

Bill No. 1237-03

No. 52-03-OR

AN ORDINANCE

Ordinance of the Council of Allegheny County establishing policies regarding mailing privileges.

WHEREAS, The Allegheny County Council recognizes that the privilege of sending mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Government of Allegheny County, Pennsylvania.

WHEREAS, it is the intent of the Allegheny County Council that the privilege of sending mail shall cover all matters of such official business, activities, and duties which directly or indirectly pertain to the legislative process or to any representative functions generally, or to the functioning, working, or operating of the Government of Allegheny County, Pennsylvania and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.

WHEREAS, it is the intent of the Allegheny County Council that the mail of the Government of Allegheny County is used for matters of public concern or public service.

WHEREAS, it is the intent of the Allegheny County Council that the mailing privilege under this section shall not permit, and may not be used for, the transmission through the mails as personal or political mail, of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the public officials covered by this section.

WHEREAS, it is the intent of the Allegheny County Council that governmental officials, officers or employees may not mail as official mail - mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any governmental officials, officers or employees on a purely personal or political basis rather than on the basis of performance of official duties of the governmental officials, officers or employees.

WHEREAS, it is also the intent of the Allegheny County Council that an elected official shall not mail any Mass Mailings as official mail during certain established periods in an election

year, unless the candidate has made a public announcement that she or he will not be a candidate for reelection to that office or to any other local state, federal office during that election cycle.

Therefore, the Council of Allegheny County establishes the following policies:

Section 1. Definitions

- (1) "official mail" means official mail, other than personal or political mail, which is authorized by law to be transmitted in the mail, either by the Department of Administrative Services, or an outside vendor under contract with the county or a county employee;
- (2) "official cover" means envelopes, wrappers, labels, or cards used to transmit official mail;
- (3) "all applicable employees" includes all employees and elected officials of the Executive and Legislative branches of the County, including the employees and elected officials of the offices of Independently Elected County Officials.

Section 2. - Official mail

- (a) Subject to the limitations imposed by this ordinance, there may be transmitted as official mail – the official mail of the Government of Allegheny County; including mail relating to the official duties of all applicable employees of the Government of Allegheny County;
- (b) A department or officer authorized to use official covers may enclose them with return address to any person from or through whom official information is desired. The official cover may be used only to transmit the official information and endorsements relating thereto.

Section 3. - Restrictions on use of official mail

- (a) Except as otherwise provided in this section, all applicable employees of the Government of Allegheny County may not mail, as official mail, any article or document unless –
 - (1) a request therefore has been previously received by the department or establishment;
or
 - (2) its mailings is required by law.
- (b) Subsection (a) of this section does not prohibit the mailing, as official mail, by an applicable employee of –
 - (1) enclosures reasonably related to the subject matter of official correspondence; or

(2) forms, blanks, and copies of statutes, rules, regulations, instructions, administrative orders, and interpretations necessary in the administration of the department or establishment;

Section 4. - Accounting for official covers

All applicable employees of the Government of Allegheny County authorized by law to use official mail, shall account for all official covers through the Department of Administrative Services of Allegheny County or other designated department that is to handle the printing and postal service of the Government of Allegheny County.

Section 5. - Official mail transmitted by all applicable employees and applicable employees-elect of the Government of Allegheny County;

(a) (1) It is the policy of the Government of Allegheny County that the privilege of sending mail as official mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Government of Allegheny County.

(2) It is the intent of Allegheny County Council that such official business, activities, and duties cover all matters which directly or indirectly pertain to the legislative process or to any representative functions generally, or to the functioning, working, or operating of the Government of Allegheny County and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.

(3) It is the intent of the Allegheny County Council that mail matter which is official specifically includes, but is not limited to –

(A) mail matter to any person and to all agencies and officials of Federal, State, and local governments regarding programs, decisions, and other related matters of public concern or public service, including any matter relating to actions of a past or current Government of Allegheny County;

(B) the usual and customary newsletter or press release which may deal with such matters as the impact of laws and decisions on State and local governments and individual citizens; reports on public and official actions taken by the Government of Allegheny County; and discussions of proposed or pending legislation or governmental actions and the positions of all applicable employees on, and arguments for or against, such matters;

(C) mail matter directed by one applicable employee to another applicable employee or to representatives of the legislative bodies of State and local governments;

(D) mail matter expressing congratulations to a person who has achieved some public distinction;

(E) mail matter, including general mass mailings, which consists of the Government of Allegheny County laws, the Government of Allegheny County regulations, other Government of Allegheny County publications, publications purchased with the Government of Allegheny County funds, or publications containing items of general information;

(F) mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner;

(G) mail matter which constitutes or includes a biography or autobiography of any applicable employee of, or applicable employee-elect to, or any biographical or autobiographical material concerning such applicable employee or applicable employee-elect or the spouse or other members of the family of such applicable employee or applicable employee-elect, and which is so mailed as a part of a Government of Allegheny County publication or in response to a specific request therefore and is not included for publicity purposes in a newsletter or other general mass mailing of the applicable employee or applicable employee-elect under the mailing privilege; or

(J) mail matter which contains a picture, sketch, or other likeness of any applicable employee or applicable employee-elect and which is so mailed as a part of a Government of Allegheny County publication or in response to a specific request therefore and, when contained in a newsletter or other general mass mailing of any applicable employee or applicable employee-elect, is not of such size, or does not occur with such frequency in the mail matter concerned, as to lead to the conclusion that the purpose of such picture, sketch, or likeness is to advertise the applicable employee or applicable employee-elect rather than to illustrate accompanying text.

(4) It is the intent of the Allegheny County Council that the mailing privilege under this section shall not permit, and may not be used for, the transmission through the mails as official mail, of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the public officials covered by subsection (b)(1) of this section.

(5) It is the intent of the Allegheny County Council that an applicable employee or applicable employee-elect may not mail as official mail –

(A) mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any applicable employee or applicable employee-elect on a purely personal or political basis rather than on the basis

of performance of official duties as applicable employee or on the basis of activities as an applicable employee-elect;

(B) mail matter which constitutes or includes –

(i) greetings from the spouse or other members of the family of such applicable employee or applicable employee-elect unless it is a brief reference in otherwise official mail;

(ii) reports of how or when such applicable employee or applicable employee-elect, or the spouse or any other member of the family of such applicable employee or applicable employee-elect, spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such applicable employee or the activities of such applicable employee-elect as a applicable employee-elect; or

(iii) any card expressing holiday greetings from such applicable employee or applicable employee-elect; or

(C) mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office.

(6) (A) It is the intent of Allegheny County Council that an applicable employee or applicable employee-elect may not mail any mass mailing as official mail –

(i) if the mass mailing is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the applicable employee is a candidate for reelection; or

(ii) in the case of an applicable employee who is a candidate for any other public office, if the mass mailing –

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area from which the applicable employee or applicable employee-elect was elected; or

(II) is postmarked fewer than 90 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the applicable employee or applicable employee-elect is a candidate for any other public office.

(B) The Allegheny County Ethics Commission shall prescribe the rules and regulations, and shall take other action as the Commission considers necessary and

proper for applicable employee or applicable employee-elect to comply with the provisions of this paragraph and applicable rules and regulations. The rules and regulations shall include provisions prescribing the time within which mailings shall be mailed at or delivered to any postal facility and the time when the mailings shall be deemed to have been mailed or delivered to comply with the provisions of this paragraph.

(C) As used in this section, the term "mass mailing" means, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing –

(i) of matter in direct response to a communication from a person to whom the matter is mailed;

(ii) from a applicable employee to other applicable employee, or to Federal, State, or local government officials; or

(iii) of a news release to the communications media.

(D) For purposes of subparagraphs (A) and (C) if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

(7) An applicable employee or applicable employee-elect may not send any mass mailing outside the district from which the applicable employee or applicable employee-elect was elected.

(b) (1) The applicable employee or applicable employee-elect, may send, as official mail, matter relating to their official business, activities, and duties, as intended by Allegheny County Council to be mailable as official mail under subsection (a)(2) and (3) of this section.

(2) If a vacancy occurs in the Executive and Legislative branches of the County, including the offices of Independently Elected County Officials, any authorized person may exercise the mailing privilege in the officer's name during the period of the vacancy.

(c) Official mail may be in any form appropriate for mail matter, including, but not limited to, correspondence, newsletters, questionnaires, recordings, facsimiles, reprints, and reproductions. Official mail shall not include matter which is intended by the Allegheny County Council to be nonmailable as official mail under subsection (a)(4) and (5) of this section.

(d) Any official mail which is mailed under this subsection shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

(1) The Allegheny County Ethics Commission shall prescribe rules and regulations governing any official mail which is mailed and shall by regulation limit the number of such mailings allowed under this subsection.

(2) Any applicable employee or applicable employee-elect entitled to make any mass mailing as official mail may, before making any mass mailing, submit a sample or description of the mass mail matter involved to the Allegheny County Ethics Commission for an advisory opinion as to whether the proposed mass mailing is in compliance with the provisions of this subsection.

(e) Any mass mailing which otherwise would be permitted to be mailed as official mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Allegheny County Council, except that an otherwise official mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is official under this section.

Section 6 - Lending or permitting use of official mail unlawful

A person entitled to use an official mailing, unless required to fulfill the duties of a board or authority, may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association.

Section 7 - Enforcement

(a) The Allegheny County Ethics Commission shall institute the process for complaints and procedures used to determine violations of this ordinance.

(b) If a person entitled to transmit official mail, including mass mail, is found by the Allegheny County Ethics Commission to have violated this ordinance, the Ethics Commission may recommend that the person be ordered to reimburse Allegheny County for the postage on, and fees and charges in connection with sending the mail matter through the mails, including any fees and charges for handling and delivery.

(c) If a violation of this ordinance is determined to exist by the Allegheny County Ethics Commission, pursuant to the Allegheny County Code of Accountability, Conduct and Ethics, the Allegheny County Ethics Commission shall report its findings and recommendations to the Chief Executive and County Council. It shall be the responsibility of the Allegheny County Controller to enforce the reimbursement findings of the Allegheny County Ethics Commission, following an audit of such activity by the County Controller.

(d) The Allegheny County Ethics Commission may make recommendations to Council regarding further enforcement mechanisms for this ordinance, if appropriate.

(e) In the event that the Office of County Controller is at issue, the Chief Executive and County Council may appoint an independent auditor to conduct an audit of such activity and make a recommendation and/or enforcement.

Section 8 - Severability

If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

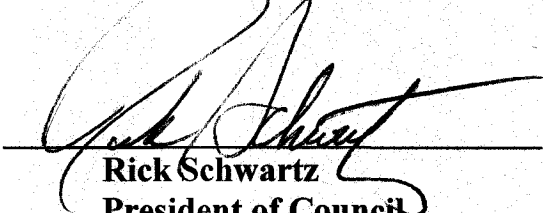
Section 9 – Conflicting Provisions

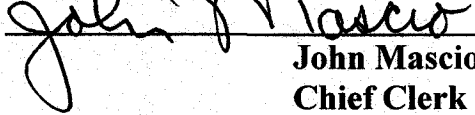
Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

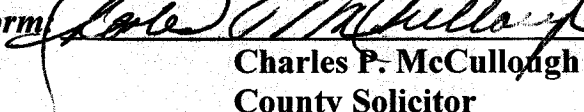
SPONSORED BY COUNCIL MEMBER DOUG PRICE

Enacted in Council, this 7th day of October, 2003

Council Agenda No. 1237-03.

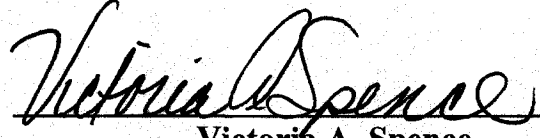

Rick Schwartz
President of Council

Attest: 
John Mascio
Chief Clerk of Council

Approved as to form 
Charles P. McCullough
County Solicitor

Chief Executive Office this 14 day of October, 2003

Approved: 
James C. Roddey
Chief Executive

Attest: 
Victoria A. Spence
Executive's Secretary