

Chapter 20

ETHICS, CODE OF

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[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 10-26-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 13.
Officers and employees — See Ch. 32.

Records — See Ch. 42.

§ 20-1. Rules of ethical conduct; purpose.

- A. Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Nelsonville recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. The proper operation of democratic government requires that:
- (1) Public officials and employees be independent, impartial and responsible to the people.
 - (2) Government decisions and policy be made in the proper channels of the governmental structure.
 - (3) Public office not be used for personal gain.
 - (4) The public have confidence in the integrity of its government.
- B. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the village. These rules shall serve as a guide for official conduct of the officers and employees of the village.
- C. The rules of ethical conduct of this Code of Ethics shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other

general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 20-2. Definitions.

The following terms as used in this chapter shall have the meanings indicated:

INTEREST¹ — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an “interest” in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the village, whether paid or unpaid, including members of the Board of Trustees, any representative board, commission or other agency thereof. No person shall be deemed to be a “municipal officer or employee” solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.²

§ 20-3. Responsibilities of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and to carry out impartially the laws of the nation, state and municipality and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

§ 20-4. Dedicated service.

- A. All officials and employees of the municipality should be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

§ 20-5. Fair and equal treatment.

- A. Interest in appointments. Canvassing of members of the Board of Trustees, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the Board of Trustees.
- B. Use of public property. No official or employee shall request or permit the use of village-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

§ 20-6. Standards of conduct.

Every officer or employee of the village shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not directly or indirectly solicit any gift or accept or receive any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, things or promise or any other form, under circumstances in which it could be reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further the financial or other private interest of himself or others.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest. To the extent that he knows thereof, any officer or employee of the village, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation or other matter before the Board of Trustees

shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation or other matter, including any interest arising from close business or political association.

- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the village in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.
- I. Political activity. No appointed official or employee shall use the prestige of his position in behalf of any political party.
- J. No appointive official or employee in the administrative service shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution to any political party, nor shall he be a party to such solicitation by others, nor shall he take an active part in political campaigns for candidates in connection with village elections.
- K. No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity.

§ 20-7. Applicability.

When an official or employee has doubt as to the applicability of a provision of this code to a particular situation, he should apply to the Board of Ethics constituted for the implementation of this code for an advisory opinion and be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except if superseded by an applicable provision.

§ 20-8. Filing of suits or claims unaffected.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the village or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 20-9. Distribution of Code of Ethics; compliance.

- A. The Chief Executive Officer of the village shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the village within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.
- B. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code or the enforcement provisions thereof.³

§ 20-10. Additional penalties; suspension or removal from office.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

§ 20-11. Board of Ethics established.

There is hereby established a Board of Ethics consisting of three (3) members to be appointed by the Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the village, but shall include at least one (1) member who is an elected or appointed officer or employee of the village.

§ 20-12. Powers and duties of Board of Ethics.

- A. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the village with respect to Article 18 of the General Municipal Law and any code of ethics adopted pursuant to such Article. In addition, the Board may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon request of the Board of Trustees.
- B. The Board of Ethics may adopt rules and regulations relative to the conduct of its business, but may only render advisory opinions subject to these limitations:
 - (1) Requests shall be in writing.
 - (2) Requests or inquiries must originate with a municipal officer or employee.
 - (3) Requests or inquiries must relate to the conflict of interest law or a code of ethics.
 - (4) The opinion must be approved as to legal sufficiency by the Village Attorney.

³ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 20-13. Rules and regulations of Board of Ethics.

Rules and regulations should be adopted by the Board of Ethics to govern the conduct of meetings of the Board. These may include the following:

- A. The selections and terms of office of a Chairman and such other officers as are deemed necessary if such designations have not been made by the governing board.
- B. The number of Board members necessary to consist a quorum.
- C. The number of Board members necessary in affirmative agreement, in addition to the Village Attorney, to render an opinion and the manner in which dissents shall be recorded.
- D. The form and content of records of proceedings and other Board records.
- E. The form and content of a request for an opinion which may include indication that certain municipal officials or employees have been advised of such request.
- F. The form and content of opinions, to include:
 - (1) A statement of facts with such deletions so as to prevent disclosure of the identity of the officer or employee involved.
 - (2) A statement of pertinent law and/or of a code of ethics.
 - (3) A conclusion.
- G. Distribution of opinions.