

CHAPTER 7: ETHICS

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Section 7-101 Purpose and Provisions

The purpose of this code of ethics is to:

- (a)Encourage high ethical standards in official conduct by city officials;
- (b)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;
- (c)Require disclosure by such officials of private financial or other interest in matters affecting the city; and
- (d)Serve as a basis for disciplining those who refuse to abide by its terms. Treat all people fairly; Use the power of their position for the well-being of their constituents; and create an environment of honesty, openness and integrity.

The provisions of this code of ethics shall be applicable to all elected or appointed city officials.

Notwithstanding anything herein to the contrary, state law and the charter of the city shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This ordinance shall be interpreted to supplement, and not replace, said provisions of state law and the charter.

Section 7-102 Definitions

Solely for the purpose of this code of ethics:

(a) *City official* or *official*, unless otherwise expressly defined does not include city employees but does mean the mayor, members of the city council, municipal court judges (including substitute judges), city manager, city clerk, 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 mayor and/or city council 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 mayor and/or city council.

(b) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.

(c) *Employee* means any person who is a full-time or part-time employee of the city.

(d) *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 shall include in-laws.

(e) *Incidental interest* means an interest in a person, entity or property which is not a substantial interest as defined herein and which has insignificant value.

(f) *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.

(g) *Substantial interest* means an interest, either directly or 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; or

(2) the funds received by the person from the other person or entity during the previous 12 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 city council; 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.

Section 7-103 Prohibitions

(a) No city official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the city.

(b) No city official, in any matter before the council 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/herself from such discussion or vote as applicable.

(c) No city official shall act as an agent or attorney for another in any matter before the city council or other city body.

(d) No city official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.

(e) No city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city except as authorized by state law.

(1) This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.

(2) This prohibition shall not be applicable to an otherwise valid employment contract between the city and a city official who is not elected (such as, by way of example, a city manager, city administrator or chief of police).

(3) Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city clerk.

(f) All public funds shall be used for the general welfare of the people and not for personal economic gain.

(g) Public property shall be disposed of in accordance with state law.

(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 city council and shall recuse himself/herself 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) A city official shall not use his or her 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.

(n) A city official shall not order any goods and services for the city without prior official authorization for such expenditure. No city official shall attempt to neither 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 of the City of Danielsville nor shall any city official engage in ex parte communication with a municipal court judge of the City of Danielsville on any matter pending before the Municipal Court of the City of Danielsville.

Section 7-104 Conflict 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 mayor and council 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.

Section 7-105 Disclosure and Duties

(1) Disclosure. A city official shall disclose the nature of any interest or benefit he or she has at the time such matter is presented to the Mayor and Council for discussion and/or action. Such disclosure shall be recorded into the minutes of the meeting and become part of the public record. Following any disclosure made pursuant to this Code of Ethics, the city official shall not participate in any ex parte communications with other members regarding the matter at hand.

(2) Deliberations and Vote Prohibited. No city official shall participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any agenda item, any official act or action in which he or she has a conflict of interest.

(3) Duty to Leave Meeting. To avoid the appearance of impropriety, after any city official is determined to have a conflict of interest in any matter, the city official shall leave his or her regular seat and not return to it until deliberation and action on the matter is completed.

Section 7-106 Board of Ethics

Requirements to be a Board Member

(1) BOE (Board of Ethics) members must be city residents for at least 1 year prior to being a member and must remain a resident while serving on the Board of Ethics.

(2) Can NOT serve as a member if the person has/had within prior to 1 year:

- Been employed by the City of Danielsville.
- Any potential litigation against the city or any city official charged in the complaint.

(3) Members must serve without compensation.

(4) CAN NOT serve if person has been convicted of a felony in this state or any other state; unless their civil rights have been restored and at least 10 years have elapsed from the date of sentence completion.

(5) Must NOT be under 21 years old.

(6) Must sign an affidavit attesting to their qualifications to serve as a member.

(7) Can be removed by majority vote of Mayor and Council.

Appointment of a Ethic Committee

The Municipal Court of the City of Danielsville shall hear and render decisions on all properly verified complaints filed under this ordinance.

Section 7-107 **Receipt of Complaints**

(a) All complaints against city officials shall be filed with the clerk of the Municipal Court of the City of Danielsville. Upon receipt of a complaint in proper form, the municipal court clerk shall forward a copy of the complaint to the city official or officials charged in the complaint within no more than seven (7) calendar days.

(b) All complaints shall be submitted and signed under oath, shall be legibly drawn and shall clearly address matters within the scope of this ordinance.

(c) Upon receipt of a complaint in proper form, the Board 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 City Council. The Board of Ethics is empowered to dismiss, in writing, complaints that it determines are unjustified, frivolous, patently unfounded or fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official. For complaints that are not dismissed, the Board of Ethics is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigations to the file containing such complaint.

(d) Upon completion of its investigation of a complaint, the Board of Ethics is empowered to dismiss, in writing, those complaints which it determines are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official.

(e) The Board of Ethics is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.

(f) The Board of Ethics is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the city council has not prescribed such forms.

(g) Findings of the Board of Ethics shall be submitted to the City Council for action.

(h) To discourage the filing of ethics complaints solely for political purposes, ethics complaints against a person seeking election as a city official, whether currently serving as a city official or not, which are filed between the date of qualifying for municipal office and the date of certification of the election results will be held and will not be processed until the election results for that office have been certified.

Section 7-108 **Service of Complaint**

The court clerk as appointed herein set forth shall cause the complaint to be served on the city official charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery. A hearing shall be held within sixty (60) calendar days after filing of the complaint. The Board of Ethics shall conduct hearings in accordance with the procedures and regulations it establishes but, in all circumstances, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The decision of the Board of Ethics shall be rendered to Mayor and Council within seven (7) calendar days after completion of the final hearing. At any hearing held by the Board of Ethics, the city official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven (7) calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses and, to oppose or try to mitigate the allegations. The city official subject to the inquiry shall have the right but not the obligation of submitting evidence and calling witnesses. Failure to comply with any of the time deadlines in this section of the ordinance shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Board of Ethics or the city council to act upon any complaint.

Section 7-109 **Right to Appeal**

- (a) Any city official or complainant adversely affected by the findings or recommendations of the Board of Ethics 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 Madison County within thirty (30) days after the decision of the Board of Ethics. The filing of such application shall act as supersedeas.

Section 7-110 **Penalty**

Any person violating any provision of this article is subject to:

- (a) Public reprimand or censure by the city council; or
- (b) Request for resignation by the city council.