPROVED AS TO FORM:

  
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Anthony O. L. Powell, City Attorney  
Powell & Edwards

Adopted by the City Council at a regular meeting on June 16, 2020.

- 3 Council members voting in favor
- 0 Council members voting against
- 0 Council members abstaining