

ARTICLE 117

Officers and Employees

- 117.01 Appointment of Members To Boards, Commissions, Authorities.
- 117.02 Removal of Members.
- 117.03 Blanket Bonds.
- 117.04 Residence.
- 117.05 Restriction on Acceptance of Gifts.

CROSS REFERENCES

Officers and employees - See 3rd Class §901 et seq. (53 P.S. §35901 et seq.)
Employment provisions - See ADM. Art. 123
Retirement and Pension System - See ADM. Art. 155

117.01 APPOINTMENT OF MEMBERS TO BOARDS, COMMISSIONS, AUTHORITIES.

(a) Where the appointment of members to boards, commissions and authorities is vested in the City by statute or ordinance, such members shall be appointed by the Mayor, with the advice and consent of Council, with the exception noted in subsection (b).

(b) Members of the Environmental Advisory Council, and Library Board shall be appointed by Council on recommendation of the President of Council.

(c) Members of the Bethlehem Human Relations Commission shall be Appointed by the Mayor and City Council as set forth in Article 145 - Bethlehem Human Relations Commission (See Article 145, Section 145.05 - Establishment of Human Relations Commission.) (Ord. 2015-22. Passed 5/5/2015.)

(Ord.1730 §340. Passed 2/13/1962; Ord. 2015-22. Passed 5/5/2015.)

117.02 REMOVAL OF MEMBERS.

In any case where appointment to any board or commission is made by the Mayor with the advice and consent of Council, the appointee may be removed at the pleasure of the Mayor and the vacancy thus created filled for the balance of the unexpired term. (Ord. 2987 §3. Passed 4/2/1985.)

117.03 BLANKET BONDS.

Any officer or employee of the City who is or may be required to give bond to the City conditioned for the faithful performance of his duties, except such officers and employees who are required by law to give individual bonds, may be covered by a public employees' blanket bond, the amount and coverage thereof to be determined by the Mayor. (Ord. 1730 §333. Passed 2/13/1962.)

117.04 RESIDENCE.

(This Section was repealed by Ord. 3174. Passed 3/15/1988.)

117.05 RESTRICTION ON ACCEPTANCE OF GIFTS

(a) PURPOSE

Every City employee is a public servant. Public servants must treat members of the public fairly and equitably. Receipt of money, favors, gifts, gratuities invitations, food, drink, loans, promises or other benefits (collectively and subsequently referred to in this section as “gifts”) offered to a public servant because of that person’s position, may create the appearance of a conflict of interest, if not an actual conflict of interest. Similarly, solicitation of gifts by a public servant in that person’s capacity as a public servant, for that person’s own benefit, likely establishes a conflict of interest.

Public servants, in performing their duties, must work for the benefit of the community as a whole, giving equal consideration to each member of the public, and doing so without giving special regard because of finances, political affiliations, gender, orientation, creed, or other categorization.

Conflicts of interest betray the trust of the public with its government and violate traditional notions of fair play and substantial justice.

(b) DEFINITIONS

“City employee.” Any individual receiving a salary or wages from the City of Bethlehem, or serving as a member of a City agency, Authority, Board, or Commission, and all elected and appointed officials of the City, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursements for personal expenses or to otherwise exercise the power of the City, and provided also it shall not include Boards, Authorities or Commissions that are not required to file a State of Financial Interest with the State Ethics Commission.

“Donor” is a person who makes or attempts to make a gift to a City Employee.

“Gift” is a payment, gratuity, discount, subscription, advance, forbearance, rendering, cash or a deposit of money, food or drink, services or anything of value given to, or for the benefit of, a city employee, or to a recipient designated by the employee, unless consideration of equal or greater value is received.

(c) GIFT RESTRICTION

- (1). City employees are prohibited from soliciting or accepting gifts as defined in Section 117.05(b) of this ordinance for which an exception does not apply.

(d) EXCEPTIONS

(1). The Gift Restriction set by Section 117.05 of this ordinance does not apply, and gifts may be accepted, under the following circumstances:

(A) When a gift has a clear market value and is one that is also available for the public to purchase (e.g. concert or sporting event ticket; meal), the City employee may accept the gift provided the City employee pays its face value, publicly listed price or the fair market value if there is no fixed value for the gift.

(B) Gifts of food (cookies, candy, etc.) for consumption on the premises by City employees when the offer may not be reasonably interpreted as trying to influence the City employee to give more favorable treatment to the donor in the discharge of the City employee's duties.

(C) From family members, business acquaintances and friends who are not seeking official action or business, and whose offer of the gifts may not be reasonably interpreted as trying to influence the City employee to give more favorable treatment to the donor in the discharge of the City employee's duties.

(D) Promotional offers or discounts on goods or services when offered to all City employees may be accepted when such offer may not be reasonably interpreted as trying to influence the City employee to give more favorable treatment to the donor than is accorded the general public in the discharge of the City employee's duties.

(E) Nominal, de minimis tokens of appreciation at public appearances may be accepted.

(F) Food or drink of nominal value supplied at business or informational meetings or at social events where it is available to all attendees (meaning nominal offerings commonly provided in the spirit of convenience, good will or hospitality) may be accepted when such offer may not be reasonably interpreted as an attempt to influence the City employee to give favorable treatment to the host, sponsor or supplier in the discharge of the City employee's duties.

(G) A political contribution otherwise reportable as required by law.

(H) A commercially reasonable loan made in the ordinary course of business.

(I) A gift received from a family member of the individual or from a relative within the third degree of consanguinity of the individual or of the individual's spouse or life partner, or from the spouse or life partner of any such relative.

(J) Non-pecuniary awards publicly presented, in recognition of public service, and occasional non-pecuniary gift of nominal value, and/or admissions to charitable, civic, political or other public events, and also excludes canvassing and other non-professional time of volunteers.

(e) RETURN OF GIFTS

If the recipient does not pay consideration of equal or greater value for the gift, prohibited gifts shall be returned to the donor. When it is not practical to return a gift, the gift shall be delivered to the Controller who shall record the gift and the donor and donate the gift in the name of the City to a charity located in the City.

(f) DEBARMENT

The Mayor shall have the authority to debar a contractor, vendor, professional or other party deemed in the Mayor's or the Controller's judgment to have either attempted to influence or in fact influenced a City employee in the discharge of that employee's duties by providing or attempting to provide gifts. The Controller, in conjunction with the Law Bureau, shall develop a reinstatement policy for debarred contractors, vendors, professional or other parties.

(g) REVIEW COMMITTEE

The Administration shall create a committee to address questions regarding the application of these rules in particular situations. The Committee shall consist of the Chief of Staff, the Director of Human Resources and a representative of the Law Bureau, or their equivalent positions, as well as such others as the Administration deems appropriate, if any.

(h) NON-EXCLUSIVE EFFECT

Section 117.05 of this ordinance shall not be interpreted to limit the City's powers with respect to any power authorized or matter regulated by this ordinance which is also authorized or regulated by statutes of the of the Commonwealth of Pennsylvania or another City ordinance not effectively repealed by enactment of this ordinance.

117.99 - INVESTIGATION, ENFORCEMENT, PENALTY

- (a) Any City Employee who violates any provision of Section 117.05 of this Ordinance shall be subject to citation, a fine up to but not to exceed \$1,000.00 and compelled return of a prohibited gift or the value thereof.

- (b) In addition to any other investigation, enforcement, and penalty provisions of state or city law, the City Controller shall have the authority to investigate alleged violations and to enforce the penalty provisions of Section 117.05 of this ordinance, and, for the purposes of hearing or investigation, shall have the authority to issue subpoenas in the name of the City and signed by the City Controller, and to compel testimony. The Controller may also refer any matter for further investigation by appropriate authorities.
- (c) Where it is alleged that an employee under supervision of the Mayor or the Controller has violated Section 117.05 of this ordinance, the Controller shall defer and refer the matter to the Mayor for investigation and disciplinary action as the Mayor deems appropriate in lieu of a fine.
- (d) City Council shall investigate and enforce the penalty provisions of Section 117.05 of this ordinance - with no less than the powers granted the Controller - when there is an alleged violation of this ordinance by the Controller.
- (e) Investigatory information and materials shall remain confidential and not subject to disclosure as a public record. Results of investigations by the Controller or a committee of City Council shall be written to include factual findings, conclusions and recommendations which shall be subject to disclosure, redaction or non-disclosure in accordance with the Pennsylvania Right to Know Law.
- (f) Under circumstances where either the City Solicitor or City Council Solicitor has or potentially may have a conflict, or when material testimony is likely to be required from a Solicitor, the other shall provide legal services and representation as needed by the City or City Council in matters involving alleged or proven violations of Section 117.05 of this ordinance.
- (g) The Controller may also refer any matter for further investigation by appropriate authorities when he deems it in the public interest.

(Ord. 2017-30. Passed 9/5/2017)