

CHAPTER 4

CONFLICT OF INTEREST (Ethics)

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Section 4 -100 Intent and Application

- (a) This Chapter is not intended to be consistent with the Maryland Public Ethics Law, Md. Code Ann., State Gov't. Section 15-803 of the Public Ethics Law from which Section 5 of the Village of Chevy Chase has been exempted.
- (b) This Chapter is intended to provide criteria and informal procedures for determining the presence or absence of conflicts between private interests or relationships and public interests. An affirmative duty to disclose potential conflicts with a public interest, as provided in this Chapter, is intended to extend to and include private interests or relationships having an outward appearance of conflict with a public interest. The procedures herein are intended to preserve the privacy interests of persons subject to this Chapter and are intended to encourage voluntary disqualifications in the event of conflicts of interest under the provisions of this Chapter. This Chapter is not intended to require that private interests or relationships disclosed hereunder be made a part of the public record, except in the event of the imposition of any order or penalty under the provisions of Section 4-140 herein.
- (c) The provisions of this Chapter shall apply to all officers and employees of Section 5 of the Village of Chevy Chase (Section 5), and to the Village Council of Section 5 (Council).
- (d) No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his/her private interests as a citizen or from accepting or receiving any benefit by operation of law, or prosecuting or pursuing any claim, right, privilege or remedy which is his/hers by operation of law.

Sec. 4 - 110 Definitions

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

- (i) “Council” means the “Village Council”.
- (ii) “Gift” means the transfer of any thing or service of value without identifiable or adequate consideration; “gift” does not mean or include any regulated campaign contribution.
- (iii) “Private interest or relationship” has the meaning ascribed to it in Section 4-120(b) of this Chapter.

Sec. 4-120 Duty to Disclose; Conflicts of Interest; Ex Parte Communications

- (a) Before participating on behalf of the Village in any debate or determination which may have a reasonable potential of thereafter affecting a public interest, any Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council the receipt or solicitation of any gift in excess of \$50 and the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.
- (b) For the purposes of this Section, it shall be presumed that a “private interest or relationship” includes without limitation any existing or prospective interest or relationship of a business, contract, creditor, obligee or employment nature in which an Official or an immediate family member, including spouse, father, mother, brother, sister or child, has a direct or indirect financial interest and by which such Official or immediate family member has a reasonable potential of profiting or otherwise benefiting financially.
- (c) The record of any decision on the merits of any matter in which the Council is required by law to conduct a hearing and to maintain a record thereof, shall include public and private communications made to the Council of any of its members on the matter.

Sec. 4 -130 Disqualification Procedures; Complaints; Records

- (a) After complying with the disclosure requirements of Section 4-120, the Official shall either (i) voluntarily disqualify himself/herself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the Official’s private interest or relationship or (ii) request that the Council determine the presence or absence of a conflict of interest.

(b) Any person alleging a violation of this Chapter may file a written complaint with the Council. Upon the receipt of such complaint, the Council shall send a written acknowledgement of its receipt and shall notify the Official of the allegation of a conflict with a public interest and shall request the Official to provide to the Council such information and in such form as the Council finds necessary to determine the presence or absence of a conflict of interest. The Council may conduct such other investigation as it deems necessary. Upon final resolution of the matters alleged, the Council shall provide a written summary of that resolution to the person having filed a written complaint.

In the event that the allegation relates to a Council Member, that Member shall be excluded from the Council's deliberative process during the course of investigation and decision of the allegation of conflict.

(c) Upon being advised by the Council of the presence of a conflict of interest, (i) the Official may voluntarily disqualify himself/herself from the matter involved and so notify the Council or (ii) failing such voluntary disqualification, the Council shall mandate that the Official be disqualified from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship. For the purposes of this Section, The Council may find and advise of an absence of a conflict of interest when the Official's private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Official's public actions.

(d) Any Official who voluntarily disqualifies himself/herself shall notify the Council by a written statement of disqualification and shall therein provide a full description of the public interest subject matters from which the Official has withdrawn from participation. A voluntary disqualification does not require a disclosure of the specific nature of a private interest or relationship considered to be in conflict; only the public interest object of conflict must be disclosed.

(e) The Council shall notify the Official in writing of all mandated disqualifications and shall therein provide a full description of the public interest subject matters with which the Official has been found in conflict and about which such Official should be disqualified from participation. The Council shall mandate a disqualification for any Official who fails or refuses to provide the Council with such information as the Council finds necessary to determine the presence or absence of a conflict of interest.

(f) A record of any voluntary or a mandated disqualification shall be maintained in the minutes of the Council meeting at which notification was received.

(g) The Council shall meet in closed session to protect the privacy or reputation of individuals with respect to their private interests or relationships not related to the public business, to discuss the discipline of an Official under the provisions of this Chapter, to consult with counsel or to consult with staff, consultants or other individuals about pending or potential litigation.

(h) Any part of a public record maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such record contains any of the following information: (i) information about the finances of an individual, including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness, (ii) any otherwise confidential financial information, (iii) confidential commercial information or (iv) trade secrets. For the purpose of this Section, confidential or trade secret information shall be such information as is customarily regarded as such in business.

Sec. 4-140 Failure of Quorum; Substitute Appointment; Orders and Penalties

If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council is available to act upon any particular matter, or if a disqualified official is required by law to act or is the only person authorized to act, either (i) the disqualified Official shall be given an opportunity to disclose to the Council the nature and circumstances of the private interest or relationship and may thereafter participate or act, or (ii) failing such voluntary disclosure, the remaining Council member (s) shall constitute a quorum and shall have authority to transact any business to the extent permitted by law, including the substitute appointment of a Council member to act in the place of any disqualified official being required by law or being the only person authorized to act.

Sec. 4-150 Orders and Penalties

(a) The Council may issue a cease and desist order against any person found by the Council to be in violation of this chapter and may seek enforcement of this order in the Circuit Court of the County. The court may issue a cease and desist order and may also impose a civil fine of up to \$5,000 for any violation of this Section.

(b) An official found by the Council to be in violation of this Section may be subject to disciplinary or other appropriate personnel action, including suspension of municipal salary or other compensation, as ordered by the Council.