

**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO PROVIDE FOR A FINANCIAL PENALTY FOR MISCONDUCT IN OFFICE BY AN ELECTED OFFICIALS THAT DOES NOT RISE TO THE LEVEL OF A VIOLATION OF THE CODE OF ETHICS; TO DEFINE MISCONDUCT IN OFFICE; AND TO PROVIDE A PROCEDURE WHEREBY THE CITY COUNCIL MAY IMPOSE A FINANCIAL PENALTY FOR SUCH MISCONDUCT.**

**WHEREAS**, City Charter Section 2.02 provides that “the Council may, by ordinance, adopt rules and by-laws to govern the conduct of its business”; and

**WHEREAS**, City Code Section 2-34 adopts Robert’s Rules of Order as a set of rules to govern the City Council; and

**WHEREAS**, Robert’s Rules of Order Section 61 provides that an organizational body may impose financial penalties on its own members for misconduct; and

**WHEREAS**, the City Council has the inherent authority to discipline its own members by financial penalty as an expression of its right to self-governance; and

**WHEREAS**, the City Council deems it appropriate and desirable to provide for the imposition of a financial penalty on any Council member that commits misconduct as defined herein.

**NOW THEREFORE, BE IT ORDAINED BY** the City of Clarkston City Council as follows:

**SECTION 1.**

The attached document, consisting of two (2) pages and entitled “Clarkston Misconduct Ordinance” is hereby adopted by the City Council.

**SECTION 2.** This ordinance shall become effective upon the date of its adoption.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

ATTEST:

CITY COUNCIL OF  
CITY OF CLARKSTON, GEORGIA

\_\_\_\_\_  
Tracy Ashby, City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor Emanuel Ransom

Approved as to form

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Stephen G. Quinn, City Attorney

## **CLARKSTON MISCONDUCT ORDINANCE**

### **Sec. 1. "Misconduct" Defined.**

"Misconduct" means any of the following enumerated actions:

- 1) Any act that is contrary to the City Charter or City Ordinance.
- 2) Personally directing, or attempting to direct, City staff or any person acting under a contract with the City.
- 3) Behavior unbecoming an elected representative of the City which tends to bring embarrassment or disrepute upon the City.
- 4) Intentional violation of City Council's rules of governance.

### **Sec. 2. Allegation of Misconduct.**

When the Mayor or a Council Member believes that another elected official has committed an act of misconduct, he or she may submit in writing to the City Clerk an allegation of misconduct. Such document shall set forth with particularity the misconduct alleged. The City Clerk shall promptly provide a copy of the allegation of misconduct to the Mayor, all Council Members, the City Manager and the City Attorney. Such allegation of misconduct shall be placed on the agenda for the next regular Council meeting occurring not less than ten (10) days after the date that the allegation is submitted to the City Clerk.

### **Sec. 3. Procedure.**

- a) At the regular meeting where the allegation of misconduct appears on the agenda, the written allegation shall be read by the official making the allegation. Two (2) affirmative votes of the Council shall be required to proceed with an inquiry into the alleged misconduct.
- b) An inquiry into alleged misconduct shall begin with the elected official that filed the allegation of misconduct presenting such witnesses, documents, or other evidence as he or she deems appropriate in support of the allegation. The accused official shall have the opportunity to cross-examine witnesses and present such evidence in his or her defense as he or she desires. The Mayor shall preside over the inquiry and keep order during the presentation of evidence except that, if the Mayor is either the accuser or the accused, the Vice Mayor shall preside over the inquiry.
- c) At the close of an inquiry pursuant to subsection (b) of this Section, the affirmative vote of five (5) members of the City Council shall be required to find the accused official guilty of misconduct.
- d) Upon a finding of misconduct, the City Council may, by majority vote, impose a financial penalty upon the elected official found guilty not to exceed \$1,000.00.

If such penalty is not paid within thirty (30) days, it shall become a debt to the City within the meaning of City Charter Sec. 2.08.

**Sec.4. Dismissal of Allegations**

If an allegation of misconduct appears on a City Council agenda but a finding of misconduct is not made for any reason, then such allegation shall be dismissed with prejudice. An allegation of misconduct may not be continued, set aside, tabled, or otherwise delayed beyond the regular meeting where it first appears on the agenda.