

**Ordinance No. 2023 - 2**

**AN ORDINANCE ESTABLISHING A CODE OF ETHICS FOR  
THE CITY OF DELPHI INDIANA**

WHEREAS, the Common Council of the City of Delphi, Indiana, finds it desirable to establish a code of ethical conduct applicable to all employees, board members, elected officials, and other agents of the City of Delphi, Indiana; and

WHEREAS, the Common Council of the City of Delphi, Indiana, in the interest of efficiency and transparency, sees the utility of and desires to establish an ethics board to oversee such a code of ethical conduct.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Delphi, Indiana, the Code of Ordinances of the City of Delphi, Indiana, shall be amended to include the following:

**Section A.** Title III, Chapter 31 of the Code of Ordinances of the City of Delphi is hereby Amended to include a new Section 31.07 "Ethics Board" which shall read as follows:

- (A) **Creation of Ethics Board; Term.** There is hereby created and established a City of Delphi Ethics Board (the "*Ethics Board*") which shall consist solely of three (3) voting members, none of whom shall hold any position of employment or appointment with the City of Delphi or an agency thereof, or as an elected official thereof. The Board members appointed by the Mayor or the Common Council shall be residents of the City of Delphi throughout their terms on the Ethics Board. Ethics Board members shall serve terms of two (2) years each, with each term beginning on January 1 of the year in which an Ethics Board member is appointed, regardless of when in said year such a member is appointed.
- (B) **Appointment of Members; Procedural Matters.**
- (1) The Mayor shall appoint one (1) member to the Ethics Board, such member not being affiliated with the same political party as the Mayor. The Common Council shall appoint two (2) members to the Ethics Board, one (1) member of which shall not be affiliated with the same political party as the Mayor. All Ethics Board members shall be appointed for two (2) year terms, as outlined in 31.07(A). Notwithstanding the foregoing, an Ethics Board member shall serve until his/her successor is qualified and appointed, and all Ethics Board members serve at the pleasure of their appointing authority.
- (2) The Ethics Board shall establish written rules to govern its operation, including, but not limited to, the time and place of its meetings. Two (2) members of the Ethics Board shall constitute a quorum for purposes of taking official action. All official actions of the Ethics Board shall require the affirmative vote of at least two (2) Ethics Board members. The members of the Ethics Board shall annually

elect a Chairperson, a Vice Chairperson, and a Secretary from amongst the current Ethics Board members.

- (C) **Annual Report to the Common Council.** The Ethics Board shall present to the Common Council an annual written report that provides a detailed and full accounting of the Ethics Board's actions and activities during the previous year. This report shall be presented to the Common Council at its first meeting in March of each year, by placing a copy of the same in each Councilor's individual Council packet and by having an Ethics Board representative present at each such Council meeting to orally present the report and to answer any questions raised about the report and/or the activities of the Ethics Board. Minutes of each Ethics Board meeting shall be provided to each Council member via email and shall be placed on the City website within sixty (60) days of each such meeting.
- (D) **Ethics Board Expenses.** All Ethics Board expenses shall be borne by the budget of the Common Council and shall not exceed one thousand dollars (\$1,000.00) per year unless specifically approved in advance by the Common Council. The members of the Ethics Board shall not be compensated for their services, but reasonable expenses may be reimbursed in accordance with the Code of Ordinances of the City of Delphi and applicable law.
- (E) **General Authority of the Ethics Board.** The Ethics Board shall have the power and responsibility to:
- (1) adopt, amend, and rescind rules and regulations in furtherance of its purposes, pursuant to the procedure and strictures provided in this Section and in accordance with applicable law;
  - (2) make recommendations to the Common Council for amendments to this Section and for other such legislation affecting the subject matter of this Section as the Ethics Board may deem appropriate or necessary;
  - (3) require a continuing program of educational assistance and information regarding ethical conduct to all officers, elected officials and employees, the frequency and method to be determined by the City's Human Resources Department; and
  - (4) provide, through the City Human Resources Department, for the solicitation and collection of the Statements of Economic Interest filed pursuant to this section.
- (F) **Definitions.** For the purposes of this Section, the words and phrases contained herein shall have the following meanings unless the context clearly indicates otherwise:

*Agency* means every department, office, board, commission, and committee of the City of Delphi, including, but not limited to the Ethics Board.

**Ethics Board** means the City of Delphi Ethics Board as established by this Section.

**Business Entity** means a sole proprietorship, partnership, unincorporated association, trust, firm, corporation and/or limited liability company.

**City** means the City of Delphi, Carroll County, Indiana.

**City Attorney** means a person appointed pursuant to I.C., 36-4-9-8-(b)(2).

**Compensation** means any money, thing of value, service or economic benefit conferred upon or received by any elected official, officer or employee from any person except the City or an agency in return for services rendered or to be rendered, but does not mean items or property excluded herein from the definition of gifts or honoraria.

**Elected Official** means the City's duly elected Mayor, Clerk and Common Council members.

**Employee** means any individual, other than an elected official, who is employed by the City under an express or implied contract to hire and as to whom the City has the right to control the details of his/her work performance.

**Gifts or Honoraria** means money or other property which is transferred to an elected official, officer or employee without reasonable value being provided for same by said elected official, officer or employee, but does not include:

- i. Invitations, tickets, food and drink provided to an elected official, officer or employee or a member of his/her immediate family, during the conduct of official City business or at public ceremonies;
- ii. Mementos or souvenirs of nominal value received at public ceremonies or commemorating official City business;
- iii. Invitations or tickets to political fund raising dinners or public events when used by an elected official, officer or employee or a member of his/her immediate family;
- iv. Food or drink consumed by an elected official, officer or employee in connection with official City business at a convention, reception or gathering of other public officials and/or municipal employees; or
- v. Travel or other expenses paid or reimbursed as a result of speaking engagements, educational training or personal appearances made as a result of or by virtue of an elected official's, officer's, or employee's official position or duties.

***Immediate Family*** means:

1. A spouse, brother or sister, stepbrother or stepsister;
11. Any child (natural or adopted) who is unemancipated and less than 18 years old and/or who receives more than 50% of his/her support from the employee, elected official or officer and/or his/her spouse; or
111. A parent or stepparent of the employee, officer or elected official, or of his/her spouse.

***Material Interest*** means ownership of 5% or more of a business entity, except for an interest that is no greater than that which is cumulatively held by the general public.

***Mayor*** means the Mayor of the City.

***Officer*** means a natural person appointed to an office or position in any agency within the City of Delphi.

***Pecuniary Interest*** means an interest which results or is reasonably intended to result in an ascertainable increase in the income or net worth of an elected official, officer or employee, or a member of his/her immediate family.

***Person*** means any individual, association, corporation, or other legal entity, and the masculine gender includes the feminine.

***Secretary*** shall mean the Ethics Board member who is appointed to that position in accordance with the Ethics Board's rules and regulations.

***Statement of Economic Interest*** means the annual statement required by this Section.

**(G) Application of Section.** This Section applies to all elected officials, officers, and employees of the City of Delphi, except the Judge of the City Court.

**(H) Standards of Ethical Conduct.**

- (1) Disqualifications. Any elected official, officer or employee shall disqualify himself/herself from and refuse to take final action on any matter in which he/she or a member of his/her immediate family has a pecuniary interest, and upon which the elected official, officer or employee would be required to act in the discharge of his/her official duties, except for the adoption of the annual City salary ordinances and the City budget.

- (2) **Improper use of official position.** No elected official, officer or employee shall use or permit the use of his/her official position, funds or property under his/her official control, direction or custody, for a purpose which is primarily for the private benefit of the elected official, officer or employee or his/her immediate family; provided that nothing herein shall prevent the private use of property that is available on equal terms to the public generally (such as library books, tennis courts and golf courses), or the use of property in accordance with City policy in the conduct of official business, the use of vehicles and other equipment by off-duty employees in compliance with their department rules, and/or the employment of any elected official, officer, employee or his/her immediate family by the City or an agency.
- (3) **Gifts and honoraria prohibited.** No elected official, officer or employee shall accept gifts or honoraria that individually exceed the value of \$100 or that cumulatively exceed the value of \$250 in any calendar year from any business entity that is doing business with the City and/or an agency.  
No elected official, officer or employee shall accept anything of monetary value from any person that has been solicited by same with the intent to give special consideration or influence as to any action by such elected official, officer or employee in his/her official capacity. However, nothing herein shall prohibit the receipt of political and other contributions that are lawful under and reported in accordance with Indiana law, and/or which are accepted on behalf of the City or an agency.
- (4) **Activity as Private Person.** No elected official, officer, or employee shall hold themselves out as a private person to advocate either for or against an item that is before them, in their official capacity, for consideration for approval or denial. This does not bar an elected official from campaigning for or against an item in their official capacity as an elected representative of the people.

- (I) **Submission of Statement of Economic Interests; Review.** All elected officials, officers, and employees of the City, except for the City Court Judge, who have any economic interests subject to disclosure under this Section, shall file a Statement of Economic Interests with the City's Department of Law on or before March 31st of the immediately succeeding calendar year. On or before March 10th of each calendar year, the Corporation Counsel shall take reasonable efforts to notify each City official, officer, and employee of their filing obligations under this Section.

This Statement of Economic Interests shall be affirmed as to its truth and accuracy under penalties of perjury and include the following information:

- (1) The name of the submitting elected official, officer or employee;
- (2) The business address of the submitting elected official, officer or employee;

- (3) The position in which the submitting elected official, officer or employee holds with the City or agency;
- (4) Each employer of the elected official, officer or employee;
- (5) A listing of all gifts or honoraria the elected official, officer or employee received during the past calendar year that are reasonably believed to have an individual value in excess of \$100 and/or an aggregate value in excess of \$250 from any business entity doing business with the City and/or an agency;
- (6) A statement of whether or not the elected official, officer or employee, or any member of his/her immediate family, had a pecuniary interest in any contract with the City or any agency during the past calendar year, (including, but not limited to, an independent contractor contract, but excluding an employee contract) and, if so, a description of the pecuniary interest;
- (7) The name of each business entity from which the elected official, officer or employee received any compensation during the preceding calendar year except for those items and property herein excluded from the definition of gifts and honoraria; and
- (8) The name of any business entity in which the elected official, officer or employee or his/her immediate family owns a material interest and which business entity is doing business with the City or an agency.

To the extent that any or all of the information is contained in the Uniform Conflict of Interest Disclosure Statement filed in accordance with I.C., 35-44-1-3, that form can, to such extent, be substituted for the Statement of Economic Interests. All Statements of Economic Interests shall be filed with and retained by the City's Department of Law. These statements shall be made available to the public only as required by Indiana's Access to Public Records Act (I.C. 5-14-3), or final court order.

**(J) Complaints, Investigations, Hearings, and Enforcement.**

- (1) Any elected official, officer, employee, or Delphi citizen may file a complaint alleging a violation of this section. If such complaint is filed by or against a member of the Ethics Board, that member is disqualified from participating in any proceedings that may arise from the complaint. If the complainant is a City employee, he or she shall follow all applicable department rules, regulations and chain-of-command in filing his/her complaint, unless it is not reasonably possible or appropriate to do so.
- (2) The complaint shall be in writing and signed by the complainant under oath and the penalties of perjury. The complaint shall state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and the person(s)

charged with the violation(s). The complaint shall be filed with the Secretary, who shall provide a copy to the person charged with the violation within seven (7) business days. The complainant shall provide the Secretary with all available documentation and other evidence supporting the allegations set forth in the complaint. A copy of all such documentation shall be provided to the person charged with the violation within seven (7) business days. All complaints and all records pertaining thereto shall be subject to disclosure only as required by Indiana's Access to Public Records Act (I.C. 5-14-3) or final court order.

- (3) Within forty-five (45) days after the date of his/her receipt of a complaint, but no less than fifteen (15) days after such date, the Secretary shall conduct an investigation into the allegations contained therein. The Secretary may request that the Ethics Board extend the time for the completion of such investigation. If the Ethics Board determines that such an extension is necessary or desirable and would not be prejudicial to the person charged with the violation, the Ethics Board shall grant the extension. If the Ethics Board determines that the investigation must be completed in a shorter period of time in order to avoid prejudice or irreparable harm to the person charged with the violation, the Ethics Board shall order the Secretary to complete the investigation in a shorter period of time, and the Secretary shall comply.
- (4) If the Secretary determines, after reasonable investigation, that there are no reasonable grounds to believe that an alleged violation of this section has occurred, or that the complaint or a portion thereof is otherwise frivolous, the Secretary shall dismiss the complaint or that portion thereof. If the Secretary dismisses all or part of the complaint, he/she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and provide copies of the written dismissal to the complainant, to the person charged with the violation and to the Ethics Board. The complainant shall have the right to appeal the decision of the Secretary to the Ethics Board, who may uphold, modify, or reject the Secretary's decision. To the extent the Secretary's decision is not upheld by the Ethics Board, a hearing will be held before the Ethics Board on the remaining allegations contained in the complaint. If the complaint or any portion thereof is so dismissed, the record pertaining to the dismissed charge(s) shall remain confidential unless the person against whom the complaint was made requests disclosure, or as otherwise required by applicable law or final court order.
- (5) A hearing shall then be held thereon unless the complaint is resolved at a prehearing conference. A prehearing conference may be held at the request of the Secretary, the complainant or the person accused. Any proposed prehearing resolution of the complaint or of any portion thereof must be approved by the Ethics Board, the complainant and the person accused, and must conform to the Ethics Board's rules and applicable law. Absent such approval and conformance, the proposed prehearing resolution shall be null and void.

- (6) Subject to the above, within thirty (30) days from the date the Secretary refers a complaint to the Ethics Board for hearing, the Ethics Board shall conduct a public hearing on the remaining allegation(s) set forth in the complaint. Upon the request of the person accused, or with his/her consent, this hearing may be continued for an additional period or periods of time not to exceed a total of forty-five (45) additional days.
- (7) At the hearing, the person accused and the complainant shall each be entitled to be represented by counsel to present exhibits and other evidence, to cross-examine witnesses, and to argue the law and the facts to the Ethics Board. The accused shall not be required to present any evidence at this hearing, and the entire burden of proof and persuasion shall remain on the complainant at all times to prove the truth of the allegations contained in the complaint by a preponderance of the evidence. The hearing shall be audio-recorded, and all witnesses shall be sworn. The Ethics Board is authorized to utilize the investigative powers set forth in I.C., 36-4-6-21(b) in furtherance of its obligations hereunder.
- (8) After the hearing is closed, the Ethics Board shall issue a written decision stating its opinion as to whether this Section has been violated, and setting forth its specific findings of fact and conclusions of law upon which its decision is based. A copy of such determination shall be delivered to the complainant, to the person accused, and to the Mayor within fifteen (15) business days from the date the hearing is closed. This written determination shall constitute a public record.
- (9) If the Ethics Board determines that an elected official, officer, or employee has violated this section, the Ethics Board shall provide a copy of its written decision, as well as its written recommendations as to the proper resolution of the matter, to the Mayor for his/her consideration. The Ethics Board's written recommendations shall be advisory or deliberative expressions of opinion communicated only for the purpose of decision-making, and not subject to mandatory disclosure under Indiana's Access To Public Records Act.
- (10) Any violation of this section by an officer or employee shall be cause for such disciplinary action as may be deemed necessary and proper by the Mayor, consistent with the City's personnel ordinances and rules. The Mayor is not bound by the Ethics Board's determination and may conduct his/her own investigation prior to imposing discipline on any officer or employee under his/her authority and/or control. A written response outlining any action taken by the Mayor as a result of the recommendation of the Ethics Board shall be provided to the Ethics Board by the Mayor within thirty (30) calendar days after receipt of the Ethics Board's written decision and recommendations. Notwithstanding the above, this section shall not derogate from employee rights under any City or agency labor agreements or personnel ordinances or rules. Any final adverse employment action taken or monetary fine imposed on any



officer or employee pursuant to this section shall be subject to judicial review as provided by applicable law.

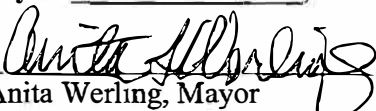
- (K) **False Complaint.** Any person who files a complaint or testifies against any elected official, officer, or employee pursuant to this section in bad faith, with reckless disregard for the truth and/or by knowingly providing false information shall be subject to discipline, up to and including termination, in accordance with the rules and regulations of the City, the agency and applicable law. Such discipline does not foreclose the elected official, officer, or employee from also pursuing private civil remedies against such person.
- (L) **Harassment.** No elected official, officer, or employee shall harass or otherwise take any adverse action against any person merely because such person filed a good faith complaint pursuant to this section.
- (M) **Enforcement.** Any elected official, officer, or employee who is found by the Delphi City Court, or other Court of Competent Jurisdiction, to have failed to timely file a Statement of Economic Interests as required by this Section shall be subject to a fine of not less than \$50 nor more than \$500 for each month or portion thereof, beginning with the month of March in the applicable calendar year, during which the Statement is delinquent, in addition to the other provisions of this section.
- (N) **Record Retention.** All Statements of Economic Interests, complaints, hearing documents, and other public records of the Ethics Board shall be retained for the greater of five (5) years or the minimum period of time required by applicable law.

Passed and adopted by a majority of the Common Council of the City of Delphi, Indiana, this 6<sup>th</sup> day of MARCH, 2023.

  
Anita Werling, Presiding Officer

  
ATTEST: Leanne Aldrich, Clerk-Treasurer

Approved / Vetoed by me, the Mayor, this 6<sup>th</sup> day of March, 2023.

  
Anita Werling, Mayor

  
ATTEST: Leanne Aldrich, Clerk-Treasurer