

STATE OF GEORGIA

CITY OF HIRAM

RESOLUTION NO. 2023-03

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF HIRAM, GEORGIA FOR THE PURPOSE OF RECERTIFYING AS A CERTIFIED CITY OF ETHICS UNDER THE GEORGIA MUNICIPAL ASSOCIATION PROGRAM.

WHEREAS, the Board of Directors of the Georgia Municipal Association has established a Certified City of Ethics program; and

WHEREAS, the City of Hiram wished to continue to be certified as a Certified City of Ethics under the GMA Program; and

WHEREAS, as part of the certification process, it is the responsibility of the governing authority of the City of Hiram, Georgia to subscribe to the ethics principles approved by the GMA Board;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of Hiram, Georgia as follows:

SECTION 1. As a group and as individuals, the governing authority subscribes to the following ethics principles and pledges to conduct its affairs accordingly:

- Serve Others, Not Ourselves;
- Use Resources With Efficiency and Economy;
- Treat All People Fairly;
- Use The Power of Our Position For The Well Being Of Our Constituents;
- Create An Environment Of Honesty, Openness And Integrity;

SECTION 2. The purpose of the Code of Ethics, subscribed by the Mayor and Council in the City of Hiram Code of Ordinances, Chapter 2, Article III, and attached hereto as Exhibit A, is to:

- Encourage high ethical standards in official conduct by city officials;
- Establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the interest of the city;
- Require disclosure by such officials of private financial or other interest in matters affecting the city; and
- Serve as a basis for disciplining those who refuse to abide by its terms.

SECTION 3. The provisions of this Code of Ethics shall be applicable to all elected or appointed city officials.

So resolved this 11th day of April, 2023.

Frank Moran
Mayor Frank Moran

Teresa Philyaw
Mayor Pro Tem Teresa Philyaw, Post 1

Kathy Bookout
Councilperson Kathy Bookout, Post 2

Melissa Bayardelle
Councilperson Melissa R. Bayardelle, Post 3

Derrick Battle
Councilperson Derrick Battle, Post 4

Doris Devey
Councilperson Doris Devey, Post 5

Attest: Melissa Chosewood
Melissa Chosewood, City Clerk

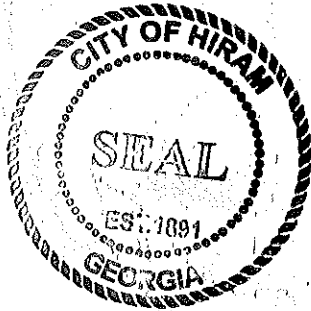


EXHIBIT A

ARTICLE III. - ETHICS

Footnotes:

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State Law reference— *Code of ethics for public officials and employees, O.C.G.A. § 45-10-1 et seq.*

Sec. 2-53. - Purpose.

It is the policy of the city that its officials, employees, appointees, and volunteers conducting official city business:

- (1) Serve others and not themselves;
- (2) Be independent, impartial and responsible;
- (3) Use resources with efficiency and economy;
- (4) Treat all people fairly;
- (5) Use the power of their position for the well-being of their constituents; and
- (6) Create an environment of honesty, openness and integrity.

(Ord. No. 10-140, § 2-3.1, 12-7-2010)

Sec. 2-54. - Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means a corporation, a partnership, a sole proprietor, or any other person or organization carrying on an enterprise for profit.

City official or *official*, unless otherwise expressly defined, does not include city employees but does mean the mayor, members of the governing authority, municipal court judges (including substitute judges), city manager, city attorney, and all other persons holding positions designated by the city Charter, as amended. The term "city official" also includes all individuals, including city employees, appointed by the governing authority as appropriate to city authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the governing authority.

Complaint means a written sworn statement filed with the city and the board of ethics containing specific allegations of misconduct by a city official; provided, however, such allegations must be filed within six months after the complaining party knew or should have reasonably known of the alleged misconduct, provided no complaint shall be filed later than 12 months after the conduct complained of.

Confidential information means any information which by law or practice is not available to the public.

Consultant means any person not a city official and who is not an employee of the city who is retained to render personal services of a technical or professional nature, whether paid or unpaid, and who has other personal or private employment. The term "consultant" includes, but is not limited to, attorneys, architects, engineers, surveyors and accountants.

Employee means any person who is a fulltime or parttime employee of the city.

Gift means any benefit or thing of value which is conveyed to or performed for the benefit of a public servant or a partner in interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed.

Immediate family means the spouse, mother, father, grandparent, brother, sister, son or daughter of any city official related by blood, adoption or marriage. The relationship by marriage includes in-laws.

Interest means any direct pecuniary benefit, which is not a remote interest, held by or accruing to a city official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the city. A city official shall be deemed to have an interest in transactions involving:

- (1) Any person is in the city official's immediate family;
- (2) Any person with whom a contractual relationship exists whereby the city official may receive any payment or other benefit unless the city official is receiving a benefit for goods or services in the normal course of business for which the city official had paid a commercially reasonable rate;
- (3) Any business in which the city official is a director, officer, employee or shareholder, except as otherwise provided herein; or
- (4) Any person of whom the city official is a creditor, whether secured or unsecured.

Remote interest means an interest of a person or entity, including a city official, which would be affected in the same way as the general public. For example, the interest of an official in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.

Substantial interest means an interest, either directly through a member of the immediate family, in another person or entity, where:

- (1) The interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity;

- (2) The funds received by the person from the other person or entity during the previous 23 months either equal or exceed:
 - a. \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services; or
 - b. Ten percent of the recipient's gross income during that period, whichever is less;
- (3) The person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the governing authority; or
- (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

(Ord. No. 10-140, § 2-3.2, 12-7-2010)

Sec. 2-55. - Prohibitions.

- (a) City officials shall not solicit or accept directly or indirectly anything of value from any person, corporation, or group which:
 - (1) Has or is seeking to obtain contractual or other business or financial relationships with the city;
 - (2) Seeks in exchange for the thing of value to have a city official exercise a matter of discretion in his favor; or
 - (3) Seeks in exchange for the thing of value to have interests which may be affected by the performance or nonperformance of the official duty of the city official.
- (b) City officials shall not directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or another person if:
 - (1) It could reasonably be considered to influence the city official in the future or if the city official is involved in any official act or action which results in a monetary benefit for the donor or lender which is not available to the public at large; or
 - (2) The city official recently has been, or is now, or within six months in the future, is involved in any official act or action which results in a monetary benefit for the donor or lender which is not available to the public at large.
- (c) The prohibitions in subsections (a) and (b) of this section shall not apply in the case of:
 - (1) Occasional nonmonetary gift of insignificance or trinkets or gifts such as a calendar, memento or pen received in the normal course of business with a value of/or less than \$100.00 and/or admission to and/or consumption of food and/or beverage at a meal, function, social setting or event;
 - (2) Award publicly presented in recognition of public service;

- (3) Transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as now or hereafter amended;
 - (4) 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;
 - (5) Campaign contributions made and reported in accordance with Georgia laws;
 - (6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value shall not include" as now or hereafter amended; or
 - (7) Food, beverage or expenses afforded city official, members of their families, or others that are associated with normal and customary business or social functions or activities.
- (d) No city official shall use such position to secure special privileges or exemptions for himself or others, or to secure confidential information for any purpose other than official duties on behalf of the city.
- (e) No city official shall act as an agent or attorney for another in any matter before the governing authority or other city body.
- (f) The city shall not enter into any contract involving services or property with a city official or with a business in which a city official has an 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 professional activities of the city attorney in his work as an independent contractor and legal advisor on behalf of the city.
 - (3) An otherwise valid employment contract between the city and a city official who is not elected (such as, by way of example, a city clerk or a chief of police).
 - (4) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest in the community for such loan.
 - (5) Contracts entered into in accordance with O.C.G.A. § 16-10-6.
 - (6) Contracts for services which are awarded pursuant to sealed competitive bids subsequent to an advertised competitive bid process in accordance with the purchasing ordinance of the city.
 - (7) Contracts entered into under circumstances which constitute an emergency situation, provided that a written record explaining the emergency is prepared by the mayor and thereafter kept on file.
- (g) All public funds shall be used for the general welfare of the people and not for personal economic gain.
- (h)

No city official shall solicit or accept other employment to be performed, or compensation to be received, while still a city official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of city duties.

- (i) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the governing authority and shall recuse himself and take no further action on matters regarding the potential future employer.
- (j) No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- (k) No city official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- (l) A city official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.
- (m) No city official, in any matter before the governing authority or other city body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself from such discussion or vote as applicable.
- (n) A city official shall not order any goods and services for the city without prior official authorization for such an expenditure. No city official shall attempt to obligate the city nor give the impression of obligating the city without proper prior authorization.
- (o) No city official shall draw travel funds or per diem from the city for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the city therefore.
- (p) No city official shall attempt to unduly influence the outcome of a case before the municipal court nor shall any city official engage in ex parte communication with a municipal court judge of the city on any matter pending before the municipal court.

(Ord. No. 10-140, § 2-3.3, 12-7-2010)

Sec. 2-56. - Coercion by city official; improper use of office.

- (a) A city official shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family, or those with whom the official has business or financial ties

amounting to a substantial interest.

- (b) A city official shall not use his position to coerce, request, or require an employee to:
 - (1) Do work on behalf of his social, church or fraternal interests without paying just compensation;
 - (2) Do work on behalf of a member of the family of the city official without paying just compensation;
 - (3) Purchase goods and/or services to be used for personal, business or political purposes; and
 - (4) Work for him personally or in his private business without paying just compensation.
- (c) A city official shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial or in kind benefit to him or persons that are a member of the family of the city official, or those with whom a city official has a financial interest, direct contractual interest or employment interest.
- (d) A city official shall not intentionally use the office or official title or position for the city official's own financial interest or the financial gain of another that is applicable to the city official. The performance of usual and customary constituent services, without additional compensation, does not constitute the improper use of office prohibited by this section.
- (e) No city official shall intimidate, threaten, coerce, discriminate against, or give the appearance of or attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice on the regular discharge of his official duties.
- (f) No city official shall improperly influence any other city official to violate the standards of ethical conduct set forth in this ethics code.
- (g) No city official shall create a hostile work environment toward an employee as defined under federal law.

(Ord. No. 10-140, § 2-3.4, 12-7-2010)

Sec. 2-57. - Elections.

No city official shall direct any person employed by the city to undertake political activity on behalf of that city official, any other city official or any other individual or political party or group or business organization, during such time that the city employee is required to conduct city business. This section does not prohibit incidental telephone calls made for the purpose of scheduling a city official's daily city business.

(Ord. No. 10-140, § 2-3.5, 12-7-2010)

Sec. 2-58. - Conflicts of interest.

- (a) A city official may not participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.
- (b) A city official who serves as a corporate officer or member of the board of directors of a nonprofit entity must disclose their interest in said entity to the governing authority prior to participating in a vote or decision regarding funding of the entity by or through the city.
- (c) Where the interest of a city official in the subject matter of a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

(Ord. No. 10-140, § 2-3.7, 12-7-2010)

Sec. 2-59. - Board of ethics—Members.

- (a) The city board of ethics shall consist of three residents of the city, one appointed by the mayor, one appointed by the councilmembers, and the third appointed by the mayor and approved by a majority of the councilmembers.
- (b) All members of the board of ethics shall be residents of the city for at least one year immediately preceding the date of taking office and shall remain a resident while serving on the board.
- (c) Each person appointed to the board of ethics shall serve a two-year term that is concurrent with every other member. A member of the board of ethics is eligible for reappointment upon expiration of his or her two-year term provided he or she satisfies all other requirements prescribed by section 2-59, provided, however, that no board member is eligible to serve more than two consecutive two-year appointments to the board of ethics. Any person who has served two consecutive two-year appointments to the board of ethics is ineligible to serve again on the board of ethics any earlier than three years after having completed the two-year appointments. Likewise, no person is eligible to serve pursuant to subsection 2-59(k) having previously served two consecutive two-term board appointments unless a minimum of three years have passed since having completed such service.
- (d) 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 or contracting opportunity with the city or has been employed by the city.
- (e) Members of the board of ethics with any permit or rezoning application pending before the city, or any pending or potential litigation against the city or any city official charged in the complaint shall be disqualified from serving on the board of ethics for that complaint. An

alternate member of the board of ethics shall be selected in the same manner as the disqualified individual.

- (f) The member of the board of ethics shall serve without compensation. The governing authority shall provide meeting space for the board of ethics and, subject to budgetary procedures and requirements of the city, such supplies and equipment as may be reasonably necessary for the board to perform its duties and responsibilities.
- (g) No person shall serve on the board of ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.
- (h) No person shall serve on the board of ethics who is less than 21 years of age, who holds a public elective office, who is physically and mentally unable to discharge the duties of a member of the board of ethics, or who is not qualified to be a registered voter in the city. Further, for a period of four years after having last served as a member of the city's governing authority is ineligible for appointment to or to otherwise serve on the board of ethics.
- (i) Upon appointment, members of the board of ethics shall sign an affidavit attesting to their qualification to serve as a member of the board of ethics.
- (j) Members of the board of ethics may be removed by majority vote of the city governing authority.
- (k) If a position on the board of ethics becomes vacant as a result of death, resignation, removal, incapacity, or any other reason, then that position shall be filled by appointment as prescribed in subsection 2-59(a). The person so appointed must satisfy all of the requirements for service on the board of ethics as prescribed in section 2-59 and shall be appointed to complete the unexpired term of the vacant position. Upon completion of the unexpired term, the appointed individual is eligible for reappointment provided that all requirements prescribed in section 2-59 for service on the board of ethics are satisfied. These provisions concerning a vacant position on the board of ethics also apply to a temporary vacancy defined as an inability to execute the duties of a member of the board of ethics for a period of 60 days or more.

(Ord. No. 10-140, § 2-3.8, 12-7-2010; Ord. No. 2013-6, §§ 1, 2, 5-7-2013; Ord. No. 2016-04, §§ 1, 2, 8-2-2016)

Sec. 2-60. - Same—Duties and powers.

The board of ethics shall have the following duties and powers upon receipt of a written complaint by any citizen or duly licensed business owner in the city signed and sworn with the city clerk alleging a violation of this section:

- (1) To establish procedures, rules and regulations governing its internal organization and the conduct of its affairs.
- (2) To render advisory opinions with respect to the interpretation and application of this section to any city resident, duly licensed business, and/or city official who seeks, in writing, advice as to whether a particular course of conduct would constitute a violation of the standards imposed in this section or other applicable ethical standards. Such opinions shall be binding on the board of ethics in any subsequent complaint concerning the person who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. If no such advisory opinion is rendered within 60 days of the request for such opinion, the board may not consider any complaint which is filed as a result of the action for which the advisory opinion was sought.
- (3) To require additional information from a complainant, where appropriate, have subpoena powers and to recommend dismissal and rejection of such complaints as may seem unjustified, frivolous, or patently unfounded; provided, however, that the recommended rejection of a complaint by such board of ethics shall not deprive the complaining party of any right of action the complainant might otherwise have at law or equity against the party complained against.
- (4) To hold a hearing within 60 days after the receipt of a complaint. Failure to hold a hearing within the specified time shall result in dismissal of the complaint as to that transaction and shall prevent refiling of a complaint arising out of the same incident for at least six months.
- (5) To prescribe forms, approved by the city attorney, for the disclosures required in this division and to make available to the public the information disclosed as provided in this section.
- (6) To receive and hear complaints of violations of the standards required by this division.
- (7) To mail a copy of the complaint, certified return receipt requested, to the city official against whom the complaint is made.
- (8) To make such investigations in response to complaints as it deems necessary to determine whether any person has violated or is about to violate any provisions of this division.
- (9) To hold such hearings and make such inquiries as it deems necessary to investigate a complaint. In all proceedings before the board of ethics under this chapter, the burden of proof shall be on the complaining party. In all proceedings under this section occurring after a preliminary investigation as described in this section, the procedures and rules of evidence applicable in civil cases shall apply and the standard of proof required shall be beyond a reasonable doubt in hearings before the board of ethics.

(10) To report its findings to the governing authority for such action as the governing authority deems appropriate by the governing authority of the city.

(Ord. No. 10-140, § 2-3.9, 12-7-2010)

Sec. 2-61. - Penalty and appeals.

- (a) Any city official who knowingly violates any provision of the code of ethics provided for in this section shall be subject to public reprimand or censure by the governing authority of the city.
- (b) The board of ethics, as a result of a complaint filed with the board of ethics by any resident of the city, or by a group of residents of the city, may make such investigation as it deems proper to carry out its duties under this subsection. For the purpose of such investigation, the board of ethics may hold and conduct hearings, examine witnesses and administer oaths and issue subpoenas when such subpoena power is authorized by law. All testimony taken by the board of ethics shall be under oath. The board of ethics shall apply to the superior court of the county for the enforcement of any subpoena issued by the board.
- (c) At any hearing held under subsection (b) of this section, the city official who is adversely affected 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 in opposition or extenuation.

(Ord. No. 10-140, § 2-3.10, 12-7-2010)

Secs. 2-62—2-80. - Reserved.