

CHAPTER 6 CODE OF ETHICS

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CHAPTER 6 CODE OF ETHICS

SECTION 6.01 Declaration of Policy.

- (a) It is declared that high ethical standards among Village public officials and Village employees are essential to the conduct of free government. The Village Board believes that a Code of Ethics for the guidance of Village public officials and Village employees will help them 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 the Village in their Village public officials and Village employees. In recognition of these goals, there is hereby established a Code of Ethics for all Village of Cross Plains officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Village.
- (b) The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Village of Cross Plains and that conflict with or are incompatible with the proper discharge of duties and the required independence of judgment. The code also directs disclosure by such officials and employees of private financial or personal interest in matters affecting the Village.

SECTION 6.02 Application.

This code applies to the following persons:

- (a) All elected officials of the Village.
- (b) All employees of the Village.
- (c) All members of Village boards, committees and commissions.

SECTION 6.03 Definitions.

For purposes of this Chapter, all definitions as set forth in Section 19.42 of the Wisconsin Statutes (as amended from time to time) shall apply to the provisions of this Chapter.

SECTION 6.04 Financial Gain Prohibited.

No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district or a local professional football stadium district created

under Chapter 229, Wis. Stats. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by Chapter 11, Wis. Stats.

SECTION 6.05 Solicitation Prohibited.

No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

SECTION 6.06 Influence Prohibited.

No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

SECTION 6.07 Conflicts of Interest. Except as otherwise allowed by the provisions of this Chapter, no local public official may:

- (a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
- (b) Use his or her 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.

SECTION 6.08 Exceptions.

- (a) Section 6.07 does not prohibit a local 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 local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

- (b) Section 6.07 do not apply to the members of a local committee appointed under s. 289.33 (7) (a) stats. to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under s. 289.33, with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in an arbitration award or proposed award that is applicable to those parties.
- (c) Section 6.07 does not prohibit an incumbent from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit an incumbent from taking official action with respect to any proposal to create, modify, or repeal a Village ordinance, resolution or matter benefiting the public.

Section 6.09 Standards of Conduct

The following standards of conduct shall serve as guidelines for Village public officials and employees:

- (a) **Improper Use of Property or Position.** No incumbent shall request or permit the use of Village-owned vehicles, equipment, materials, or property for personal convenience or profit, or for that of another, except when the same is available to the public generally and except where otherwise authorized by the Village Board. No incumbent shall grant any privilege, anything of value, special consideration, treatment or advantage to any person beyond that which is available to every other person except as may be specifically provided for by law.
- (b) **No Impairment of Judgment.** No incumbent shall engage in or accept employment or render service, whether paid or unpaid, when such employment or service would impair or reasonably appear to impair her or his independence of judgment or action in the performance of official duties.
- (c) **Use of Confidential Information.** No incumbent may intentionally use or disclose information gained in the course of or by reason of her or his official position or activities in any way that could result in the receipt of anything of value for herself or himself, for a member of her or his immediate family, or for any other person or legal entity if the information has not been communicated to the public or is not a public record.
- (d) **Contracts with Village.** No incumbent, member of an incumbent's immediate family, nor any organization in which the incumbent or a member of her or his immediate family owns or controls at least 2% of the outstanding equity or indebtedness or voting rights may enter into any contract or lease involving a payment or payments of more than \$3,000.00 within a twelve-month period in whole or in part derived from funds administered by the Village, unless the incumbent has first made written disclosure of the nature and extent of such relationship or interest to the Village Board and to the department acting for the Village in regard to such contract or lease. Any contract or lease entered into in

violation of this provision may be voided by the Village in an action commenced within three years of the date on which the Village knew or should have known that a violation of this subsection had occurred. Nothing in this provision affects the application of Section 946.13, Wis. Stats., or subsequent amendments of that section relating to an incumbent's activity concerning a direct or indirect financial interest in a proposed Village contract.

- (e) **No Receipt of Gifts or Favors.** No incumbent may receive and retain any transportation, meals, entertainment, fee, food, beverage, or reimbursement therefore, nor any honoraria, service fee or contract payment or anything of value except in accord with Subsection h below.
- (f) **Incompatible Representation.**
 - (1) No elected official shall appear on behalf of private interests with or without compensation before any Village entity nor represent private interests in any action, proceeding or matter against the Village. No appointed member of any board, committee or commission of the Village shall appear on behalf of private interests with or without compensation before the board, committee or commission of which she or he is a member nor represent private interests in any action or proceeding against the Village which involves, is related to or arises out of the work or jurisdiction of the board, committee or commission of which she or he is a member. No employee of the Village shall appear on behalf of private interests with or without compensation before any entity for or with which she or he works nor appear on behalf of private interests with or without compensation in any action or proceeding against the Village.
 - (2) These provisions shall not apply to the appearance of any such incumbent when subpoenaed as a witness by a party involved in litigation which may also involve the Village nor to employee representatives of a certified labor organization representing any group of Village employees.
 - (3) An elected official may appear before any Village entity and confer with any incumbent on any matter in the course of her or his duties as a representative of the electorate or in the performance of public or civic obligations. However, she or he shall not accept a retainer or compensation therefore that is contingent on a specific action or lack of action by a Village agent.
 - (4) No former elected official, for 12 months following the date on which she or he leaves office, may, with or without compensation, or behalf of any person or entity, appear before any Village entity or confer or negotiate with any incumbent on any matter which may reasonably be expected to come before any Village entity for official action. This subsection does not prohibit a former incumbent from representing herself or himself before any Village entity in relation to a noncommercial personal undertaking.

- (5) This subsection does not prohibit an elected official from making inquiries for information on behalf of a person or organization if she or he receives no compensation therefore beyond the Village salary and other compensation or reimbursement to which the elected official is entitled by law.
 - (6) No employee of the Village shall engage in non-Village-related activities for which compensation is received to such an extent as to interfere with the proper performance of the duties and responsibilities of her or his official position.
- (g) **Honoraria, Fees and Expenses.**
- (1) During her or his term, no elected or appointed official or member of any board, committee or commission shall receive and retain:
 - a. Anything of value unless the activity or occasion for which it is given did not arise from her or his use of the Village's time, information, facilities, equipment, services or supplies not generally available to all residents of the Village or from the recipient's holding or having held her or his position.
 - b. From the Village or on behalf of the Village, transportation, lodging, meals, food or beverage, or reimbursement therefore, unless the same was incurred or received primarily for the benefit of the Village and not primarily for her or his private benefit or that of any other person.
 - c. Honoraria, such as money or anything of value, other than commemorative items of nominal value for or in recognition of activities related to or arising from her or his Village role or position. Such persons may accept and retain from persons or entities other than the Village the cost or reimbursement of actual and reasonable expenses related to such activities whether or not such activities arise from their Village roles or positions, except that elected officials may not receive and retain any such payments from a lobbyist or from a business or organization or local government that employs a lobbyist.
 - (2) Employees may not receive and retain anything of value unless the employment or activity for which it is given does not arise from the employee's use of the Village's time, information, facilities, equipment, services or supplies not generally available to all residents of the Village. Employees shall not receive and retain from the Village or on behalf of the Village transportation, lodging, meals, food or beverage, or reimbursement therefore, unless the same was incurred or received primarily for the benefit of the Village and not primarily for her or his private benefit or that of any other person.

- a. Employees shall not receive and retain honoraria, such as money or anything of value, other than commemorative items of nominal value for or in recognition of activities related to or arising from their Village roles or positions. Employees may accept and retain from persons or entities other than the Village the cost or reimbursement of actual and reasonable expenses related to such activities, whether or not such activities arise from their Village roles or positions.
 - b. When employees perform or provide services for persons or entities other than the Village, which services arise from their Village employment or from the employee's holding her or his position, and the employee's compensation and expenses related thereto are paid for or reimbursed by the Village, all moneys received by the employee therefore shall be paid promptly to the Village Administrator/Clerk-Treasurer. This subsection shall not apply to Village employees certified as emergency medical technicians performing EMT services while off regular Village scheduled work hours in accord with departmental policies and procedures or approved contracts.
- (3) Elected officials may receive and retain from a political committee transportation, lodging, meals, food or beverages, or reimbursement therefore, or payment or reimbursement of costs permitted and reported in accordance with Ch. 11, Wis. Stats.
 - (4) If an incumbent receives anything of value not authorized by this Subsection (h), the incumbent shall not retain it but shall deposit the money or the equivalent cash value with the Village Administrator/Clerk-Treasurer or return the payment or item to the payor or giver.
- (h) **Political Activity.**
- (1) No employee while on duty or on official Village business shall, for the apparent purpose of influencing the outcome of any referendum or improving the chance of election of a person seeking elective office:
 - a. Wear or display any campaign material.
 - b. Distribute any campaign literature.
 - c. Solicit, receive or give subscriptions, contributions or service for any candidate or referendum position.
 - d. Actively campaign for any candidate or any referendum position.
 - (2) No employee while on duty or other official Village business or off duty shall in any way coerce or attempt to coerce subscriptions, contributions or service from subordinate employees in support of a political party or a candidate for elective office or for or against a referendum position or retaliate against or reward an employee for refraining from participating in

any political activity. No employee on or off duty shall use her or his title or position or indicia thereof in any elective political activity.

- (3) This Subsection does not apply to a response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under Section 19.35, Wis. Stats., if the request is processed in the same manner as the custodian or subordinate response to other requests to locate, reproduce or inspect a record under such section.
- (4) No elected official or candidate for a Village elected office shall promise an appointment to any municipal position as an apparent reward for any political activity.
- (i) **Reporting of Campaign Contributions.** All candidates for Village office shall comply with the provisions of Ch. 11, Wis. Stats., regarding the reporting of any campaign contributions.

SECTION 6.10 Ethics Board.

There is hereby created an Ethics Board whose organization and duties shall be as follows:

- (a) The Ethics Board shall consist of seven members, said members being the Village President and all current members of the Village Board of Trustees. If a complaint involves a member of the Village Board, then that member of the Village Board shall not sit as a member of the Ethics Board, and the Village President shall temporarily appoint a resident of the Village to serve as a member of the Ethics Board solely for the purpose of that investigation. If a complaint involves more than one member of the Ethics Board, then the Village President shall temporarily appoint as many additional residents of the Village as are necessary to seat seven members of the Board. All appointments made by the Village President are subject to approval by the Village Board.
- (b) Upon the written complaint of any person or upon its own motion alleging facts which, if true, would constitute a violation or improper conduct under the provisions of this chapter, the Ethics Board shall conduct a public hearing in accordance with all common law requirements of due process, shall issue written findings of fact and conclusions and shall make a determination concerning the propriety of the subject official or employee and, if appropriate, render sanctions as set forth in Section 6.08 of this code.
- (c) The Ethics Board may issue subpoenas, administer oaths and investigate violations of this code. It may close its meetings and/or records in whole or in part as allowed for by Ch. 19, Wis. Stats.
- (d) Prior to the Ethics Board being convened and conducting a public hearing as provided for in paragraph (b) above, the written complaint of the person alleging facts which constitute a violation of this Chapter shall be reviewed by the Village

Administrator and the Village Attorney to ensure that the complaint alleges facts which if true, would constitute a violation or improper conduct under the provisions of this Chapter. If the Village Administrator and Village Attorney determine that sufficient facts have been alleged, the complaint will be sent to the Ethics Committee. If the Village Administrator and the Village Attorney determine that the complaint does not allege sufficient facts, the Village Administrator and Village Attorney will confer with the complaining party and request the complaining party to either supplement the complaint with additional facts or inform the complaining party that the complaint will not be presented to the Ethics Board for consideration.

SECTION 6.11 Advisory Opinions

When an incumbent or a candidate for Village elected office questions the applicability of a provision in this code to a particular situation, he or she may apply to the Village Attorney for an advisory opinion. The applicant shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provisions before such advisory decisions are made. It is prima facie evidence of intent to comply with this code when the person seeks the opinion of the Village Attorney and abides by the advisory opinion, if the material facts are as stated in the opinion request.

SECTION 6.12 Sanctions.

Violation of any provision of this code should raise conscientious questions for the public official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interest of the Village. If the Ethic Board determines that a public official or employee has violated any provisions of this code, the Ethics Board may take any of the following actions:

- (a) In the case of an elected official, sanction or censure the elected official.
- (b) In the case of a member of a board, committee or commission, make a recommendation that the Village President or other appointed authority consider removing the member of the committee or commission.
- (c) In the case of an employee, make a recommendation that the employee's direct supervisor consider disciplining or discharging the employee.
- (d) As an alternative or in addition to the sanction imposed herein, provide that any person violating the provisions of this code shall be subject to a nonreimbursable forfeiture of not less than \$100 and no more than \$1,000 for each violation. All forfeitures shall be deposited to the Village general fund.

SECTION 6.13 Ethics Statement.

- (a) The Village President, Trustees, appointed officials, members of boards, committees and commissions and employees shall yearly, no later than April 30, sign a statement to the effect that they have read this Code of Ethics in its entirety and understand that a violation of such may constitute a cause for suspension, removal from office or employment or other disciplinary action or a forfeiture of up to \$1,000.00 for each offense. Such statement shall be on the form prepared by the Ethics Board.
- (b) Prior to taking office as a Village official, accepting appointment as a member of a board, committee or commission, or commencing employment with the Village as an employee, a person shall complete and sign the Village's ethics statement.