

ORDINANCE NO.03- 2017

An Ordinance to provide for the Amendment to amend Article II, Section 2.14 (f) of the City Charter for the City of Norcross to provide for the conflict of interest for elected officials and employees from continuing in their position after qualifying as a candidate for nomination or election to public office in the City of Norcross or for the Gwinnett County Board of Commissioners, to permit elected officials in the City of Norcross to run for other elective offices, subject to Ga. Const. Art. 2, Sec. 2, Para. 2 and O.C.G.A. § 36-30-4, and for Other Purposes as Stated Herein:

WHEREAS, Article II, Sec. 2.14 of the City Charter for the City of Norcross sets forth certain conflicts of interest for elected officers, appointed officers, employees and members of a board, commission or authority of the City of Norcross; and

WHEREAS, Sec. 2.14 (f) of the City Charter currently prohibits City of Norcross directors, department heads, employees and members of any board, commission or authority of the City from continuing in such position or employment upon qualifying as a candidate for nomination or election to any public office whatsoever; and

WHEREAS, the Mayor and Council of the City of Norcross have determined that Sec. 2.14 (f) is over broad and unfairly prohibits such employees and appointed officials from running for elected offices other than in the City of Norcross and for the Gwinnett County Board of Commissioners, which does present an actual conflict of interest that would make their continued employment or appointed position untenable and unacceptable; and

WHEREAS, the Mayor and Council of the City of Norcross have determined that it is in the best interest of the City to amend Sec. 2.14 (f) to prohibit such employees and appointed officials from continuing their position with the City of Norcross upon qualifying as a candidate for nomination or election to public office in the City of Norcross, or for the Gwinnett County Board of Commissioners; and

WHEREAS, the Mayor and Council of the City of Norcross have determined that it is in the best interests of the City that the elected officials of the City of Norcross (i.e., the Mayor and Councilmembers) should be permitted to continue their position as an elected official with the City of Norcross upon qualifying as a candidate for nomination or election to any other public office so long as the term of office for which such elected official is qualifying begins more than 30 days prior to the expiration of such official's present term of office, subject to Ga. Const. Art. 2, Sec. 2, Para. 2 and O.C.G.A. § 36-30-4; and

WHEREAS, Chapter 53 of Title 36 of the Official Code of Georgia Annotated provides that the City of Norcross has legislative power to amend its Charter by ordinance as an incident or its home rule power by following the procedure set forth in O.C.G.A. § 36-35-3 (b);

NOW THEREFORE, the Mayor and Council hereby amend Article II, Section 2.14 (f) of the City Charter for the City of Norcross, as is more particularly set forth below.

ENACTING CLAUSE. The Mayor and City Council of the City of Norcross, Georgia, hereby ordains that the Article II, Section 2.14 (f) of the City Charter for the City of Norcross, shall be amended by ordinance after compliance with the procedure set forth in O.C.G.A. § 36-35-3 (b) as more particularly set forth below.

I. COMPLIANCE WITH O.C.G.A. § 36-35-3 (B).

(a) The Mayor and Council of the City of Norcross shall adopt ordinances at two regular consecutive meetings of the Mayor and City Council of the City of Norcross, held not less than seven (7) nor more than sixty (60) days apart;

(b) The Mayor and Council of the City of Norcross hereby direct that a notice containing a synopsis of the proposed amendment shall be published in the Gwinnett Daily Post once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption.

(c) The Mayor and Council of the City of Norcross further direct that the notice shall state that a copy of the proposed amendment is on file in the office of the City Clerk of the City of Norcross and in the office of the clerk of the Superior Court of Gwinnett County for the purpose of examination and inspection by the public; and

(d) The Mayor and Council of the City of Norcross further direct that the City Clerk of the City of Norcross shall furnish anyone, upon written request, a copy of the proposed amendment.

II. AMENDMENT. After giving the notices and holding the meetings as set forth in Section I above, the Mayor and Council of the City of Norcross under the exercise of its Home Rule Powers, hereby direct that Article II, Section 2.14 (f) of the City Charter for the City of Norcross, shall be amended by deleting Section 2.14 (f) in its entirety and substituting the following in lieu thereof:

“(f) (1) No department director, department head, employee, or member of any board, commission or authority of the City shall continue in such position or employment upon qualifying as a candidate for nomination or election to public office in the City of Norcross, or for the Gwinnett County Board of Commissioners.

(2) Department directors, department heads, employees, and members of any board, commission or authority of the City shall be and are permitted to continue in such position or employment upon qualifying as a candidate for nomination or election to any public office other than in the City of Norcross or for the Gwinnett County Board of Commissioners.

(3) Elected officials in the City of Norcross (i.e., the Mayor and Councilmembers) shall be permitted to continue the balance of their term for which they were elected after qualifying as a candidate for nomination or election to any other elective public office (including but not limited to a different elective office in the City of Norcross other than the present office held by such elected official), so long as the term of the elective office for which such official is qualifying begins more than 30 days prior to the expiration of such official’s present term of office.

(4) The office of any elected official in the City of Norcross shall be declared vacant upon such elected official qualifying in a general primary or general election for another elective public office if the term of office term of

office for which such official is qualifying begins more than 30 days prior to the expiration of such official's present term of office.

(5) The elected officials of the City of Norcross shall be ineligible to hold any other elected office during the term of office for which such Mayor or Councilmember was chosen unless he or she first resigns before entering such other office. The vacancy created in any such office shall be filled as provided by Georgia Law."

III. SEVERABILITY.

In the event that any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjunction shall in no manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally part thereof.

IV. REPEALER

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

V. EFFECTIVE DATE

This Ordinance shall become effective on _____.

THEREFORE BE IT RESOLVED, that the Norcross City Council does hereby ordain, resolve and enact the foregoing Ordinance to amend the City Charter of the City of Norcross as set forth above.

Adopted this _____ day of _____.

APPROVED:

NORCROSS CITY COUNCIL

BY:

(Mayor)

ATTEST:

(City Clerk)