

Introduced by: Mr. Smiley
Date of introduction: May 22, 2012

ORDINANCE NO. 12-067

**TO AMEND NEW CASTLE COUNTY CODE CHAPTER 2 (ADMINISTRATION)
ARTICLE 3 (OFFICERS AND EMPLOYEES) DIVISION 2.03.100 (CODE OF ETHICS)
REGARDING ACCEPTANCE OF GIFTS**

WHEREAS, New Castle County's Code of Conduct limits the acceptance of gifts between employees and outside sources which could influence the independent judgment and performance of official duties of a public employee to the benefit of the gift giver; and

WHEREAS, the County's Code of Conduct requires the public reporting of any gift of a ticket of attendance or an invitation for a publicly advertised or regularly scheduled function of an entity, if it is of a certain value and is "accepted" by the intended recipient; and

WHEREAS, the definition of "gift" imputes acceptance, despite the fact the gift was not solicited, used, or re-gifted, if the intended recipient fails to formally return or reject the gift, which is problematic where the intended recipient is unaware of the gift (i.e. the gift was delivered via mail, whether in hard copy or electronic, and was never opened by the intended recipient); and

WHEREAS, County Council seeks to address this issue, as well as clarifying other provisions, in the County's gift policy.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 2 ("Administration"), Article 3 ("Officers and Employees"), Division 2.03.100 ("Ethics Commission"), Section 2.03.102 ("Definitions") is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Sec. 2.03.102. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

...
Gift means anything that the intended recipient has knowledge of, and is received without consideration of equal or greater value. The term "gift" shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business. A gift to a member of an official or employee's immediate family, or a gift which is not personally accepted by an official or employee but is [~~controlled by or~~] directed by that person to another recipient, is considered to be a gift to the official or employee. Any gift of more than de minimis value accepted by a County official or employee, or by his or her spouse or depende[a]nt child because of the official or employee's holding public office or employment, must be promptly entered in a public gift log as a recordable gift by the employee or official or

promptly returned in its entirety. An unsolicited gift of a ticket of attendance or an invitation is considered accepted only if used by the intended recipient or directed by that person to another recipient [~~upon receipt or control or direction unless it is promptly returned in its entirety~~].

Section 2. *New Castle County Code* Chapter 2 (“Administration”), Article 3 (“Officers and Employees”), Division 2.03.100 (“Ethics Commission”), Section 2.03.104 (“Code of conduct”) is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Sec. 2.03.104. Code of conduct.

...

H. New Castle County discourages the acceptance of gifts from the public by County employees or County officials. No County employee or County official shall accept any compensation, gift, payment of expenses, promise of future financial benefit, or any other thing of monetary value which is intended or received to influence the vote, official action or judgment of the recipient or which creates the reasonable perception in the public that the vote, official action or judgment of the recipient would be influenced or impaired by the gift. [~~An unsolicited gift which is promptly returned in its entirety is not considered accepted by the recipient.~~] In addition, gifts are prohibited in the following circumstances:

1. Any gift of greater than de minimis value which is not promptly recorded in a public gift log or returned in its entirety.

...

I. Gifts which may be accepted.

...

5. A gift of a ticket of attendance, or an invitation which waives the cost, valued at less than one hundred one dollars (\$101.00), for events open to the general public [~~publicly advertised~~] or regularly scheduled functions of a non-profit organization, civic or government group, or association of businesses or trade groups, which is open to the public may be accepted without recording in a public gift log.
6. A gift of a ticket of attendance or an invitation which waives the cost, valued at equal to or more than one hundred one dollars (\$101.00), for events open to the general public [~~publicly advertised~~] or regularly scheduled functions of a non-profit organization, civic or government group, or association of businesses or trade groups which are open to the public and the gift shall be promptly recorded in a public gift log.

...

Section 3. Effective Date. This ordinance shall become effective upon passage by New Castle County Council and signature of the County Executive, or as otherwise provided in 9 *Del. C. § 1156*.

Adopted by County Council

of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: The purpose of this amendment is to revise and clarify the County's gift acceptance policy.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this ordinance.