

CODE OF ETHICS

SECTION 1. PREAMBLE

This Code of Ethics is meant to establish clear standards to ensure proper use of City resources, protect and safeguard the integrity of public service, and ensure that financial conflicts of interest do not impact the integrity of public service. The purpose of this Ethics Code and the operations of the Ethics Commission are to strengthen trust between the people of the City of Lancaster and those chosen to serve them.

SECTION 2. APPLICABILITY AND SCOPE

The Code of Ethics applies to all Public Officials and City Employees of the City of Lancaster.

SECTION 3. DEFINITIONS SPECIFICALLY APPLICABLE TO THE CODE OF ETHICS

All terms used in this Section, unless the context clearly requires otherwise, shall have the meaning set forth in the Ethics Act as supplemented and amended by the below definitions and the definitions which may be set forth elsewhere in this Chapter. The definitions shall include both singular and plural and cover both genders.

ACT means the Pennsylvania Public Official and Employee Ethics Act (65 Pa.C.S. Section 1101 et seq.) (the "Act"), as the same may be amended.

CITY EMPLOYEE means any individual employed by the City of Lancaster in any capacity.

ETHICS COMMISSION means the Ethics Commission of the City of Lancaster created pursuant to the Home Rule Charter of the City of Lancaster and this Chapter.

FINANCIAL INTEREST includes any monetary benefit other than that of nominal value received, whether directly or indirectly, by a City Employee, a Public Official, a member of their Immediate Family or any business in which they have an ownership interest, as the same is defined in the Act.

GIFT means any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of these or anything else of value received or given without equivalent compensation. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business.

IMMEDIATE FAMILY OR IMMEDIATE FAMILY MEMBER means a parent, step-parent, child, step-child, sibling, step-sibling, grandparent, grandchild, parent-in-law, sibling-in-law, aunt, uncle, spouse, domestic partner, or first cousin.

INTERESTED PARTY means:

1. A person or agent having or seeking to obtain a contract, grant, employment or any financial relationship with the City or any of its departments, agencies, boards, commissions or authorities;
2. A principal, agent and/or attorney in legal proceedings in which the City is then an adverse party; or
3. A person with an interest that may be substantially affected by the performance or nonperformance of the official duties of the Public Official or City Employee.

INFLUENCE means the proposal of, the voting on or the participation in any legislative discussion of or attempt to influence the course of any proposed legislation of the City; the participation in the selection, award or administration, other than of a ministerial nature, of any contract, benefit or award to which the City is a party or which is supported by any public funds administered by the City; or participation in any matter involving, other than on a ministerial basis, the inspection, regulation, licensing or auditing of an entity by or as required by the City.

NOMINAL VALUE means something valued \$50.00 or less.

PUBLIC OFFICIAL means any person elected by the public to an office governed by the Charter of the City of Lancaster or appointed by the Mayor or City Council of the City of Lancaster, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expenses or to otherwise exercise the power of the State or the City under its Home Rule Charter, its Codified Ordinances or applicable law.

SECTION 4. CONFLICT OF INTEREST

No City Employee or Public Official shall use the authority of their office or position for their own direct or indirect pecuniary benefit and/or for a Financial Interest. These prohibitions are more particularly set forth below:

1. Engage in or have financial or other personal interest in any business or transaction, direct or indirect, as defined by this Code, which is incompatible with the proper discharge of their official duties.
2. Engage in or accept private employment or render services for private interests when such employment of service is incompatible with the proper discharge of their official duties.
3. Utilize confidential information concerning the property, government or affairs of the municipal government or municipal authority or agency to advance the financial or other private interest of themselves or others.
4. Except as set forth in Section 8 D hereof, accept gifts or other things of value in return for a favorable decision or vote. In all but *de minimis* cases, gifts received must be publicly recorded and submitted to the City Clerk, specifying the date received, the names and addresses of the donor, and the value of the gift. Under no circumstances shall Public Officials or City Employees solicit gifts of any kind, other than those being solicited for official City business or for the benefit of the City itself. A gift having a value in excess of \$50.00 may not be considered *de minimis*. The term "gift" for the purposes of this Chapter means any gratuity, benefit, or any other thing of value which is accepted by, paid for, or given to a City Employee, elected official, or appointed official or by another on their behalf, either directly or indirectly, without consideration of equal or greater value.
5. Represent private interests in any action or proceeding against the City of Lancaster municipal government, municipal authorities, agencies, boards or commissions.

6. Vote on or participate in the negotiation or the making of any contract in which they have a Financial Interest.
7. Apply for and receive any publicly funded grant dollars provided by the City of Lancaster and/or any subsidiary in any amount to assist with improving their personal or rental property or business.

SECTION 5. USE OF PUBLIC RESOURCES

No Public Official or City Employee to whom this Code of Ethics applies shall use any City property for Financial Benefit or profit. No personnel, equipment, facilities, vehicles or any other property of the City may be used by Public Officials or City Employees for private use, except as otherwise specifically prescribed in their employment compensation package.

SECTION 6. USE OF AUTHORITY

No Public Official or City Employee shall use or permit the use of their official title, insignia or position in connection with any private business from which they receive compensation or obtain a Financial Interest.

SECTION 7. CONFIDENTIAL INFORMATION

No Public Official or City Employee shall use any information not readily available to the public which they obtained in the course of their duties as a Public Official or City Employee for Financial Interest.

SECTION 8. OFFERING, SOLICITING OR ACCEPTING GIFTS

- A. General Rule on Soliciting Gifts. A Public Official or City Employee shall not solicit anything of value from any person or entity that the Public Official or City Employee knows, or has reason to know, is an Interested Party, subject to the exceptions set forth herein.
- B. General Rule on Accepting Gifts. A Public Official or City Employee shall not accept anything of value from any person or entity that the Public Official or City Employee knows, or has reason to know is an Interested Party, subject to the exceptions in subsection (D).
- C. General Rule on Offering Gifts. No Interested Party shall offer or give anything of value to a Public Official or City Employee subject to the exceptions set forth below.
- D. Exceptions.
 - 1) Any gift occasioned by an Immediate Family relationship.
 - 2) Complimentary food and refreshment of nominal value, not to exceed four times per year from the same organization or individual.
 - 3) When offered by the sponsoring organization, and attended by the City Employee in an official capacity, admission, attendance, food and refreshment at a public event or ceremony sponsored by a non-profit organization, or by a civic, political, community, sports or cultural organization. This exception is limited to two (2) tickets per employee per event, not to exceed four (4) events per year from the same organization or individual.
 - 4) Accompaniment as an Immediate Family Member to a public event or ceremony where the Immediate Family Member is acting in an official capacity.
 - 5) Memberships, events or admissions associated with any boards on which a City Employee serves either in their official capacity or as a private citizen.

- 6) A nonpecuniary award publicly presented, in recognition of public service.
- 7) Gifts from one City Employee to another in recognition of a special occasion, illness or holiday.
- 8) Gifts of nominal value in recognition of a special occasion such as the birth of child, marriage or retirement.
- 9) Nonpecuniary gifts of nominal value.
- 10) Reasonable expenses for travel and accommodation where the travel is business related.
- E. Effects of State Law. The prohibitions expressed in this section are in addition to the regulation of gifts expressed in the Act, including the prohibition on undue influence and all applicable financial disclosure requirements.
- F. Gifts from Dignitaries. Gifts of value from foreign or domestic dignitaries (federal or state officials) presented to a Public Official, while acting in their capacity as such, shall be considered gifts to the residents of the City of Lancaster and thus City property, and will thereafter be cataloged, value estimated, and may be displayed from time to time as such.
- G. Gifts of a nominal value, as determined by this Chapter, shall be exempt.

SECTION 9. POST-EMPLOYMENT RESTRICTIONS

- A. For a period of 12 months from the time employment or service is terminated, no person who has served as a Public Official or City Employee shall represent a person, with or without compensation, on any matter before the governmental body with which they have been associated.
- B. For a period of 12 months from the time employment or service is terminated, no person who has served as a Public Official or City Employee shall personally act in a representative capacity, with or without compensation, on behalf of any person with respect to any case, proceeding, approval, contract or other matter with respect to which the person had substantial participation, of a non-ministerial nature, during the period of their service or employment.

SECTION 10. DISCLOSURE AND STATEMENTS OF FINANCIAL INTEREST

Any Public Official or City Employee to whom this Code of Ethics applies who shall have any private Financial Interest, direct or indirect, in any business or transaction pending before the City of Lancaster municipal government or any municipal authority or agency thereof shall disclose such private interest to the City Clerk and to the board of the authority or agency, and it shall be made a matter of permanent record. The said Public Official or City Employee shall disqualify themselves from participating in any decision or vote relating to such business or transaction.

The City Clerk will annually provide the Ethics Commission with the list of officials and employees required to file annual disclosure statements in accordance with the Act and shall supply those statements to the Ethics Commission if requested as part of an investigation or other official Ethics Commission business. If the Ethics Commission determines that a disclosure statement is deficient or reveals a possible or potential violation of the Act, it will notify the person in writing of the deficiency or possible or potential violation, and of the penalties for failure to comply with this Code and/or the Act.

SECTION 11. WRONGFUL ACTS AND WHISTLEBLOWER PROTECTION

- A. A person who signs or causes or participates in the signing of a complaint alleging a violation of the City Ethics Code provisions against another is subject to liability for wrongful use of this Chapter if:
 - 1) The complaint was frivolous or without probable cause; or
 - 2) The person publicly disclosed or caused to be disclosed that a complaint against a person had been filed with the Ethics Commission.
- B. A person who signs a complaint alleging a violation of the City Ethics Code provisions has probable cause for doing so if they reasonably believe in the existence of the facts upon which the claim is based and either:
 - 1) Reasonably believes that under those facts the complaint may be valid under this Chapter; or
 - 2) Believes to this effect in reliance upon the advice of counsel, sought in good faith and given after full disclosure of all relevant facts within their knowledge and information.
- C. Allegations of wrongful use shall be investigated in the manner set forth herein.
- D. When the essential elements of an action brought pursuant to this section have been established, a person may have a cause of action for the following:
 - 1) The harm to reputation by a defamatory matter alleged as the basis of the proceedings;
 - 2) The expenses, including any reasonable attorney fees, that the person has reasonably incurred in proceedings before the Ethics Commission;
 - 3) Any specific pecuniary loss that has resulted from the proceedings;
 - 4) Any emotional distress that has been caused by the proceedings; and
 - 5) Any punitive damages according to law in appropriate cases.
- E. Neither the City nor any person, including Public Officials and City Employees, may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or material change in salary, job, or responsibilities that causes an adverse employment action, against any official, employee, or other person (or against any member of their family) because that person, or a person acting on his or her behalf, (1) reports, verbally or in writing, or files a complaint with the Ethics Commission regarding an alleged violation of this Code, or (2) is requested by the Ethics Commission to participate in an investigation, hearing, or inquiry, or is involved in a court action relating either to the alleged violation or to evidence presented or given as part of a Ethics Commission investigation or hearing. The provisions of this Section are not applicable when the complainant, witness, or reporter of a violation made accusations or other statements that were frivolous or in violation of the Wrongful Acts provisions above. A violation of this Section is a violation of this Code.

SECTION 12. VIOLATIONS AND PENALTIES

- A. When determining the appropriate penalty, the following should be considered: the severity of the subject's offense; the position and responsibilities of the subject; the presence or absence of any intention on the part of the subject to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern.
- B. All decisions regarding disciplinary action require approval by the majority of the Ethics Commission members.
- C. Upon any violation of the City provisions, including the undertaking of wrongful acts as described above, one or several of the following penalties shall be available to the Ethics Commission for imposition:

- 1) Admonition. In compliance with existing human resources practices, collective bargaining agreements and/or statutes, a letter to the subject, the Mayor, the director of the department in which the subject is employed, if any, and the complainant, if any, indicating that the subject has been found to have violated the City Ethics Code's provisions;
 - 2) Public Censure. In compliance with existing human resources practices, collective bargaining agreements and/or federal, state and local laws, notification to the subject, the Mayor, the director of the department in which the subject is employed, if any, and the complainant, if any, indicating that a violation of the City provisions took place and that the Ethics Commission strongly disapproves of the actions by Public Officials, City Employees or any person covered under this Code;
 - 3) Reimbursement of Financial Gain. Any person who realizes financial gain by way of a violation of any provision of the City Code, in addition to any other penalty provided by the law or this Chapter, shall pay into the Treasury of the City a sum of money up to the financial gain resulting from the violation. The Ethics Commission shall determine the amount of financial gain realized;
 - 4) Debarment. Any Public Official, City Employee, person, corporation, company or other covered entity found to have participated in or benefitted from a violation of this Chapter, may be barred from participating in business dealings with the City for a period of time to be determined by the Ethics Commission , in addition to being subject to any other penalty deemed appropriate by the Ethics Commission;
 - 5) Fine. A fine of up to one thousand dollars (\$1,000.00), per violation, to be paid into the City Treasury;
 - 6) Referral. In cases where the violation of this Chapter is also a violation of Federal or State criminal law, the matter may be turned over to the proper authority for criminal prosecution.
- D. Penalties issued hereunder shall be in addition to and not as substitution for any penalties assessed for the same conduct by state or federal authorities under the Act or other applicable law.
- E. The City Council, Solicitor and/or the Mayor, as appropriate and necessary, shall enforce the penalties issued by the Ethics Commission.

SECTION 13. ETHICS COMMISSION

A. Composition and structure of the Ethics Commission.

1. Composition. The Ethics Commission established by the City Lancaster Home Rule Charter and this Chapter shall be composed of seven residents of the City of Lancaster, two members to be appointed by the Mayor, three members to be appointed by City Council and two members to be appointed by the Controller, all of whom shall meet the qualifications and be appointed pursuant to Section 12 of the City of Lancaster Home Rule Charter.
2. Terms of Service. Members of the Ethics Commission shall serve for terms of three years, except that members shall continue to serve until their successors are appointed and qualified. The terms of the initial members shall be staggered, with two members serving a term of one year, two members serving for two years, and three members serving for three years.
3. Vacancy. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member they succeed by the individual or entity that made that particular appointment (Mayor, City Council or Controller) and is eligible for appointment thereafter according to the terms herein.
4. Election of Chairperson and Vice Chairperson. The Ethics Commission shall elect a Chairperson and a Vice Chairperson annually at a meeting held in January of each year. The

Vice Chairperson shall act as Chairperson in the absence of the Chairperson or in the event of a vacancy in that position.

5. Quorum. A majority of the members of the Ethics Commission shall constitute a quorum; however, the votes of a majority of the members are required for the imposition of any disciplinary decision, imposition of penalties or any recommendation of the Ethics Commission to City Council or the Mayor.
6. Meetings. The Ethics Commission shall meet at the call of the Chairperson or at the call of a majority of its members. The Ethics Commission shall meet not less than four times per year.
7. Investigating Officer / Officer. The Ethics Commission shall appoint an Investigating Officer. The Ethics Commission shall determine an amount to be paid as reasonable compensation to the investigating officer as payment for such services. The Investigating Officer may be a private investigator or an attorney who shall be a member of good standing of the Supreme Court of Pennsylvania and shall have been so for at least five years. The Investigating Officer need not be a resident of the City of Lancaster and shall not be a Ethics Commission member. The Investigating Officer is authorized to retain the services of investigators and may only delegate nondiscretionary functions.

B. Powers and duties. The powers and duties of the Ethics Commission may be summarized as follows:

1. Upon the written request of any Public Official or City Employee, or without such request should the majority of the Ethics Commission members deem it in the public interest, the Ethics Commission may render advisory opinions concerning matters of governmental ethics; shall consider questions as to ethical conduct, conflicts of interest and the application of ethical standards set forth in this Chapter; and shall issue advisory opinions in writing as to any such question. The Ethics Commission may in its discretion publish its advisory opinions with any redactions necessary to prevent disclosure of the identity of the person who is the subject of the opinion. An advisory opinion may be used as a defense in any subsequent investigation or prosecution, provided that the official or employee who sought the opinion did so in good faith and only to the extent material facts were not misrepresented in the request for the opinion.
2. Receive and dispose of complaints of violations of the ethics provisions of the Charter and this Code of Ethics and exercise discretion in declining to pursue an investigation if such a course would be in the best interest of the citizens of the City of Lancaster or where the activity complained of amounts to no more than a de minimis violation.
3. Appoint an Investigating Officer to conduct investigations and to issue findings reports where appropriate.
4. Hold hearings, issue subpoenas and compel the attendance of witnesses, administer oaths, take testimony, require evidence on any matter under investigation before the Ethics Commission, and issue orders, including but not limited to those related to adjudications and penalties set forth in this Chapter.
5. When necessary, hire independent counsel.

C. Complaint procedure.

1. Who may file.
 - A. Any person may file a complaint about an alleged violation of the City of Lancaster Code of Ethics. A person signing a complaint shall:
 - i. Reasonably believe in the existence of facts upon which the claim is based; and
 - ii. Reasonably believe that the complaint is valid under the ethics provisions of the Code of Ethics and the City of Lancaster Home Rule Charter.
 - B. The Ethics Commission may also initiate proceedings on its own.
2. How to file. The Ethics Commission shall establish procedures for filing such complaints on forms and in the manner required by the Ethics Commission. The Ethics Commission shall make this form available upon request. The complaint shall state the name, job or office held by the alleged violator and a description of the facts that are alleged to constitute a violation. The form

must contain a notarized signature subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

D. Jurisdiction; Preliminary investigation.

1. Each complaint filed with the Ethics Commission shall be immediately directed to and preliminarily reviewed by an Investigating Officer appointed by the Ethics Commission (the "Officer") to determine whether the complaint falls within the jurisdiction of the Ethics Commission. The aforesaid determinations shall be made within 30 days of the filing of the complaint. If the Officer determines that the Ethics Commission does not have jurisdiction over the matter underlying the complaint, the complainant will be notified and no further action will be taken. If, however, the Officer determines that the complaint falls within the jurisdiction of the Ethics Commission, the Officer shall authorize a preliminary investigation.
2. The preliminary investigation shall be initiated and accomplished at the sole direction of the Investigating Officer. If the Officer, in their sole discretion, finds that the violation(s) as alleged in the complaint would, if proved, constitute a de minimis infraction, they may decline to initiate a preliminary investigation and dismiss the complaint if to do so would be in the best interest of the citizens of City of Lancaster.
3. At the onset of the preliminary investigation, the Investigating Officer shall notify both the complainant and the subject of the investigation of the filing of the complaint, the nature of the same, and the initiation of a preliminary investigation.
4. The preliminary investigation shall be completed within sixty (60) days of the Officer's finding of jurisdiction.
5. If at any time during the preliminary investigation, an extension is necessary and justified, the Investigating Officer shall have additional time in thirty-day segments. The Officer shall timely notify both the complainant and the subject of the investigation of each such extension.
6. At the conclusion of the preliminary investigation, the Officer shall determine whether probable cause exists to support the complaint. If the inquiry fails to establish the same, the Officer shall dismiss the complaint and notify both the complainant and the subject of the complaint of the dismissal of the complaint. If, however, at the conclusion of the preliminary investigation the Officer determines that probable cause may exist to support the complaint, the Officer shall authorize a full investigation.

E. Full investigation.

If a preliminary investigation uncovers probable cause to support the complaint, the Officer shall authorize a full investigation. The complainant and the subject of the investigation shall be notified within one (1) week of the initiation of a full investigation, and the subject shall be notified of the identity of the complainant. Until the investigation is concluded or terminated, the Officer will notify both the complainant and the subject of the investigation of the status of the investigation at least every sixty (60) days. Within one hundred eighty (180) days of the initiation of the full investigation, the Officer must either terminate the investigation or issue a findings report on the subject.

F. Findings report.

The findings report shall set forth the pertinent findings of fact as determined by the Officer. The Officer shall deliver the findings of fact to the complainant and the subject of the investigation. If no violation of the Code of Ethics was found, the Officer shall dismiss the complaint. If the subject of the investigation was found to be in violation of the Code of Ethics, the subject may, within 30 days of the report, request an evidentiary hearing, unless a written extension is obtained from the Officer. When such a request is received by the Officer, the Officer shall promptly notify the Ethics Commission of the request for a hearing and the names of the parties involved. The Ethics Commission shall, upon receipt of such notice, direct the Solicitor to engage two attorneys, to be approved by the Ethics Commission: one (1) to represent the facts in support of the complaint; and one (1) to advise the Ethics Commission in matters related to the evidentiary

hearing. If involving the Solicitor in the appointment is deemed problematic by the Ethics Commission, the Ethics Commission may engage such counsel directly. No City Solicitor or any other attorney appointed to serve the City in any capacity may be engaged for this purpose. If no request for an evidentiary hearing is received, the Officer will forward the findings report to the Ethics Commission for its decision and final order.

G. Evidentiary hearing.

1. Timing. An evidentiary hearing must be held within sixty (60) days of the filing of a request for same unless the complainant agrees in writing to an extension.
2. Evidence. The subject of the investigation shall have reasonable access to any evidence intended to be used at a hearing. The subject of the investigation shall have the opportunity to be represented by counsel and to subpoena witnesses, present evidence, cross-examine witnesses against him/her, submit argument and shall be entitled to exercise all rights of confrontation and the like afforded him/her by the United States Constitution and the Pennsylvania Constitution. The standard of proof to be applied in any hearings shall be the preponderance of the evidence.
3. Closed hearing. The hearing shall be closed to the public unless the subject requests an open hearing in writing to the Ethics Commission two weeks prior to before the hearing.

H. Decision by the Ethics Commission; final order.

At the conclusion of the evidentiary hearing or upon receipt of the findings report, the Ethics Commission will determine by majority vote whether the evidence supports a finding that the subject of the complaint violated provision(s) of either the City of Lancaster Home Rule Charter or the Code of Ethics. Upon reaching a determination on the complaint, the Ethics Commission shall issue a final order. A copy of said final order shall be promptly delivered thereafter to both the complainant and the subject of the complaint.

I. Petition for reconsideration.

A subject, having been found to have violated a provision of the City of Lancaster Home Rule Charter or Code of Ethics, may file a petition for reconsideration of the Ethics Commission's decision. Such petition shall be filed with the Ethics Commission within 10 days after the Commission issues its final order.

J. Protection of complainant.

No person may be penalized, nor any employee of the City be discharged, suffer change in their official rank, grade or compensation, be denied a promotion or threatened, for a good faith filing of a complaint with the Ethics Commission or for providing information or testifying in any Ethics Commission proceeding.

K. Confidentiality of Ethics Commission information.

All Ethics Commission proceedings and records relating to an investigation shall be confidential until a final determination is made by the Ethics Commission, except as may be required to effectuate due process. The final order shall become a public record once the subject has exhausted all appeal rights or has failed to timely exercise such rights. All other file material shall remain confidential.

L. Rules and Regulations.

The Ethics Commission may adopt rules and regulations governing its activities and functions. Notwithstanding the provisions set for thereunder, such rules and regulations may create additional practices, procedures or policies intended to ensure that the resolution of a complaint is accomplished in a timely manner and that hearings are only held as necessary.

SECTION 14. REQUIREMENTS FOR ETHICS CODE TRAINING

The Ethics Commission shall conduct or shall cause to be conducted ethics training as follows:

- A. The Ethics Commission shall prepare and compile or shall cause to be prepared and compiled an ethics manual for distribution to Public Officials and City Employees providing an overview of ethics laws, rules and regulations which may apply to such employees and officials.
- B. The Ethics Commission shall conduct or cause to be conducted ethics training for Public Officials and City Employees as frequently as the Ethics Commission deems necessary, to instruct them as to the rules of ethical conduct. This training may be conducted live, in writing, or electronically.
- C. The Ethics Commission shall conduct or cause to be conducted a minimum of one (1) hour of ethics training per year for all Public Officials and City Employees, who shall certify their attendance.
- D. The Ethics Commission may conduct training as it deems appropriate to the general public related to this Ethics Code.