

**COUNTY OF DELAWARE PENNSYLVANIA**

**ORDINANCE No. 2021-2**

AN ORDINANCE OF THE COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA AMENDING SECTION 6-12 OF THE ADMINISTRATIVE CODE TO INCLUDE THAT COUNTY COUNCIL MEMBERS ARE PROHIBITED FROM KNOWINGLY DERIVING A FINANCIAL INTEREST FROM COUNTY CONTRACTS AND ADDING CERTAIN OTHER CONFLICT OF INTEREST PROVISIONS.

WHEREAS, pursuant to Section 6-121 of the Administrative Code (the "Code") of the County of Delaware, Commonwealth of Pennsylvania (the "County"), the Code may be amended by ordinances of the County Council; and

WHEREAS, Section 6-12.B(2) of the Code limits elected and appointed officials, the County Executive Director and department heads, and all County employees from having a business interest that would interfere with their official duties; and

WHEREAS, Section 6-12.B(2) includes only a limited restriction of Council members from having a financial interest or other conflict that would interfere with their official duties; and

WHEREAS, County Council believes that a more expansive restriction on financial interests and other conflicts of Council members will allow Delaware County citizens to be assured that Council members will not directly or indirectly knowingly realize any financial gain through their public office other than any compensation that is provided by law;

IT IS HEREBY, ENACTED AND ORDAINED BY County Council of Delaware County, Commonwealth of Pennsylvania as follows:

SECTION 1. The Code shall be amended to add a new Section 6-12.D to read as set forth below:

**§ 6-12.D County Council Members Prohibited From Knowingly Deriving a Financial Interest From County Contracts.**

(1) Prohibition Against Knowingly Deriving Financial Gain and Conflict of Interest. In addition to the limitations imposed elsewhere in this Administrative Code, including Section 6-12.B(2), no Council member shall knowingly have a financial interest (including any immediate family member having a financial interest) in any entity that is a party to a contract with the County, approved by County Council, including subcontractors.

Notwithstanding the foregoing, there shall be no violation of this Section 6-12.D(1) if a Council member recuses her or himself from voting on a contract in which such Council member (or an immediate family member) has a minor financial interest and submits a written statement listing the reasons for such recusal. Said statement shall be submitted by the Council member to the County Clerk, Council Chairman and Vice Chairman within seven (7) days of identification of the conflict by the member but not less than one (1) day prior to the Council meeting at which a vote on the contract is scheduled. Such statement shall be read into the Council minutes at such meeting.

(2). Other Prohibitions.

- (a) Council members are prohibited from receiving compensation (other than the payment of expenses) as an officer or director of (i) any entity that is a party to a contract with the County and/or (ii) any subcontractor to such an entity.
- (b) Council members are prohibited from using non-public information received through public office for their own financial benefit or the financial benefit of an immediate family member.

- (3). Conflicts of Interest. A Council member must recuse her or himself from voting on a contract if he or she knows that there is a conflict of interest (which is not a financial interest) and shall submit a written statement listing the reasons for such recusal. Such conflicts of interest shall include serving as an officer or director of a nonprofit organization that is a party to a contract with the County and/or any subcontractor to such a contract.

Said statement shall be submitted by the Council member to the County Clerk, Council Chairman and Vice Chairman within seven (7) days of identification of the conflict by the member but not less than one (1) day prior to the Council meeting at which a vote on the contract is scheduled. Such statement shall be read into the Council minutes at such meeting.

(4). Definitions.

A "financial interest" for purposes of this Section 6-12.D is any financial interest in a legal entity engaged in business for profit which comprises more than 5% of the equity of the business or more than 5% of the assets of the economic interest in indebtedness.

An "immediate family member" for purposes of this Section 6-12.D is defined as a parent, spouse, brother and sister (or like relative in laws), child(ren) and step-child(ren).

"Knowingly" or "Knows" means that the individual in question actually knew or, based on facts and circumstances, should have known, of the existence of a financial interest or conflict of interest, as applicable.

A "minor financial interest" for purposes of this Section 6-12.D is any financial interest from which a Council member and all immediate family members, in the aggregate, derives (or reasonably anticipates deriving) compensation, earnings, revenues and/or other payments not exceeding a total of \$25,000 on an annual basis (including the effect of the contract then under consideration for approval by Council).

- (5). Penalties. Any of the following penalties may be imposed for violations of the limitations in Section 6-12.D(1) as determined per Section 6-12.D (5):

- a. A reprimand of the Council member in violation.
- b. A censure of the Council member in violation.
- c. An assessment of a fine of the Council member in violation, in an amount not to exceed the lesser of (i) ten percent (10%) of the total compensation under the contract in question or (ii) \$20,000.

- d. To the extent legally permitted, termination of the contract in question and/or repayment to the County of any profit made by the contractor under such contract.
- e. Any entity, contractor or subcontractor which entered into a contract with the County which resulted in a violation of this section, may be banned as a contractor or subcontractor to the County for a period of two (2) years.

(6). **Determination of Penalties.** The determination of a penalty for the violation of this ordinance shall be made by a majority vote of County Council (not to include the Council member whose action is the subject of such vote) following such investigation and consideration of such evidence as County Council deems appropriate or such other entity or body as may be designated by resolution of County Council.

(7). **County Executive Director.** If the County Executive Director knows that he or she has a financial interest in a contract being considered for approval by County Council, he or she shall disclose such financial interest to County Council prior to approval of such contract by County Council, and such financial interest shall be noted in the minutes of the Council meeting at which such approval is considered. County Council may take appropriate disciplinary action for violation of this requirement by the County Executive Director, subject to the limitations elsewhere in the Administrative Code.

SECTION 2. This Ordinance shall take effect on the tenth day after its adoption.

ENACTED AND ORDAINED by County Council of the County of Delaware, Pennsylvania, this day of 2021.

COUNTY OF DELAWARE

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Brian P. Zidek, Chair

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Dr. Monica Taylor, Vice Chair

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Kevin M. Madden

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Elaine Paul Schaefer

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Christine A. Reuther

Attested:

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Anne M. Coogan  
County Clerk