

**THE BOROUGH OF DARBY  
THE COUNCIL OF THE BOROUGH OF DARBY  
DELAWARE COUNTY, PENNSYLVANIA  
ORDINANCE NO. 812**

**AN ORDINANCE AMENDING THE BOROUGH OF THE DARBY CODE  
BY ESTABLISHING THE DARBY BOROUGH OFFICERS AND  
EMPLOYEES CODE**

WHEREAS, pursuant to the Borough Code, the Pennsylvania Ethics Law, and the Pennsylvania Crimes Code, the Borough Council desires to establish an Administrative Code which shall include, inter alia, a Code of Conduct; and

WHEREAS, Due to being in positions of public trust and engaging in public service to advance the public interest, Council believes the Code of Ethics must be applicable to Borough elected officials, appointed Borough officers, Borough employees and members of boards and committees established by Borough Council; and

WHEREAS, the proper operation of a representative government requires that public officials and employees be independent, impartial and responsible to the people; and, that governmental decisions and policies be made in the best interests of the people and of the Borough; and

WHEREAS, in recognition of these goals, the following Code of Ethics shall apply as applicable to all Borough elected and appointed officials and employees of the Borough, whether compensated or uncompensated, including members of authorities, agencies, boards and commissions of the Borough or those in which the Borough participates with other units of government or the Commonwealth of Pennsylvania or any of its political subdivisions or instrumentalities;

NOW THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE BOROUGH OF DARBY HEREBY ADOPTS THE BOROUGH OF DARBY OFFICERS AND EMPLOYEES ETHICS CODE AS FOLLOWS:

Section 1: Title

The title of this chapter shall be the "Borough of Darby Officers and Employees Ethics Code."

Section 2: Definitions

## **GIFT**

A payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse or from the spouse of any such relative.

## **IMMEDIATE FAMILY**

The spouse of an individual and those related by blood, adoption or marriage who are full-time residents of that individual's household.

## **INDIVIDUAL**

A natural person.

## **MINISTERIAL ACTION**

An action that an individual performs in a prescribed manner in obedience to the mandate of legal authority, whether by law, ordinance, regulation or in the instructions of a superior, and without regard to, or the exercise of, the individual's own judgment as to the desirability of the action being taken.

## **NONMINISTERIAL ACTION**

An action that an individual performs as part of his official powers, duties, authority or functions, in which he has authority to exercise discretion or judgment as to the legality or desirability of the action being taken.

## **RELATIVE**

A member of an individual's immediate family and also that individual's father, mother, grandfather, grandmother, son, daughter or sibling, whether by blood, adoption or marriage, the latter including, for example, stepparents, stepchildren and half brothers and half sisters.

## **VALUE**

The intrinsic worth, expressed in dollars, of anything, if that worth is known or easily obtainable; otherwise a good-faith estimate of that worth.

## **SECTION 3: Financial gain from borough office or employment prohibited**

No elected or appointed officer and no employee shall use his or her borough office or employment in order to obtain any financial gain for himself or herself,

any relative of his or her or any business with which he or she is connected. "Financial gain" shall not apply to or include the authorized salary or other compensation paid that individual by the borough and application to his or her office, position, rank or class.

Section 4: Acceptance of valuable things based upon certain understanding.

It shall be unlawful for any elected candidate for elected office to accept from any other person, or to allow any of his or her relatives or any business with which he or she is connected to accept, any valuable thing, including a gift, loan, political contribution or reward, based upon an understanding that the vote, official action or judgment of the recipient will be influenced by that action.

Section 5: Representation of private interests before borough agencies.

- A. It shall be unlawful for any elected or appointed officer or for any employee to use the rights and privileges of their office for the benefit of a private business, or appear on behalf of another private business before any agency of the borough or to represent any private interest in any action or proceeding against the interests of the borough in any litigation to which the borough is a party.
- B. It shall be unlawful for any former elected or appointed officer, for a period of two years from his or her last day in office, to appear on behalf of another private interest before any agency of the borough or to represent any private interest in any action or proceeding against the interests of the borough in any litigation to which the borough is a party.

Section 6: Disclosure or use of confidential information.

It shall be unlawful for any elected or appointed official or for any employee, without proper authorization, to disclose confidential information concerning the property, government or affairs of the borough. Nor shall any such officer or employee use that information to advance the financial, personal or private interest of himself or herself or any other person.

Section 7: Restrictions on incompatible employment or service.

It shall be unlawful for any elected or appointed officer or for any employee to engage in or accept employment or to render services for any public or private agency or entity when that employment or service is incompatible with the proper discharge of his or her official or designated or assigned duties for the borough or

would tend to impair his or her independence of judgment or action in the performance of those borough duties.

Section 8: Partiality and favoritism unlawful.

It shall be unlawful for any elected or appointed officer, or for any employee, to grant any special consideration to any person or individual beyond that which is available to every other person or individual.

Section 9: Borough Property

It shall be unlawful for any elected or appointed officer or for any employee to use or to request or permit the use of any vehicle, equipment, material or property owned or under the control of the borough for the convenience of or profit to himself or herself or any relative or business associate, except under conditions when that use is available to the public generally or as provided as borough policy.

Section 10: Advisory Opinions

Upon request of any official, the Borough Solicitor may render a written advisory opinion concerning the application of this Borough Ordinance to hypothetical circumstances and/or situations solely related to the person making the request. The Solicitor shall not render an opinion on matters that are the purview of other government agencies or officials, e.g. the State Ethics Commission.

Section 11: Violations and penalties.

Violations of the provisions of this ordinance shall constitute malfeasance in office which, except as otherwise provided for by the Pennsylvania Borough Code, the Pennsylvania Ethics Act and the Pennsylvania Crimes Code, shall be a summary offense punishable by censure for Councilmembers, removal from Committees, and the maximum fine and/or imprisonment established by General Law if a violation of the Ethics Act.

Any person who violates any provision of this chapter shall be guilty of an offense and, upon conviction, shall be sentenced to pay a fine not exceeding \$300 and costs and, in default of payment of fine and costs, imprisonment for not more than 30 days. If that person is an elected or appointed officer, he or she shall be subject to surcharge to the extent of the damage shown to be sustained by the borough from his or her unlawful act.

If an appointed official, Borough Council may seek the resignation, censure, or vote for removal from the appointed position. Any action will be consistent with PA Borough Code.

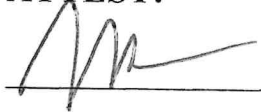
**SECTION 12: Repealer and Severability.**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency. If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances, directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

**ENACTED AND ADOPTED** by the Council of the Borough of Darby this 17<sup>th</sup> day of April, 2024. This Ordinance shall be effective immediately.

**ATTEST:**

**COUNCIL OF THE BOROUGH OF DARBY**

  
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By:   
\_\_\_\_\_

Secretary

Lucille Pratt, President of Borough Council

~~APPROVED~~, this 17<sup>th</sup> day of April, 2024, by the Mayor of the Borough of Darby.

~~ATTEST:~~

*Veto, 4/17/24*

**MAYOR OF THE BOROUGH OF DARBY**

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By:   
\_\_\_\_\_

Secretary

Darren Burrell, Mayor