



# PRESERVING THE PUBLIC TRUST

## Public Service is a Public Trust.

A position of public trust should never be used for private gain.  
The Ethics Ordinance defines and addresses Private Gain as follows:

*Private gain* means any benefit which is accepted or received by a public servant, or is perceived by a reasonable person to be accepted or received by a public servant, as remuneration for the purpose of improperly influencing an official action in a specific manner or for refraining from the performance of an official action in a specific manner, or as inducement for the public servant to act in favor of some interest other than in the public interest. To clarify, unless the above-standard is violated, the following types of benefits, monetary payments or reimbursements, gifts, awards or emoluments are permissible to be received by a public servant.

- (1) Payment of salaries, compensation or employee benefits to a public servant by the city, or the payment of salaries, compensation or employee benefits to a public servant by an employer or business other than the City pursuant to a contract where the payment is unrelated to the public servant's status as a public servant;
- (2) Authorized reimbursement by the City to a public servant of actual and necessary expenses incurred by the public servant;
- (3) Fees, expenses or income, including those resulting from outside employment, which are permitted to be earned by, or reimbursed to, a public servant in accordance with this code and with city policies, rules or regulations;
- (4) Campaign or political contributions which are made and reported by a public servant in accordance with state law;
- (5) Admission or registration fee, travel expenses, entertainment, meals or refreshments (a) that are furnished to a public servant by the sponsor(s) of an event, appearance or ceremony which is related to official City business in connection with such an event, appearance or ceremony and to which one (1) or more members of the public are invited, or (b) that are furnished to a public servant in connection with a speaking engagement, teaching, or the provision of assistance to an organization or another governmental entity as long as the city does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity;

- (6) Admission, regardless of value, to a charitable or civic event to which a public servant is invited in his or her official representative; capacity as a public servant where any admission or other fees required of all persons attending the event are waived or paid for the public servant by a party other than the city or the public servant;
- (7) An award publicly presented to a public servant by an individual or by a non-governmental entity or organization in recognition of public service, acts of heroism, or crime solving
- (8) An award, gift or other token of recognition presented to a public servant by representatives of a governmental body or political subdivision who are acting in their official capacities;
- (9) A gift received from a public servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article;
- (10) A registration fee for a seminar or other informational conference that a public servant attends in a capacity other than as a speaker, panelist, or moderator, where such registration fee that is charged for the public servant's attendance is waived or paid for the public servant by a party other than the city or the public servant;
- (11) Expenses or gratuities, including but not limited to admission fees, lodging, meals or transportation, that are paid for a public servant and are related to the public servant's participation at a seminar, conference, speaking engagement or presentation in his or her official capacity as a speaker, panelist or moderator where such expenses or gratuities are waived or paid for, as the case may be, by a party other than the city or the public servant, provided that, within five (5) business days after the conclusion of the seminar, conference, speaking engagement or presentation, such public servant files with the City Clerk a statement which contains the following information for each expense that is paid for or waived or for each gratuity that is provided: (a) a description of the expense or of the gratuity; (b) the amount of the expense or of the gratuity; (c) the date that the expense was incurred or that the gratuity was received; (d) the date that the expense was paid or waived, or that the gratuity was received; and (e) the name and address of the party who paid or waived the expense or who provided the gratuity;
- (12) Meals or beverages provided to the public servant by an individual or by a non-governmental organization during a meeting related to official city business;
- (13) Anything of value, regardless of the value, presented to or received by a public servant on behalf of the city where, pursuant to the applicable provisions of the 1997 Detroit City Charter and this Code, the thing of value is offered to, and accepted by, the city;
- (14) A gift to a public servant that either is returned to the donor or is donated to the city or to a charitable organization within thirty (30) days of the public servant's receipt of the gift, provided that the public servant does not claim the donation as a charitable contribution for tax purposes;
- (15) Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials that are received by a public servant;
- (16) Compensation paid to a public servant for a published work, which did not involve the use of the city's time, equipment, facilities, supplies, staff or other resources where the payment is arranged or paid for by the publisher of the work;

- (17) Compensation paid to a public servant for a published work, which did involve the use of the city's time, equipment, facilities, supplies, staff or other resources where the payment of the compensation to the public servant is lawfully authorized by a representative of the city who is empowered to authorize such compensation;
- (18) Receipt by the public servant of anything of value, where the payment, gift or other transfer of value is unrelated to, and does not arise from, a public servant's holding or having held a public position, and where the activity or occasion for which the payment, gift or other transfer of value given does not involve the use of the city's time, equipment, facilities, supplies, staff or other resources in any manner or degree that is not available to the general public;
- (19) Hospitality that is extended to a public servant by an individual, or by an organization, for a purpose unrelated to the official business of the City, including a gift of food, beverage, or lodging; and
- (20) Receipt by a public servant of a devise, bequest or inheritance.

***Commentary regarding Private Gain:*** Section 2-106 of the 1997 Detroit City Charter expressly prohibits the use of public office for private gain. Accordingly, a major provision in this article is the prohibition against a public servant's acceptance or receipt of private gain as compensation for 1) the taking of an official action in a specific manner by the public servant (for example, a particular decision or vote in a specific manner), or reframing from the taking of an official action, as the result of an improper influence by another party; or 2) incentive or inducement for the public servant to act in favor of an interest other than the public interest. In the interest of maintaining honesty, integrity and impartiality in government, the goal of this provision is to ensure that public servants conduct government business in a manner that enhances public confidence and respect for city government, and places paramount importance on the public interest, rather than a public servant's own personal interest or the private interest of a third party.

Improper influence upon a public servant's official actions refers to 1) any action that would constitute a violation of federal or state laws regulating the conduct of public officials, such as state law prohibiting the acceptance by any executive, legislative or judicial officer of a bribe (Section 18 of the Michigan Penal Code, being MCL 750.118; or 2) facts, events or circumstances which give rise to an appearance of impropriety in the taking of an official action by a public servant, when such facts, events or circumstances are considered objectively according to a reasonable person standard.

What constitutes private gain to a public servant may take many shapes and forms and may vary depending upon the facts and circumstances of a situation. Therefore, the above definition of private gain does not attempt to enumerate all forms or types of tangible economic gain, or circumstances or situations from which a public servant may derive tangible economic gain for himself or herself. Rather than attempt to list what is private gain that may not be accepted in all circumstances, the article attempts to illustrate for public servants the circumstances or types of remuneration, emoluments, gratuities or other items that a public servant may accept without violation of this article. The listing set forth in this section is based on the most typical situations which confront city public servants. However, this is not an exhaustive list, and there may be other types of economic benefit to a public servant that are permissible under this article.

Questions about what is permissible under this article should be directed to the Board of Ethics created by section 2-106 of the 1997 Detroit City Charter, in accordance with the procedures set forth in section 2-6-101 of this article regarding advisory opinions.