

## **PART I ADMINISTRATIVE LEGISLATION**

### **Chapter 8 ETHICS**

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#### **8.01 Authority**

This village of Lake Delton ethics code is enacted under the authority of s.19.59 (1m), Wis. Stats.

#### **8.02 Declaration of policy**

A. It is declared that high moral and ethical standards among public officials and village employees are essential to the conduct of free government. The village board believes a code of ethics to guide public officials and village employees will help avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this village in their public officials and village employees. This ordinance does not prevent any public official from accepting employment or following pursuits that do not interfere with the full and faithful discharge of his or her duties to this village.

B. It is the village board's intent that the committee shall, in its operations, protect to the fullest extent possible the rights of individuals affected.

#### **8.03 Application**

This ordinance shall apply to all elected village officials, candidates for village elective office, appointed members of village boards and committees, appointed officials and all village employees.

#### **8.04 Definitions**

For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

- A. Anything of substantial value. Means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future benefit, with a value in excess of (\$100) but does not include compensation and expenses paid by the village, fees and expenses that are permitted under s.19.56, Wis. Stats., political contributions that are reported under Chapter 11 Wisconsin Statutes, or hospitality extended for a purpose unrelated to village business by a person other than an organization.
- B. Associated. When used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity.
- C. Committee. Means the ethics committee.
- D. Candidate for village office. Means any individual who files nomination papers and a declaration of candidacy for village office, for the purpose of appearing on the ballot for election to a village office or any individual appearing on the ballot for election to a village office through the write-in process.
- E. Immediate family means:
1. An individual's spouse; and
  2. An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than half of his support from the individual or from whom the individual receives, directly or indirectly, more than half of his support.
- F. Income. Has the meaning given under section 61 of the Internal Revenue Code.
- G. Organization. Means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.
- H. Public official. Means any elected village official, candidate for village elective office, appointed member of a village board or committee, appointed official and any village employee.
- I. Security. Has the meaning given under s. 551.02 (13), Wis. Stats., except that the term does not include a certificate of deposit or a deposit in a mutual savings and loan association, mutual savings bank, credit union or similar association organized under the laws of any state.
- J. Substantial financial interest. Means any financial interest exceeding \$10,000 in value or ten percent of the outstanding equity, whichever is less.
- K. Substantial benefit. Means a benefit having a value in excess of \$100.

### **8.05 Standards of conduct for public officials**

- A. No public official may use his public position or office to obtain anything of substantial value for the private benefit of himself or his immediate family, or for an organization with which he is associated. This subsection does not prohibit a public official from using the title or prestige of his office to obtain campaign contributions permitted and reported as required by Chapter 11 of Wisconsin Statutes.
- B. No person or organization may offer or give to a public official, directly or indirectly, and no public official may solicit or accept from any person, directly or indirectly, anything of substantial value if it could be expected to influence the public official's vote, official actions or judgment, or could be considered as a reward for any official action or inaction on the part of the public official. This subsection does not prohibit a public official from engaging in outside employment or business activities.

C. No public official may intentionally use or disclose information gained in the course of a closed session conducted by the village board or governmental body in any way that could result in the receipt of anything of substantial value for himself, for his immediate family, or for any other person, if the information has not been communicated to the public or is not public information.

D. No public official may use or attempt to use his public position to influence or gain unlawful benefits, advantages or privileges for him or others.

E. No public official, member of a public official's immediate family, nor any organization of which the public official or a member of the official's immediate family owns or controls at least 10 percent of the outstanding equity, voting rights or outstanding indebtedness may enter into a contract involving a payment, or total payments, exceeding \$3,000 within a 12-month period, in whole or in part derived from village funds unless the public official has first made written disclosure of the nature and extent of such relationship or interest to the board and to the village board and to the department acting for the village in regard to such contract. Any contract entered into in violation of this subsection may be voided by the village in an action commenced within three years of the date on which the committee, or the department or officer acting for the village in regard to the allocation of village funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred.

#### **8.06 Conflict of interest prohibited, exception**

A Except in accordance with the committee's advice under subsection (B) and except as otherwise provided in subsection (C), no public official may:

1. Take any official action affecting a matter in which the official, a member of his immediate family, or an organization with which the official is associated, has a substantial financial interest.

2. Use his office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

B. Any individual, either personally or on behalf of an organization or governmental body, may request an advisory opinion of the committee regarding the propriety of any matter to which the person is or may become a party. The committee shall review a request for an advisory opinion and may advise the person making the request. All advisory opinions, and requests therefor, shall be in writing. The committee's deliberations and actions upon such requests shall be in meetings not open to the public. It is prima facie evidence of intent to comply with this chapter when a person refers a matter to the board and abides by the committee's advisory opinion, if the material facts are as stated in the opinion request. The committee may authorize the village attorney to act instead in instances where delay is of substantial inconvenience or detriment to the requesting party. No member or employee of the committee may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion except as provided for under 8.11 subsection (B) (1) of this chapter.

C. This section does not prohibit a public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a public official from taking official action with respect to a proposal to modify a village ordinance.

### **8.07 Disclosure required**

- A. Any person subject to this chapter who becomes aware he/she has been offered anything of substantial value, the acceptance of which could reasonably be interpreted as a violation of this chapter shall promptly disclose the details surrounding the offer to the committee.
- B. Failure to comply with this section constitutes a violation of this chapter.

### **8.08 Ethics committee duties**

- A. The committee shall adopt such rules as may be necessary to carry out this chapter's provisions. The committee shall give prompt notice of its rules to the public officials affected thereby.
- B. The committee shall review complaints, render opinions and make recommendations to the village board, the village attorney or the Sauk County district attorney regarding the application of this chapter, its enforcement, or both. The committee may also make recommendations to the village board concerning modifying this chapter.

### **8.09 Complaints**

- A. Any person may file a written, verified complaint with the village clerk alleging that a public official has committed a violation of this chapter. If the alleged violation involves the village clerk, such verified complaint shall be filed with the village attorney. Upon receipt, the complaint shall be forwarded to the committee, the accused public official and the village attorney.
- B. Within ten (10) days of receipt of said complaint, the committee shall meet and make a determination whether to take further action. If the committee determines the complaint does not allege facts sufficient to constitute a violation of this chapter, it may dismiss the complaint and notify the complainant and the accused public official of its decision. If the committee determines the verified complaint merits further review, it may refer the complaint to the village attorney for review and investigation with respect to any alleged violation.
- C. Within ten (10) days of the request for review, the village attorney shall report his findings and opinion to the committee.
- D. Upon review of the village attorney's report, the committee shall determine whether to take further action. If the committee determines the matter does not constitute a violation of this chapter, it shall dismiss the complaint and notify the complainant and the accused public official of its decision.
- E. If the committee determines the verified complaint was brought for harassment purposes, it shall so state.
- F. If the committee determines the matter requires further investigation or deliberation, it may adjourn and reconvene at its convenience, provided that in doing so it does not substantially affect the complainant's or the accused's rights.
- G. If a verified complaint has been filed and the committee finds probable cause to believe a violation of this chapter, other than one contained in the complaint, has occurred, it may amend the complaint, upon its motion, to include such violation. If the complaint is so amended by the committee, the committee shall send a copy of the amendment to the person complained against within 48 hours.
- H. No action may be taken on any complaint that is filed later than three years after a violation of this chapter is alleged to have occurred.

I. In the event of an oral complaint presented at a meeting of the village board or governmental unit thereof, challenging a member's right to participate in any matter under consideration at said meeting, the chair shall treat the complaint as a point of order under Robert's Rules of Order and will submit the question to the board. The person bringing the complaint and the member challenged shall be allowed to present information relevant to the complaint. After receiving the information and due opportunity for discussion of the issues presented, the chair will call for a vote on whether the challenged member should be allowed to participate. The vote shall be by roll call and a majority vote of the members present is necessary to defeat the challenge. A challenged member may vote on the question of his right to participate. In the event that the challenge is against the chair, then the most senior member present shall act as acting chair for the purposes of resolving the challenge.

### **8.10 Committee's findings**

If the committee determines a violation of this chapter may have been committed, it shall take one or more of the following actions:

- A. A referral for criminal prosecution to the district attorney in whose jurisdiction the alleged violation occurred; or
- B. A referral to the village of Lake Delton chief of police to issue a citation for violating this chapter; or
- C. In the case of a non-elected public official, a referral to the village board that the public official be censured, suspended, or removed from office or employment; or
- D. In the case of a public official liable to impeachment, a referral to the village board that the official be removed from office.
- E. A referral to the village board for order requiring the accused public official to conform his conduct to this chapter.
- F. Such other action as may be necessary and appropriate and is consistent with the intent and purposes of this chapter.

### **8.11 Public inspection of records**

- A. Except as provided in subsection (B), all records in the possession of the committee are open to public inspection at all reasonable times. The committee shall require an individual wishing to examine records to provide his full name and address, and if the individual is representing another person, the full name and address of the person he represents. Such identification may be provided in writing or in person. The committee shall record and retain for at least three years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.
- B. The following records in the Committee's possession are not open for public inspection:
  - 1. Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The Committee may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on his behalf is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the Committee in connection with the request for an advisory opinion.

2. Records obtained or prepared by the Committee in connection with an investigation, except that the Committee shall permit inspection of records that are made public in the course of a hearing by the Committee to determine if a violation of this subchapter has occurred. Whenever the Committee refers such investigation and hearing records to a district attorney or to the attorney general, they may be made public in the course of a prosecution initiated under this subchapter.

### **8.12 Penalties**

A violation of any section or subsection of this chapter shall be punishable by a fine or forfeiture not to exceed \$1,000.00 for each violation committed hereunder, or upon failure to pay, by imprisonment in the Sauk County Jail for not more than 60 days.