

ORDINANCE #05-05

AN ORDINANCE OF THE CITY OF HAHIRA, GEORGIA ADOPTING A CODE OF ETHICS FOR CITY COUNCIL MEMBERS, TO PROVIDE AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

ARTICLE I

General Provisions

Section 1-1 Declaration of Policy

It is essential to the proper administration and operation of the City of Hahira that the members of its Governing Authority be, and give the appearance of being, independent and impartial; that public office not be used for private gain; and that there be public confidence in the integrity of the Governing Authority. The Governing Authority finds that the public interest requires that they protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of the members of the Governing Authority in situations where a conflict may exist.

Section 1-2 Definitions.

As used in this Ordinance, the term:

- (a) *City council member* shall be any person who is an elected city official, including the mayor, of the City of Hahira.
- (b) *Government or city* shall be construed to mean the City of Hahira, Georgia government.
- (c) *Interest* means any direct pecuniary benefit, which is not a remote interest, held by or accruing to a member of the Governing Authority as a result of a contract or transaction that is or may be the subject of an official act or action by or with the City. A member of the Governing Authority shall be deemed to have an interest in transactions involving:
  - (1) Any person in the member's immediate family;
  - (2) Any person with whom a contractual relationship exists whereby the member may receive any payment or other benefits unless the member is receiving a benefit for goods and services in the normal course of business for which the member has paid a commercially reasonable rate;
  - (3) Any business in which the member is a director, officer, employee, agent, or shareholder, except as otherwise provided herein; or

A Member shall not directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

**Section 1-6 Use of confidential information.**

A Member of the Governing Authority shall not use government property of any kind for other than officially approved activities, nor shall he or she direct employees to use such property for these purposes.

**Section 1-5 Use of public property.**

Aside from these restrictions, Members are free to engage in lawful financial transactions to the same extent as private citizens. (1) have direct or indirect financial interests that conflict substantially with their responsibilities and duties as government servants; or (2) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained from their office.

Members of the Governing Authority may not:

**Section 1-4 Financial interests of Members.**

(1) using public office for private gain; (2) impeding government efficiency or economy; or (3) affecting adversely the confidence of the public in the integrity of the government. It is the intent of this section that Members of the Governing Authority avoid any action whether or not specifically prohibited which might result in, or create the appearance of the following:

**Section 1-3 Intent.**

(4) Any person of whom the member is a creditor, whether secured or unsecured. (e) *Governing Authority or member of the Governing Authority* means the Mayor or any Council member of the City and any member appointed to any Board or Commission of the City (hereinafter sometimes referred to as "Member" or "Members").

Meetings of the council shall be conducted in accordance with the Official Code of Georgia Annotated, Title 50, Chapter 14, as amended, and Title 36, Chapter 80, Section 1.

**Section 1-11 Meetings of the council.**

A Member shall not order any goods and services for the City of Hahira without prior official authorization for such expenditure.

**Section 1-10 Unauthorized purchases.**

A Member shall disqualify himself from participating in any official act or vote, and any debate thereon, of the Governing Authority which results or could result in a pecuniary benefit to the Member or to a business or activity in which he has an interest, when such benefit is not available to the public at large.

**Section 1-9 Voting in matters of personal interest.**

A Member of the Governing Authority shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons within his immediate family, or those with whom a Member has business or financial ties.

**Section 1-8 Coercion by Members.**

Members shall not make false statements on which the Governing Authority, City Staff or other agencies would reasonably be expected to rely to establish policy or make important decisions. A Member violates this rule if he/she knows the statement or information is untrue, or the person has knowledge that would lead a reasonable person of ordinary prudence to conclude that the statement is untrue.

As custodians of taxpayer funds, all elected officials will disclose in a public forum any and all possible conflicts pertaining to personal credit problems, ongoing or past legal issues and any business or civic relationships which could give the appearance of influence in their decisions regarding expenditure of city funds, contractual negotiations and/or obligations.

**Section 1-7 Disclosure of information by Members of the Governing Authority.**

The Ethics Committee shall consist of three (3) persons, one appointed by the mayor, one appointed by the council, and the third member shall be appointed by the Mayor and Council. All members of the Ethics Committee shall serve a two (2) year term. The members of the Ethics Committee shall serve without compensation. Each member of the Committee shall have been a resident of the City for at least one (1) year immediately preceding the date of taking office and shall remain a resident of the City while serving as a committee member. No person shall serve as an Ethics Committee member if the person has, or has had within the preceding two (2) year period, any interest in any contract, transaction, or official action of the City.

**Section 2-1**

**Ethics Committee.**

**Administration**

**ARTICLE II**

A Member shall not draw per diem or expense monies from the City of Hahira to attend a seminar, convention, or conference and then fail to attend the seminar, convention, or conference without refunding the pro-rata unused per diem or expense monies to the city.

**Section 1-14**

**Travel expenses.**

A Member shall not use his superior position to request or require an employee to:  
(1) do clerical work on behalf of his family, business, social, church or fraternal interests;  
(2) purchase goods and services to be used for personal, business, or political purposes; and  
(3) work for him personally without offering just compensation.

**Section 1-13**

**Unauthorized use of public employees.**

A Member of the Governing Authority shall not use the attorney or attorneys who are under retainer by the City of Hahira for personal or private business without paying just compensation.

**Section 1-12**

**City attorneys used for private business.**

**Section 2-2 Receipt of complaints.**

(a) "Complaint" means a written sworn statement filed with the Ethics Committee containing specific allegations of misconduct by a Member; provided, however, such allegations must be filed within six (6) months of discovery of the alleged misconduct.

(b) Upon receipt of a written complaint, the Ethics Committee, along with the City Attorney, shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the Hahira City Council. The Ethics Committee shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint.

(c) Upon completion of its investigation of a complaint, the Ethics Committee shall be empowered to dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the Hahira City Council; provided, however, that a rejection of such complaint by the Ethics Committee shall not deprive the complaining party of any action he might otherwise have at law or in equity against the respondent government servant.

(d) The Ethics Committee shall be empowered to conduct probable cause investigations, to take evidence and hold hearings where provided for in the rules.

(e) The Ethics Committee shall be empowered to adopt forms for formal complaints, subpoenas, notices, applications for reinstatement and any other written instruments necessary or desirable under these rules.

**Section 2-2-1 Service of Complaint; Hearings and Disposition of Complaints.**

The Ethics Committee as appointed herein set forth shall cause the complaint to be served on the member of the Governing Authority charged as soon as practicable. Service may be by personal service or by certified mail, return receipt requested. A hearing shall be held within sixty (60) days after filing of the complaint. The Ethics Committee shall conduct the hearing in accordance with the procedures and regulations it establishes but, in all circumstances, the hearing shall include the taking of testimony, the right to representation by counsel, and the right to call witnesses on behalf of the accused and to cross-examination of adverse witnesses. The decision of the Ethics Committee shall be rendered to Mayor and Council within five (5) days after completion of the hearing.

Members of the Governing Authority shall not solicit or accept directly or indirectly anything of value from any person, corporation, or group which:

**Section 3-1 Acceptance of gifts, gratuities, special privileges.**

**Acceptance of Gifts and Conflict of Interest**

**ARTICLE III**

This chapter shall be cumulative to any other ordinance, resolution or act now existing.

**Section 2-3 Additional regulations.**

(a) Any member of the Governing Authority adversely affected by a final action by the City Council based on the findings of the Ethics Committee may obtain judicial review of such decision as provided in this Section.  
(b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Lowndes County within thirty (30) days after any final action by the City Council based on the decision of the Ethics Committee. The filing of such application shall act as supersedeas. The review by the superior court shall be limited to an inquiry of whether there was any evidence before the city council, which supported the decision of the council. Provided, however, no action of the city council refusing or failing to take action pursuant to this code of ethics shall be reviewable by the superior court.

**Section 2-2-3 Appeals.**

(a) Any member of the Governing Authority who knowingly violates any provision of the Code of Ethics provided in this Ordinance shall be subject to public reprimand or censure by the Governing Authority of the City.  
(b) At any hearing held by the Ethics Committee, the member of the Governing Authority who is the subject of inquiry shall have the right to written notice of the allegations at least 10 business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation.

**Section 2-2-2 Penalty and Member Rights.**

Members of the Governing Authority shall not utilize any city equipment or vehicles in support of any political campaign.

**Section 3-5 Political activity.**

No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which would tend to impair his independence of judgment or action in the performance of his official duties.

**Section 3-4 Conflict of interest.**

Members of the Governing Authority shall not disclose confidential information gained by reason of their official position, nor shall they otherwise use such information for their personal gain or benefit.

**Section 3-3 Confidential information.**

All plans, designs, reports, specifications, drawings, devices, inventions, and other items produced or created by Members of the Governing Authority during their time in office or through the use of city facilities or equipment or at the request of the city shall be and become the sole property of the City of Hahira.

**Section 3-2 Proprietorship of creations.**

(1) has, or is seeking to obtain contractual or other business or financial relationships with the City of Hahira;  
(2) in exchange for the thing of value seeks to have a Member exercise a matter of discretion in his or her favor;  
(3) in exchange for the thing of value seeks to have interests, which may be affected by the performance or nonperformance of the official duty of the Member.  
(4) This section shall not apply to campaign contributions, which shall be reported in accordance with Georgia Laws.

This Ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

**Section 4-4 Effective Date.**

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

**Section 4-3 Repeal.**

If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction to be invalid as conflicting with any federal, state, or City charter provision now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such provision, the conflicting provision of this Ordinance shall be considered a separate, distinct and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of this Ordinance as a whole, or any part other than the part declared to be invalid.

**Section 4-2 Severability.**

The provisions of this Ordinance are to be construed liberally, to the end that the public interest be fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the City Charter. In the event of a conflict between any provision of this Ordinance and any applicable federal, state, or City charter provision which does not expressly provide otherwise, the federal, state, or City charter provision shall control. To the extent permitted by law, all ordinances, resolutions or rules, and parts of ordinances, resolutions or rules inconsistent with this Ordinance are hereby repealed.

**Section 4-1 Liberal Construction of Ordinance.**

**Severability**

**ARTICLE IV**



The above Ordinance was read and approved by the Mayor and Council of the City of Hahira, Georgia on the 4<sup>th</sup> day of AUGUST, 2005.

Myron Crowe  
Myron Crowe, Mayor

ATTEST:

Janice Logue  
Janice Logue, City Manager/Clerk

SEAL