

STATE OF GEORGIA
CITY OF MCDONOUGH

ORDINANCE NO. 09-04-20 (A)

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MCDONOUGH, GEORGIA; TO AMEND TITLE 2, ADMINISTRATION AND PERSONNEL; TO PROVIDE FOR ETHICAL STANDARDS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the City of McDonough, Georgia is a duly incorporated municipal government;

WHEREAS, the duly elected governing authority of the City of McDonough, Georgia is authorized under Article 9, Section 2, Paragraph 2, and Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, welfare, of the citizens of the City of McDonough, Georgia;

WHEREAS, the City is empowered to perform certain duties by the City Charter;

WHEREAS, the Mayor and Council as the duly elected governing authority of the City desire to create a Code of Ethics to promote efficiency and economy; and

WHEREAS, the health, safety, and welfare of the people of the City shall be preserved, enhanced, and guarded by the adoption of this Ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCDONOUGH AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section I.

That Title 2 Administration and Personnel of the Code of Ordinances, City of McDonough, Georgia is hereby amended to create a new Chapter 2.20 Code of Ethics to read as follows:

Chapter 2.20 Code of Ethics

2.20.010 Declaration of policy.

A. The proper government and administration of the city requires that:

1. Its officials, employees, appointees, and volunteers conducting official city business including those appointed by city council such as commission and authority members:
 - a. Serve others and not themselves;
 - b. Be independent, impartial and responsible;
 - c. Use resources with efficiency and economy;
 - d. Treat all people fairly;
 - e. Use the power of their position for the well being of their constituents; and
 - f. Create an environment of honesty, openness and integrity.
 2. Governmental policies and decisions are made in the proper channels of the government structure;
 3. Public office and employment not be used for undue personal gain; and
 4. The citizens of the city have confidence in the integrity of their government.
- B. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interests and public responsibilities of city officials and employees, the public interest mandates that the city protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of its officials and employees in situations in which a conflict may exist or appear to exist.
- C. Yet it is also essential to the efficient operation of the city that those persons best qualified be encouraged to serve in positions of public trust. Accordingly, the standards set forth in this chapter must be understood and interpreted in a way that will not unreasonably frustrate or impede the desire to seek public office by those best qualified to serve. To that end, officials and employees should not, except as otherwise provided by law, be denied the opportunity available to all citizens to acquire and maintain private, economic and other interests except when a conflict would necessarily result.
- D. The policy and purpose of this chapter, therefore, is to clarify those standards of ethical conduct that shall be applicable to the officials and

employees of the city in the discharge of their public duties and to foster the development and maintenance of a tradition of responsible and effective public service.

2.20.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall be defined as follows:

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 agreement with any person, whether expressed or implied, executed or executory, verbal or in writing.

Employee means any person holding a full or part-time position with the city.

Employment means any rendering of services for pay.

Formal reprimand means an action taken by the ethics board 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 city council.

Immediate family means spouse and children.

Interest means any direct or indirect pecuniary benefit accruing to an official or employee, or the immediate family of the official 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 city. 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.

Official means any official, officer, appointee, volunteer, or member of the government of the city 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 city or any agency of the city.

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

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

Participation means to take part in official acts, actions or proceedings personally as an official or 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 city.

Volunteer means a nonpaid person engaging in official city business with the approval of the governing authority.

2.20.030 Impartiality.

No official or employee shall by his conduct give reasonable basis for the impression that any person improperly can influence such official or employee or unduly enjoy such official's or employee's favor in the performance of official acts or actions.

2.20.040 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. The above prohibition shall not apply in the case of:

1. Occasional nonpecuniary gift of insignificant value or trinkets or gifts such as a calendar, memento or pen received in the normal course of

business with a value of less than \$100.00 and admission to and or consumption of food at a breakfast, lunch, dinner, function or event;

2. Award publicly presented in recognition of public service;
 3. A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of Georgia to engage in the making of such loan or financial transaction; or
 4. Campaign contributions made and reported in accordance with Georgia laws.
- B. Nothing in this chapter 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.

2.20.050 Campaign contributions.

The provisions of this chapter shall not apply to campaign contributions made to an official in compliance with the Georgia Campaign and Financial Disclosure Act, O.C.G.A. § 21-5-30, *et seq.*

2.20.060 Coercion.

No official or employee shall use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit or other reward to him/ her or persons within his immediate family, or those with whom a councilmember has business or financial ties.

2.20.070 Confidential Information.

No official or employee shall disclose or otherwise use confidential information acquired by virtue of his/her position with the city for his/her or another's personal gain.

2.20.080 Representation.

Except in the regular discharge of official duties, no official or employee shall appear on behalf of any person, other than himself/herself and his/her immediate family, before any city agency or municipal court. Neither shall any official or employee receive compensation for any services rendered on behalf of any person in relation to any case, proceeding or application before a city agency with respect to which such official or employee was directly concerned; or in which he/ she has personally participated during the period of his/ her service or employment, or which

was under his/ her active consideration or with respect to which knowledge or information was made available to him/ her during the period of service or employment. However, a member of the city council may appear before city agencies on behalf of his/ her constituents in the course of his/her duties as a representative of the electorate or in the performance of public or civic obligations.

2.20.090 Incompatible employment.

No official or employee shall engage in or accept employment with or render services for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his/ her official duties or would tend to impair his/her independence of judgment or action in the performance of his/her official duties.

2.20.100 Outside employment.

No employee shall engage in any other employment, or in any private business, or in the conduct of a profession, during the hours for which he/she is employed to work for the city or outside such hours in a manner or to an extent that affects or is deemed likely to affect his/her usefulness as an employee of the city. Toward this end, all outside employment must be reported to and approved by the employee's department director and the city administrator, and filed in the personnel office.

2.20.110 Abstention.

An official or employee who has an interest that he/she has reason to believe may be affected by his/her official acts or actions or by the official acts or actions of the city shall disclose that interest. Such official or employee shall abstain from participating in any such discussion, voting or otherwise participating in any official acts or actions affected by such interest. That interest shall be disclosed at the council meeting when the action is to be taken by such official or employee prior to there being taken any official act or actions.

2.20.120 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 any interest. This section shall not apply in the case of:

1. The designation of a bank or trust company as a depository for city funds;
2. The borrowing of funds from any bank or lending institution, which offers the lowest available rate of interest in the community for such loan;
3. Contracts entered into in accordance with the O.C.G.A. § 16-10-6;

4. 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 30 days after the contract is entered into.
5. 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:
 - A. Awarded through a process of public notice and competitive bid; and
 - B. Disclosure of the nature of such member's interest is made prior to the time a bid is submitted.

2.20.130 Zoning.

- A. All officials and employees are deemed subject to the provisions of Chapter 67A of Title 36 of the O.C.G.A., shall make the disclosures required in such chapter, and shall be subject to the penalties stated in said chapter.
- B. In addition, any official required to make the disclosures set forth in Chapter 67A of Title 36 of the O.C.G.A., and shall be prohibited from participating in the zoning matter in which such official or employee has a direct or indirect interest. A violation of the aforesaid provisions of the O.C.G.A. shall also constitute a violation of this chapter.

2.20.140 Preacquisition of interest.

No official or employee will acquire an interest in any contract, property or other transaction in order to take advantage of such interest where the official or employee, has reason to believe the city will act upon the contract, property or other transaction to the benefit of the official or employee.

2.20.150 Use of city property.

No official or employee shall use or permit use of any city property, services, personnel, labor or other thing of value for personal benefit. This provision is not intended to prohibit or impair the city's ability to assist the elderly, handicapped, or impaired citizens with the maintenance and care of their property or to limit the city's ability to prevent properties from becoming a nuisance or eyesore. 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 chapter.

2.20.160 City Attorney used for private business.

No official or employee shall use the attorney or attorneys or any other consultant engaged by the city, who are under retainer by the city for personal or private business without paying just compensation.

2.20.170 Compliance with applicable laws.

No official or employee shall engage in any activity or transaction that is prohibited by any law, now existing or subsequently enacted, which is applicable to him by virtue of his office. Without limiting the applicability of other statutory provisions, the provisions of O.C.G.A. § 45-10-1 are incorporated in this section by reference.

2.20.180 Political activity.

- A. An employee of the city shall not have a right to publicly or otherwise hold himself out as a candidate in any city municipal election while holding employment with the city.
- B. City employees shall not take part in any political management or political campaigns for the election of Mayor or any member of the City Council for the city during any period of time for which he is expected to perform work or receive compensation from the city.
- C. No official nor employee or other person on behalf of an official or employee shall campaign, solicit orally or by letter, nor obtain in any other manner assessments, contributions, or services for any political party from employees during the employee's work hours. No official, employee or other person acting on behalf of an official or employee shall in any way attempt to coerce, threaten or force employee support or activity in a campaign or for a political party during work hours or otherwise.
- D. Employees shall not represent the city by wearing any uniform or portion thereof that is issued by the city while participating in any campaign at any time.
- E. The city in no way seeks to influence employees in their choice of party affiliations or candidates, recognizing that this is a matter for each person to decide. Therefore, nothing contained herein shall be construed to restrict the right of the employee to hold membership in and support a political party, to vote as he chooses, to express opinions on political subjects or candidates, to maintain political neutrality, to attend political parties after work hours, or to campaign actively during off duty hours in all areas of political activity.
- F. Employees shall not utilize any city equipment or vehicles in support of any political campaign.

2.20.190 Distribution and acknowledgement agreement.

The city administrator shall cause a copy of this chapter to be distributed to every official, volunteer and employee of the city within 30 days after its enactment, as well as to those appointed by city council to conduct official city business (including commission and authority members). Each person elected, appointed or otherwise hired thereafter shall be furnished a copy before entering upon the duties of his/her office or employment.

2.20.200 Construction; application.

- A. This chapter shall be construed liberally to effectuate its purposes and policies and to supplement such existing laws as may relate to the conduct of the persons made subjective to this chapter.
- B. This chapter shall in no way be construed as creating an employment contract between the city and its officials and employees. Nevertheless, any official or employee affected by this chapter shall be required to affirm in writing that he has received a copy of this chapter and has read it and understands its provisions.
- C. The propriety of any official act or action taken by or transaction involving any official or employee immediately prior to the time this chapter shall take effect shall not be affected by the enactment of this chapter.
- D. The provisions of this chapter are severable; and if any of its provisions shall be held unconstitutional or invalid by a court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions.

2.20.210 Enforcement and administration.

- A. *Constituting the board; chairman.*
 - 1. The board of ethics of the city is hereby created and authorized by the Mayor and City Council of the city.
 - 2. The board of ethics of the city shall be composed of three (3) residents of the city to be appointed as provided herein. Each member of the board of ethics shall have been a resident of the city for at least one year immediately preceding the date of taking office and shall remain a resident of the city while serving as a member of the board of ethics. No person shall serve as a member of the board of ethics if the person has, or has had within the preceding one year period, any interest in any contract, transaction, or official action of the city.

3. The mayor shall appoint eligible residents to serve on the board with the consent of at least three (3) members of the city council. These individuals must agree to undergo a criminal background check conducted by the police department prior to designation, and/ or redesignation, the results of which will be forwarded to the Mayor and Council. These individuals should be available to be called upon for a period of two years to serve in the event a board of ethics is constituted. At the end of each term, the Mayor shall appoint eligible residents to fill the board. Current members can be reappointed and there shall be no term limits for the members since future members of Council may wish to appoint the same pool members. However, the term for individuals appointed by the Mayor shall end after two years. If a member of the pool does not finish their term, the remainder of the term shall be filled through and appointment by the Mayor with the consent of the City Council.
4. The board shall select a chairman at the beginning of each calendar year. The chairmanship shall remain in place for a one calendar year period.

B. *Duties of board.* The board of ethics shall have the following duties and powers:

1. To administer the ethics ordinance;
2. To receive, review, investigate process, make determinations on, and hear complaints of violations of standards required by this chapter. The board is not designed to be an oversight board or to perform investigations without first receiving a compliant;
3. To make such investigation and response to a complaint as it deems necessary to determine whether any person has violated any provisions of this chapter;
4. To hold such hearings and make such inquiries as deemed necessary to investigate and rule upon complaints; or
5. To report its findings and actions to the City Council

C. *Enforcement and administration.*

1. *Complaints.*

- a. All complaints of ethical violations must be filed with the city clerk, in writing, signed by the complainant, no later than 90 days after the alleged act occurred unless the complainant,

by exercising reasonable diligence, failed to discover the alleged ethical violation within such 90- day period. In such a case, the complainant must file a written complaint with the city clerk no later than 90 days after the complainant discovered the alleged violation. In all such cases brought after 90 days from the date of the alleged ethical violation, the complainant bears the burden of convincing the board of the true date complainant learned of the alleged violation.

- b. In no event, shall an ethical charge be filed with the city clerk more than two years from the date of the alleged ethical violation.
- c. The complainant may withdraw the complaint at any time in writing.

2. *Pay the staff support*

- a. The members of the board of ethics shall serve without compensation. The governing authority of the city shall provide meeting space for the board of ethics. Subject to budgetary procedures and requirements of the city, the city shall provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.
- b. The city clerk shall serve as the recording secretary to the board and shall provide such administrative services to the board as may be necessary.

3. *Action by the board.* Within 30 days of receipt of a complaint from the city clerk, the board may perform one or more of the following:

- a. Upon receipt of a complaint in proper form, review the complaint to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary jurisdiction. The board of ethics shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigation to the file containing such complaint;
- b. Upon completion of its review and/ or investigation of a complaint, the board at a public meeting may dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke disciplinary jurisdiction. Provided, however, that a rejection

of such complaint by the board of ethics shall not deprive the complaining party of any action he/ she might otherwise have at law or in equity against the respondent government servant. A rejection shall prevent refiling of a complaint regarding the same subject(s) and alleged perpetrator(s) for the same offense within six months of the original complaint filing;

- c. Admonish, formally reprimand, publicly censure, any complaining party that files an unjustified, frivolous, patently unfounded or factually insufficient complaint; and
 - d. Forward an order to the Mayor and Council; or
 - e. Hold a public hearing within 60 days after the selection of the board.
4. *Parties rights.* At any hearing held by the board of ethics, the official, employee, or respondent who is the subject of inquiry shall have the right to written notice of the allegations at least ten business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation according to the procedures contained in subparagraph (6).
5. *Advisory opinions.* When any official, employee, or person appointed by council has a doubt regarding the applicability of any provision of this chapter to a particular situation, or regarding the definition of its terms, he/she may apply in writing or verbally during a public meeting to the city attorney for an advisory opinion. The advisory opinion shall be written unless it is given verbally during a public meeting, and may be provided directly to the requestor of such opinion. Nothing in this chapter shall be construed to prohibit a request for an informal opinion by any public servant from the city attorney regarding a potential conflict of interest. Neither a request for an informal opinion, nor the making of a statement concerning a potential conflict of interest made by a member of the governing body in the course of abstaining from voting shall create a presumption or inference that a public servant actually has a personal interest in the matter about which the opinion was requested.
6. *Hearing procedures.*
- a. At the hearing the conduct of the parties shall be dignified both on and off the record.
 - b. Misconduct before the board may be grounds for summary exclusion from the hearing. The hearing is intended to

receive evidence either to refute or to substantiate specific charges. It shall not be a forum for discussion of extraneous or irrelevant matters having no bearing on the charges, and the alleged misconduct of others who may have escaped discipline in the past shall serve as no defense. All parties at action and witnesses shall be given ample time and opportunity to develop points, subject to the discretion of the board.

- c. It should be recognized that the board will be composed of private citizens. Accordingly, the board may not follow established legal procedures as might be expected in a court of law. However, in taking testimony and in considering the evidence, the board shall follow accepted legal procedure insofar as is practicable but shall not be bound by the technical rules of evidence observed in courts of law. The board may listen to hearsay testimony and assign such weight as may be warranted and may accept depositions and affidavits, if such testimony is material and relevant to the issues. The board may decline to listen to numerous character witnesses or numbers of witnesses testifying to identical facts.
- d. The chairman of the board of ethics shall conduct the hearing.
- e. The hearing shall be recorded and the city clerk shall prepare a written summary of the hearing. The complainant and/or respondent may provide a court reporter at their expense for a verbatim transcript of the hearing, if so desired. The city clerk or their designee shall take minutes of the hearing, specifically including the name of the board members who make any motions, the board members who second any such motions, and the names of the individuals on the board and how each voted. This written report shall be presented to the City Council at the conclusion of the board's proceedings.
- f. All three members of the constituted board shall be required to conduct the hearing. If a member is unable to attend the hearing, the Mayor shall designate one of the alternates to replace the member. The ethics board may, before the hearing and upon ten days notice to all parties, approve regulations governing conduct of ethics board hearings so long as such regulations do not conflict with this chapter.

- g. The person who filed the complaint (“complainant”) shall present his case to the board first.
- h. All documentary evidence which is anticipated to be submitted to the board at the hearing by either the respondent or the complainant, and the names, with telephone numbers, of all individuals expected to present testimony to the board on behalf of either the respondent or complainant, must be given to the city clerk at least ten days in advance of the hearing. This requirement shall not apply to evidence used solely for purposes of cross-examination or rebuttal. The failure of a party to adhere to this rule shall preclude such party from tendering such evidence or individual’s testimony at the hearing through any form. The respondent, complainant, and the public shall be entitled to see all such lists which are placed on file with the city clerk.
- i. The board may compel the production of any document in the possession of the city and subject to Open Records Act and the testimony of any city employee except where the employee is the respondent. Where the board compels any such document or testimony after a hearing has commenced a continuation shall be provided so that such order can be complied with.
- j. Neither party shall have the right to require depositions of any individual, including the opposite party. The respondent and complainant shall have the right to obtain affidavits which may be submitted to the board for consideration provided that such affidavits were filed with the city clerk no less than 48 hours prior to the hearing, and that the name of the affiant is provided to the city clerk. Both the respondent, complainant, and the public shall be entitled to see all such affidavits, which are placed on file with the city clerk.
- k. The complainant’s evidence must prove that the respondent is guilty of the offense charged by the evidentiary standard commonly referred to as “preponderance of the evidence.”
- l. Each witness presented by the complainant, and including the complainant, shall be subject to cross- examination by the individual accused of the ethical violation (“respondent”) or such person’s representative.
- m. At the conclusion of the complainant’s case, the respondent shall be entitled to move for dismissal based on insufficient

evidence on the part of complainant's case. If respondent makes such a motion and the board, by majority vote, agrees to dismiss the complaint, the hearing shall be terminated at this point. If either the respondent fails to make such a motion, or, if the board decides by majority vote to overrule respondent's motion, the hearing shall continue. The board may also direct a decision in favor of the respondent upon the board's own initiative.

- n. Respondent shall then be entitled to present his evidence to the board.
- o. Respondent is not required to testify. The absence of respondent's testimony shall not be viewed by the board as an admission of any sort.
- p. If respondent testifies, then respondent shall be subject to cross-examination by complainant. All other witnesses who testify in the respondent's case shall be subject to cross-examination by complainant.
- q. All persons who testify before the board, shall be placed under oath, by either the chairman or a person designated by the chairman.
- r. At the conclusion of respondent's case, the complainant may offer rebuttal evidence only to those items presented in respondent's case. At the conclusion of complainant's rebuttal, respondent shall be entitled to offer rebuttal evidence only to those matters presented in complainant's rebuttal case.
- s. During the course of testimony and at the conclusion of all the testimony and closure of all the evidence, the board members may ask questions of any of the individuals who testified before the board.
- t. At the conclusion of all questions by parties and board members, the chairman shall end the hearing and permit the board to deliberate in public. If the board decides by majority vote that additional evidence is needed to make a decision, the board shall have the authority to conduct its own investigation or to require either the complainant or respondent to submit additional evidence at a continuation of the hearing which must be held no later than 45 days after the

date of the initial hearing. The board has no authority to continue the hearing past this 45- day deadline.

- u. Following the conclusion of any additional evidence received at the continued hearing, the board shall continue to deliberate. When deliberations are concluded, the chairman shall call for a vote. The board may vote immediately after deliberations are concluded or they may continue the meeting for up to two weeks when a public vote must be taken. The board's first vote must be whether the respondent violated the ethics code as charged by the complainant. If, by majority vote, the board rules that the respondent did not violate the ethics code as charged by the complainant, then the matter is concluded. If the board, by majority vote, concludes that the respondent did violate the ethics code as charged by the complainant, then the board must make a second decision by majority vote. The second decision involves the form of penalty. The board shall have six options of penalty which include:
 - i. No admonishment and no further action;
 - ii. A public reprimand and admonishment not to violate the ethics code in the future;
 - iii. Formal reprimand;
 - iv. Public censure;
 - v. Recommendation for termination resignation or recall; and
 - vi. Recommendation of prosecution in city court.
- v. The complainant may withdraw his or her complaint at any time without the approval of the board.
- w. If any question is raised concerning the hearing procedures, which is not otherwise addressed in this ordinance, the city attorney, or in his absence, the appointed legal advisor to the board shall resolve the procedural question. Such resolution shall be placed in writing by the city attorney or other legal advisor and given to both parties. Such resolution shall also be presented to the board for final approval and

recommendation to amend the chapter by adding such procedure.

- x. An order will be generated by the board and submitted to the Mayor and Council for inclusion in the minutes within fifteen (15) days of the completed hearing.

Section II.

- a. It is hereby declared to be the intention of the Mayor and Council that all Sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.
- b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every Section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause, of phrase of this Ordinance.
- c. In the event that any phrase, clause, sentence, paragraph or Section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section III.

All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section IV.

It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of McDonough, Georgia, and the sections of this Ordinance may be renumbered, if necessary, to accomplish such intention.

Section V.

The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED, this 20th day of April, 2009

 CITY OF MCDONOUGH, GEORGIA