

AN ORDINANCE

BY

AN ORDINANCE TO AMEND THE APPOINTMENT
PROCESS FOR MEMBERS OF THE BOARD OF ETHICS TO
REQUIRE NOMINATION BY THE MAYOR AND
CONFIRMATION BY THE CITY COUNCIL; AND FOR
OTHER PURPOSES.

WHEREAS, members of the Board of Ethics are currently appointed directly by seven groups named in the Ethics Code without involvement by the Mayor or the City Council; and

WHEREAS, a recent court decision (*Commissioner Sharon Barnes Sutton v. Clara Delay and the DeKalb County Board of Ethics*, Superior Court of DeKalb County, Civil Action No. 15-CV-11243) has raised concerns about the constitutionality of a process that delegates such appointment authority to private groups without final approval by an official governmental entity; and

WHEREAS, in an abundance of caution the City wishes to avoid any future challenges to the proper constitution of the City of Atlanta Board of Ethics by amending the appointment process for members of that board to require appointment by the Mayor and confirmation by the Atlanta City Council.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1: That Part I, Chapter 2, Article VII, Division 2 (Standards of Conduct), Sections 2-804 of the Code of Ordinances of the City of Atlanta, Georgia, Georgia Laws 1927, p. 265, be amended as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 2-804. - Board of ethics.

- (a) There is hereby continued in existence a board of ethics to consist of seven members, all of whom shall be known for their personal integrity and all of whom shall be residents of and domiciled in the city. It is further urged that the members of the board of ethics shall reflect the diversity of the city with regard to race, color, creed, religion, gender, marital status, parental status, familial status, sexual orientation, national origin, gender identity, age and disability. The new board of ethics shall come into existence as set forth in delayed effect of 2002 amendment found at [section 2-824](#) of this division.
- (b) The members of the board of ethics shall be **appointed by the Mayor and confirmed by the Council upon recommendation by the named organizations** as follows:
 - (1) One member shall be selected **recommended** by the Atlanta Bar Association, chosen from the attorney members of the association;
 - (2) One member shall be selected **recommended** by the Gate City Bar Association, chosen from the attorney members of the association;

- (3) One member shall be selected **recommended** by the Atlanta Business League, chosen from the organizations that are members of the league, which member shall not be an attorney;
 - (4) One member shall be selected **recommended** by the Metro Atlanta Chamber of Commerce from the organizations that are members of the chamber, which member shall not be an attorney;
 - (5) One member shall be selected **recommended** by the Atlanta-Fulton County League of Women Voters, which member shall not be an attorney.
 - (6) One member shall be selected **recommended** by the Atlanta Planning Advisory Board, which member shall not be an attorney nor an officer of a neighborhood planning unit.
 - (7) One member shall be selected **recommended** by the six major universities/colleges within the city (Georgia State University, Georgia Institute of Technology, Clark Atlanta University, Morehouse College, Morris Brown College, and Spelman College).
- (c) The members shall each serve for terms of three years; provided, however, that the initial terms of the first Metro Atlanta Chamber of Commerce appointee, the first Atlanta Business League and the first University/College appointee shall be two years, and the initial term of the first Atlanta Planning Advisory Board appointee and Atlanta-Fulton County League of Women Voters appointee shall be one year. Members shall serve without compensation. The members shall elect a chair and develop their own organization internally.
- (d) The position of a member of the board shall be deemed vacated:
- (1) Upon the expiration of his or her term;
 - (2) Upon the death of a member or the disability or incapacity of a member for more than 90 days;
 - (3) Upon the written resignation of the member, when accepted by the ~~nominating party~~ **Mayor**. A resignation tendered for more than 30 days shall be deemed accepted;
 - (4) By the member ceasing to be a resident of the city; or
 - (5) Upon removal of the member for good cause by a majority vote of the board of ethics;
 - (6) New members shall be identified and their names submitted to the ~~municipal clerk~~ **Mayor** within 30 days of the date on which a vacancy in a board position occurs. The municipal clerk will sound their names at the next regularly scheduled council meeting. Nominees for the board of ethics and ethics officer shall be subject to an education and employment background check as well as a criminal history check. Nominees shall execute all releases necessary for the department of personnel and human resources and the department of police to accomplish the same. If the nominee is determined to have committed a felony, the nomination shall be withdrawn.
- (e) Members shall be prohibited from engaging in city election political activities and from making campaign contributions to candidates in city elections during their terms as board members. Violations of this subsection may be punished by removal from board membership by a majority vote of the members.
- (f) The board of ethics shall:
- (1) Elect a chair by majority vote of the serving members. Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
 - (2) Elect a vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years.
 - (3) Elect a secretary to provide administrative assistance to the board.
 - (4) Hold regular monthly meetings at City Hall. Such meetings shall be televised. All meetings of the board shall be conducted as required by the Georgia Open Meetings Act.
 - (5) Conduct its business only with a quorum. A majority opinion of the members sitting at any hearing shall govern as to decisions of the board. In no event shall a decision of the board be voted upon by fewer than four members.

- (6) Be free to contract for the services of a competent court reporter to take down statements, testimony and discussions at its meeting or to use in lieu thereof a competent person adept at shorthand reporting and/or mechanical transcribing devices, whichever method is from time to time desired by the board, such services to be paid for by the city.
- (7) Maintain all records in the office of the ethics officer as required by the Georgia Open Records Act.
- (8) Report, as appropriate, suspected ethical and criminal violations to state or federal law enforcement agencies.
- (9) Notify the ethics officer of any report of an alleged violation of the code of ethics received by the board.
- (10) Establish procedures to notify the subject of any report of an alleged violation of the code of ethics as required by the Georgia Open Records Act.
- (g) The city shall pay all administrative costs, including those specifically stipulated in this section, pertaining to the operation of the board of ethics.
- (h) The board shall have the authority to prescribe rules and regulations pursuant to this division to administer the financial disclosure process and to issue opinions under this division. The board shall prescribe appropriate financial disclosure forms, instructions and methods of disclosure as required to comply with the requirements of disclosure of income and financial interests found at [section 2-814](#).
- (i) Except as otherwise provided in this division, the meetings of the board will be governed by Robert's Rules of Order.
- (j) The board shall render an advisory opinion based upon a real or hypothetical set of circumstances, when requested in writing by anyone who is an official or employee of the city or a member of a board, council, committee or commission who is personally involved in a matter requiring interpretation of the ethics code. Any person requesting an opinion in accordance with this section who has made a full and complete disclosure of all relevant facts shall be entitled to rely on the opinion or finding of the board of ethics as a guide to the conduct of such person in the person's relations to and with the city. Compliance with the opinion or finding of the board of ethics shall serve in mitigation in any proceedings against such person for violation of this division. Advisory opinions based upon current law shall be maintained as required by the Georgia Open Records Act.
- (k) The board of ethics shall have the authority to investigate any alleged violation of the code of ethics as follows:
 - (1) Upon a sworn written complaint by any person in a form prescribed by the board;
 - (2) Upon the request of the ethics officer; or
 - (3) Upon the determination by a majority of the board that any matter should be investigated.

SECTION 2: That the terms of all currently serving members of the City of Atlanta Board of Ethics will end on the date of the approval of this legislation. The organizations named in Section 2-804(b) shall immediately submit their recommendations for new appointees to the Mayor of the City of Atlanta. Each new member of the City of Atlanta Board of Ethics shall be appointed by the Mayor and confirmed by the Atlanta City Council following the successful completion of a background check as required by Section 2-804(d)(6). The initial terms of the newly appointed members shall be staggered as provided by Section 2-804(c).

SECTION 3: That the amendments in this ordinance shall become effective immediately upon of approval of this legislation.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 5: That the Municipal Clerk is instructed to retain all legislative history references in the codified version of Part I (Charter and Related Laws), Chapter 6 (Pensions), including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.

		First Reading		FINAL COUNCIL ACTION	
		Committee Date Chair Referred To	Committee Date Chair Action Fav, Adv, Hold (see rev. side) Other Members Refer To	Committee Date Chair Action Fav, Adv, Hold (see rev. side) Other Members Refer To	<input type="checkbox"/> 1 st & 2 nd <input type="checkbox"/> 2 nd <input type="checkbox"/> Consent <input type="checkbox"/> V Vote <input type="checkbox"/> RC Vote
<p>AN ORDINANCE BY <i>John J. ...</i> AN ORDINANCE TO AMEND THE APPOINTMENT PROCESS FOR MEMBERS OF THE BOARD OF ETHICS TO REQUIRE NOMINATION BY THE MAYOR AND CONFIRMATION BY THE CITY COUNCIL; AND FOR OTHER PURPOSES.</p> <p><i>John J. ...</i> <i>John J. ...</i> <i>John J. ...</i></p>					<input type="checkbox"/> 1 st & 2 nd <input type="checkbox"/> 2 nd <input type="checkbox"/> Consent <input type="checkbox"/> V Vote <input type="checkbox"/> RC Vote
<p><input type="checkbox"/> CONSENT REFER <input type="checkbox"/> REGULAR REPORT REFER <input type="checkbox"/> ADVERTISE & REFER <input type="checkbox"/> 1ST ADOPT 2ND READ & REFER <input checked="" type="checkbox"/> PERSONAL PAPER REFER</p> <p>Date Referred Referred To: <i>8/21/17</i> <i>cc</i></p> <p>Date Referred Referred To:</p> <p>Date Referred: Referred To:</p>					MAYOR'S ACTION