

**CARMEL TOWNSHIP**

**ORDINANCE NO. 10**

**TOWNSHIP CONFLICT OF INTEREST ORDINANCE**

Carmel Township ordains:

**ARTICLE I: TITLE, PURPOSE, AND DEFINITIONS**

**A. Title.**

This Ordinance shall be known and cited as the “Carmel Township Code of Ethics” or the “Code of Ethics.”

**B. Purpose.**

The purpose of the Code of Ethics is to prescribe standards of conduct for the officers and employees of the Carmel Township.

**C. Definitions.**

1. “Employee” means a person employed by the Township, whether on a full-time or part-time basis.
2. “Confidential information” means information obtained in the course of holding public office or employment that is not available to members of the public and which the official or employee is not authorized to disclose, except to designated individuals or bodies, including written and non-written information.
3. “Conflict of interest” includes a matter pending before the Township Board, Board of Review, or any Township committee in which:
  - i. a member of the Township Board, Board of Review, or committee has a direct pecuniary interest in the matter or in the outcome of the matter, if such interest would result in an incompatibility between the member's private interests and the member's fiduciary duties; or
  - ii. a person in the member's immediate family has a direct pecuniary interest in the matter or in the outcome of the matter, if such interest would result in an incompatibility between the member's private interests and the Member's fiduciary duties. “Immediate family” means a member's spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parent's in-law, or any individual living in the member's household.

4. “Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.
5. “Officer” or “Official” means a person who holds office by election or appointment within the Township, regardless of whether the person is compensated for service in his or her official capacity.
6. “Prohibited source” means any person or entity who:
  - i. is seeking official action by an officer, (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
  - ii. does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
  - iii. conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
  - iv. has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee.

## **ARTICLE II: STANDARDS OF CONDUCT**

### **A. Confidential Information.**

Except as otherwise required by law or court order, an officer or employee shall not divulge to an unauthorized person confidential information acquired in the course of employment or in the course of holding office in advance of the time prescribed for its authorized release to the public.

*State law reference:* MCL 15.342(1).

### **B. Personal Opinion.**

An officer or employee shall not represent his or her personal opinion as that of the Township.

*State law reference:* MCL 15.342(2).

### **C. Use of Township Property and Resources.**

An officer or employee shall use personnel resources, property, and funds under the officer or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

*State law reference: MCL 15.342(3).*

**D.**     **Gifts.**

1.     **Gifts prohibited.** Except as permitted by this ordinance, no officer or employee of the Township shall intentionally solicit or accept any gift from any prohibited source or any gift that is otherwise prohibited by law or ordinance.
  
2.     **Exceptions.** Subsection (a) is not applicable to the following:
  - i.       Opportunities, benefits, and services that are available on the same conditions as for the general public.
  
  - ii.      Anything for which the officer or employee pays the fair market value.
  
  - iii.     Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan.
  
  - iv.      A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée.
  
  - v.       Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.
  
  - vi.      Food or refreshments not exceeding \$50.00 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

- vii. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- viii. Intra-governmental and inter-governmental gifts. For the purpose of this ordinance, “intra-governmental gift” means any gift given to an officer or employee from another officer or employee of the Township, and “inter-governmental gift” means any gift given to an officer or employee by an officer or employee of another governmental entity.
- ix. Bequests, inheritances, and other transfers at death.
- x. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.00.
- xi. Any item or monetary gift that is donated to the Township, held in the Township’s possession, and used by the Township for any lawful public purpose.

*State law reference:* MCL 15.342(4).

**E. Business Transactions.**

1. An officer or employee shall not engage in a business transaction in which the officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority.
2. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this state.

*State law reference:* MCL 15.342(5).

**F. Incompatibility.**

Except as provided by Section 2a of Act 196 of 1973, MCL 15.341 *et seq.*, and other applicable law, an officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independent judgment or action in the performance of official duties.

*State law reference: MCL 15.342(6).*

**G. Political and Campaign Activities.**

Public officials and employees must comply with the Political Activities by Public Employees Act, MCL 15.401 *et seq.*, and the Michigan Campaign Finance Act, MCL 169.201 *et seq.*

**ARTICLE III: CONFLICTS OF INTEREST**

**A. Procedure.**

- a. Before participating in a decision, hearing, or casting a vote on a matter on which a member may reasonably have a conflict of interest as identified in this Ordinance, the member must disclose the potential conflict of interest to the Board, Board of Review, or committee, as applicable.
- b. The member who has disclosed a conflict of interest must disqualify himself or herself at the outset of the hearing or discussion and must not participate in the deliberations or decision. The member must not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting. The presence of the member at the meeting is not counted in determining the presence of a quorum for purposes of the vote on the matter presenting the conflict of interest. The member's ineligibility to vote will be reflected in the minutes of the meeting.
- c. If the member is an applicant submitting an application, contract, transaction or any other matter to the Board, Board of Review, or committee, the member may be present in the meeting room during discussion to make a presentation and answer questions.
- d. If a member plans not to attend a meeting at which he or she has reason to believe that the Board, Board of Review, or committee will act on a matter in which the member has a conflict of interest, the member must disclose to the chair of the meeting all facts material to the conflict of interest. The chair must report the disclosure at the meeting, and the disclosure will be reflected in the minutes of the meeting.

**ARTICLE IV: VIOLATIONS**

Violation of this Ordinance constitutes malfeasance in office. In addition to any other penalty, whether criminal or civil, an employee or officer who intentionally violates this ordinance may be subject to disciplinary action including censure, reprimand, removal, dismissal, or discharge, to the extent permitted by law.

Nothing in this Ordinance diminishes or impairs the rights of an officer or employee under any collective bargaining agreement. To the extent this Ordinance conflicts with a collective bargaining agreement in effect in the Township, the collective bargaining agreement controls.

State statutes cited in this ordinance contain criminal penalties and civil remedies that apply, as provided in those statutes, to the conduct regulated by those statutes.

## **ARTICLE V: ADMINISTRATIVE PROVISIONS**

### **A. Validity and Severability.**

Should any portion of this Ordinance be found invalid for any reason, such holding shall not affect the validity of the remaining portions of this Ordinance.

### **B. Repeal of Prior Ordinance.**

Any ordinances or parts of ordinances in conflict with this Ordinance are repealed, but only to the extent necessary to give this Ordinance full force and effect.

### **C. Effective Date.**

This ordinance becomes effective one day after publication.