

## CHAPTER 2

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Signed: \_\_\_\_\_  
Donna M. Waters, Clerk

**CHAPTER 2**  
**ARTICLE I: GENERAL PROVISIONS**

**2-101 How code is designated and cited.** The provisions embraced in the following chapters and sections shall constitute and be designated "The Code of Bryan County, Georgia, 1996," and may be so cited.

**2-102 Rules of construction.** In the construction of this code and of all ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the board of commissioners:

1. General rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

2. Gender - singular and plural. Every word in any code provision or ordinance importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

3. Tenses. The use of any verb in the present tense shall include the future when applicable.

4. Joint Authority. All words purporting to give a joint authority to three or more county officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

5. Delegation of authority. Whenever a provision requires the head of a department or other officer of the county to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or perform the required duty unless the terms of the provisions designate otherwise.

6. Computation of time. The time within which an act is to be done as provided in any code provision or ordinance or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be a Sunday or a holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded.

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7. Overlapping provisions. Where any provision of this code imposes greater restrictions upon the subject matter than any general provisions imposed by this code, the provision imposing the greater restriction or regulation shall be applicable.

**2-103 Definitions.** Words and phrases used in this code shall have the following meanings, unless otherwise specified elsewhere in this code.

1. Advice and Consent. Whenever the term "advice and consent" of the county commission is used in this code it shall be construed to mean an affirmative vote of the majority of the entire county commission.

2. Chairman. The words "chairman" or "commission chairman" shall mean the chairman of the Board of Commissioners of the County of Bryan, Georgia.

3. Commission. The words "board of commissioners", "commission" or "county commission" shall mean the Commissioners of the County of Bryan, Georgia .

4. County. The words "the county" or "this county" shall mean the County of Bryan, Georgia.

5. County Administrator. The term "county administrator" shall refer to the chief administrative officer of the County of Bryan, Georgia.

6. Court. The word "court" shall mean the superior court of the county unless otherwise designated.

7. Governing authority, governing body. The words "governing authority" or "governing body" shall mean the Board of Commissioners of the County of Bryan, Georgia.

8. Keeper, Proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

9. Misdemeanor. The term "misdemeanor" shall mean a violation punishable either:

(1) By a fine not to exceed \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed twelve (12) months, or both; or,

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(2) By confinement under the jurisdiction of the Board of Offender Rehabilitation in a state or county correctional institution or such other institution as the Department of Offender Rehabilitation may direct, for a determinate term of months which shall be more than six (6) months but shall not exceed a total term of twelve (12) months.

10. Municipality. The word "municipality" shall be construed as synonymous with the term "city," "town," or "municipal corporation."

11. Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" or "sworn."

12. Ordinance. The word "ordinance" shall mean a legislative act of the board of commissioners of a general and permanent nature.

13. Owner. The word "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

14. Person. The word "person" shall include a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

15. Personal property. The term "personal property" shall include every species of property except real property, as hereinafter defined.

16. Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

17. Property. The term "property" includes real, personal, and mixed estates and interests..

18. Public Place. The term "public place" shall include any place where the public is invited to go or congregate.

19. Real property. The words "real property" shall include lands, tenements, and hereditaments.

20. Reasonable time or notice. Reasonable time or notice shall be deemed to mean only such time as may be necessary for the prompt performance of the act required.

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21. Resolution.

(1) Legislative: The term "resolution" shall mean a legislative act of the governing body of a general and permanent nature which may include the same subject matter as an ordinance. A resolution should not be a statute or law and therefore should not include the standard criminal penalty clause used for the enforcement of ordinances.

(2) Expressive: The term "resolution" shall mean a formal expression of the opinion or will of the governing body. The term is usually employed to denote the adoption of a motion, the subject matter of which would not properly constitute a statute, such as a mere expression of opinion, an alteration of the rules, a vote of thanks, or of censure, etc.

22. Sidewalk The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, but shall not include any unimproved areas between the curb lines and improved walkways.

23. Signature, subscription. The word "signature" or "subscription" shall include a mark intended as such when the person cannot write.

24. Tenant or occupant. The word "tenant" or "occupant", when applied to a building or to land, shall include any person holding a written or oral lease of, or who occupies the whole or part of such building or land, either alone or with others.

25. Town. See Municipality.

26. Week. The word "week" shall mean seven (7) days.

27. Writing or written. The words "writing" or "written" shall include printing and any other mode of representing words and letters.

28. Year. The word "year " shall mean a calendar year.

**2-104 Section Headings.** The underlined headings of the several sections and subsections of this code are intended as mere captions to indicate the contents of the section or subsection and shall not be deemed or taken to be titles of such sections, nor as part of the section or subsection, nor, unless expressly so provided, shall they be so deemed when any of such sections or subsections, including the headings, is amended or re-enacted.

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**2-105 Amending Code.**

1. All ordinances passed subsequent to this code which amend, repeal or in any way affect this code shall be numbered in accordance with the numbering system of this code and printed for inclusion herein. In any case of repealed chapters, sections, and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the ease of repeal, shall be prima facie evidence of such action taken on subsequent ordinances until such time as the code and subsequent ordinances omitted are readopted as a new code by the board of commissioners.
2. Amendments to any of the provisions of this code may be made by specific reference to the section number of this code in the following language: "That section of the Code of Bryan County, Georgia, 1996 is hereby amended to read as follows...". The new provisions may then be set out in full as desired.
3. In the event a new section not heretofore existing in the code is to be added, the following language may be used: "The Code of Bryan County, Georgia, 1996 is hereby amended by adding a section or subsection or chapter) to be numbered \_\_\_\_\_, which section reads as follows..." The new provision shall then be set out in full as desired.
4. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

**2-106 Altering code.**

1. It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the board of commissioners.

**2-107 Penalty where none provided.**

1. Whenever in this code or in any ordinance of the county any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this code of any ordinance shall subject the person committing the violation to a fine not exceeding \$500.00 and costs or to imprisonment for a term not exceeding sixty (60) days, or to both such fine and imprisonment, any or all of such penalties to be imposed at the discretion of the judge of the Magistrate Court of Bryan County, Georgia.

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2. The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or of license or the taking of other punitive or remedial action where called for or permitted under the provisions of the code.

**2-108 Application of Code.** The provisions of this Code, unless otherwise clearly specified, shall apply only in the unincorporated areas of the County.

**2-109 Attendance at Meetings of Board Appointees.**

1. As used in this ordinance, "appointee" means any person who has been appointed by the board to serve on a committee, board, authority, or any group so designated by the Bryan County Board of Commissioners.

2. The Board of Commissioners shall have the right to remove any appointee who, in the sole judgement of a majority of the Board of Commissioners has failed to attend two (2) consecutive regular meetings or four (4) meetings in a quarter of the committee, board, authority or group on which such appointee serves without an excuse acceptable to the Board of Commissioners in its sole judgement.

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Donna M. Waters, Clerk

## ARTICLE II: ETHICS CODE

**2-201 Short Title.** This Article will be known as and may be referred and cited as the "Ethics Code of Bryan County" ("Ethics Code").

**2-202 Declaration of Policy.**

1. The Board of Commissioners of Bryan County believes that public service is a public trust. Maintaining that public trust requires Bryan County to protect against improper influence or the appearance of improper influence. The purpose should be to ensure that public officials will be impartial and use independent judgement in carrying out their duties. To help ensure this quality, to the Board of Commissioners finds and declares the need to establish appropriate ethical standards for conduct.

2. The Board of Commissioners of Bryan County does not intend that this Article impede the desire for those who want to seek and serve in public office. To this end, public officials should not, except as otherwise provided by law, be denied the opportunity available to all other citizens. Public service should not restrict the ability to acquire and maintain private, economic and other interests. Only in those cases in which a conflict of the public's trust and interest would result should a restriction be applied.

3. This Ethics Code follows the precedent of earlier Federal, State and Local Codes. Related Local Code chapters can be found in the Personnel Code. It makes clear those standards of ethical conduct that will apply to public officials in the discharge of their official duties; implements the objective of protecting the integrity of the government; and prescribes only such essential restrictions against conflicts of interest so as not to impose unnecessary barriers against public service.

**2-203 Definitions.** The words used in this article shall have their normal accepted meanings except as set-forth below:

1. Agency. Means any entity which the Board of Commissioners determines is subject to the legislative authority of the County with respect to the Ethics Code.

2. Business/Business Entity. means any entity, regardless of forms, whether or not operated for profit, including, but not limited to, any corporation, general or limited partnership, sole proprietorship, joint venue, association, firm, institution, trust, person or foundation.

3. Censure. means any expression of severe criticism or reproach.

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4. Personnel Code. means the Bryan County personnel policy manual that governs personnel.

5. Employee or Public Employee. means any person, employed full or part-time by Bryan County government. The County Administrator, department heads and other employees exempt under the Personnel Policy Manual shall be considered employees for the purpose of this article. The Board of Commissioners of Bryan County and appointed and elected officials shall not be considered employees but are defined in this chapter.

6. Employer. means any person paying or agreeing to pay compensation to another person for services rendered.

7. Financial Interest.

(1) Any source of income, direct or indirect, from which a person has received, within The past twelve (12) months, or is presently receiving more than five hundred (\$500) dollars per year; or;

(2) Ownership, legal or equitable, or more than 10% of a business entity; or

(3) Ownership of any interest having a fair market value of more than twenty thousand (\$20,000) dollars.

8. Gift. means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. Gift does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions. A gift shall be further defined as a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred.

9. Immediate Relative/Relatives: means spouse, children, step-children, siblings, parents, grandparents, grandchildren, and spouses of such persons.

10. Interests. means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly.

11. Person. include any individual, employee or entity.

12. Public Officer or Officer or Officials. means the members of the Board of Commissioners of Bryan County and other elected or appointed officials.

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Donna M. Waters, Clerk

**2-204 Compliance With Applicable Law.** No officer shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him or her by virtue of their office. Other provisions of law or regulations relating to this Article shall apply when any provisions of this Article shall conflict with the laws of the State of Georgia or the United States of America. The laws of the State of Georgia or the United States of America shall apply when this Article is silent.

**2-205 Impartiality.**

1. Officers must not take part in any personal, business, or professional activity or receive or retain any direct or indirect financial interest that places them in a position of conflict between their private interest and public interest that relate to their responsibilities and duties as officers.

2. Officers must not use their positions to induce, coerce, or influence a person or employee (including subordinates) in a way that would provide any benefits, financial or otherwise, to themselves or others or any organization of which they are a member thereof.

3. No Officer shall:

- (1) use public office for private gain.
- (2) give preferential treatment to any person.
- (3) impede government efficiency and economy.

**2-206 Conflict of Interest.**

1. It shall be a violation of this Code of Ethics for any officer to participate directly or indirectly through decision, approval, disapproval, recommendation or in any other manner upon the following:

(1) Any proceeding, application, vote, request for ruling, claim, controversy, contract or any other matter involving an immediate relative or any interest of an immediate relative of the officer.

(2) Any matter in which the officer has a financial interest, a fiduciary interest, a corporate interest, or an employment interest.

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(3) No officer should invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with and/or adversely effects such official duties of the officer. However, should the same exist, such officer shall either:

a. Abstain.

b. In the event abstention is not required, disclose such interest prior to taking any action on the matter by duly noting such conflict for recording in the minutes of the meeting.

2. It is hereby declared that it is not the intent of this Article to prohibit an immediate relative of an officer from being engaged in gainful employment in Bryan County, Georgia. Bryan County, Georgia, shall not be prohibited from doing business with an entity which employs an immediate relative of an officer provided:

(1) That such business relationship does not violate this Article;

(2) That such business relationship is full disclosed in writing;

(3) That, where applicable, the affected business entity shall be required to use the bid system when conducting business with Bryan County, Georgia.

**2-207 Financial Disclosure.** Financial disclosures shall be governed by Federal and State law, and this Code of Ethics shall not require any additional reports to be filed.

**2-208 Interest and Contracts Involving Officers.**

1. While an official matter is pending, or an application is likely, no officer shall acquire or own an interest in any contract or transaction at a time if a reasonable basis exists that such an interest will be affected directly by his/her official act or action or by official acts or actions of the County.

2. The County shall not enter into any contract involving services or property with an officer, or with a business in which the officer has an interest. Provided that such is disclosed to all parties involved, the prohibitions of this section shall not apply in case of:

(1) The designation of a bank or trust company as a depository for county funds.

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(2) The borrowing of funds from any bank or lending institution which offers competitive rates for such loans.

(3) Contracts entered into with a business which employs a consultant, provided that such employment is not incompatible with this Ethics Code.

(4) Contracts for services entered into with a business which is the only available source for such goods or services.

3. Contracts entered into under circumstances which would constitute an emergency situation, provided that such emergency is documented and submitted to the Board of Commissioner to be kept on file.

**2-209 Use of Prestige of Office; Harassment; Improper Influence.**

1. An official shall not intentionally use the prestige of his/her office or official title or position for his/her own personal gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of prestige of office prohibited by this section.

2. No official shall intimidate, threaten, coerce, discriminate against, or give the appearance of, of attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice in the regular discharge of his or her official duties.

3. No official shall improperly influence any public official to violate the standards of ethical conduct set forth in this Ethics Code.

**2-210 Solicitation or Acceptance of Gifts.**

1. Except as provided herein, no official, either for himself or herself, or any member of the immediate family of such official, or for any other person, may knowingly solicit, receive benefit from, accept, or agree to accept any gratuity, gift, loan, favor, promise, or thing of value for himself, herself, and other person or any member of the immediate family of such official. In addition, it shall also be a violation of this code for any such gift as defined in this Article to be received by any such person as specified herein if:

(1) It tends to influence him or her in the discharge of official duties or gives a reasonable basis for the impression of improper influence over him or her in the discharge of official duties.

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Donna M. Waters, Clerk

(2) The official has financial interest which may be substantially and materially affected, by performance or non-performance of his/her official duties.

2. Unless impartiality and independence of judgement of the official would be compromised this section shall not apply to the following:

- (1) Meals and beverages given in the normal course of entertaining.
- (2) An occasional, nonpecuniary gift from a single source of fifty (\$50) dollars or less.
- (3) Ceremonial gifts or awards.
- (4) Gifts of advertising value only.
- (5) Awards presented in recognition of public service.
- (6) Reasonable expenses of food, travel, lodging and scheduled entertainment of the official for a meeting which is given in return for participation in a panel or speaking engagement at the meeting.
- (7) Courtesy tickets or free admission extended to an elected official for an event as a courtesy or for ceremonial purposes.
- (8) Gifts from relatives or members of his/her household.
- (9) Honorariums or awards for professional achievement.
- (10) Courtesy tickets or free admission to an elected official to educational seminars, educational or informational conventions or other similar events.

**2-211 Disclosure of Confidential Information.** No officer shall use or disclose confidential information concerning the property, governing operations, policies or affairs of the County, unless such information is generally available to the public; nor shall any officer use such information to advance the financial or personal interest of the officer or any other person.

**2-212 Abstention.** An officer who has an interest that he or she has reason to believe either violates this Code of Ethics or may effect his or her official acts or actions shall abstain from participating in any official acts or actions related to it.

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Signed: \_\_\_\_\_  
Donna M. Waters, Clerk

**2-213 Disciplinary Action.**

1. In addition to any other remedy provided by law, a person who is subject to the provisions of this Article and who is found by the Board of Commissioners to have violated its provisions may, in the case of a public official, be subject to censure or reprimand.

2. Upon direction of the Board of Commissioners, a petition may be filed for injunctive relief, or any other appropriate relief, in the Superior Court of Bryan County, or in any other court having proper venue and jurisdiction, for the purpose of requiring compliance with the provisions of this Article. In addition, the court may issue an order to cease and desist from the violation of this Article. The court also may void an official action taken by an official which action was prohibited by this Article, provided that the legal action to void the matter was brought within thirty (30) days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public. The court, after hearing and considering all the circumstances in the case, may grant all or part of the relief sought. However, the court may not void any official action appropriating public funds, levying taxes or providing for the issuances of bonds, notes or other evidences of public obligation.

**2-214 Civil Recovery.** The value of anything received by any person for violations of this Article, as determined by the Board of Commissioners, shall be recoverable from such person by the county by appropriate legal action or proceedings or by a taxpayer of the county acting on behalf of the county after a written demand to the county to bring such action, and failure of the County to initiate the action within sixty (60) days after receipt of the demand.

**2-215 Appeal.** Any person aggrieved by a decision of the Board of Commissioners with regard to this Article may appeal to the Superior Court of Bryan County, except, however that said appeal must be filed within thirty (30) days of the decision being appealed. Said appeal shall be based upon the record. No Party shall be entitled to a de novo appeal. Upon failure to file said appeal within thirty (30) days of the decision being appealed, the decision shall be binding and final upon all parties.

**2-216 Official Liability.** No member of the Board of Commissioners or any person acting on behalf of the Board of Commissioners, shall be liable to any person for any damages arising out of the enforcement or operation of the Ethics Code of Bryan County, except in the case of wilful or malicious negligence. This limitation of liability shall apply to Bryan County, Georgia, the members of the Board, the employees of the Board and any person acting under direction of the Board.

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Donna M. Waters, Clerk