

**CHAPTER TWO
ETHICS CODE**

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**CHAPTER 2
ETHICS CODE**

ARTICLE I. IN GENERAL

Sec. 2-1 Declaration of policy.

(a) The proper operation of a democratic and representative government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office and public employment not be used for improper personal gain; and that conflicts between private interests and public responsibilities be avoided. In recognition of these goals there is hereby established a code of ethics for county public officials, employees, and appointed members of boards, commissions, committees and panels, hereinafter collectively referred to as public officials. The purpose of this code is to establish guidelines for ethical standards of conduct to assist public officials in avoiding those acts or actions which are incompatible with the best interests of county government by directing disclosure by such officials of private interests in matters affecting the county.

(b) Public officials are agents of the public purpose and should exercise their judgments for the benefit of the public. They are bound to uphold the United States Constitution and the constitution of this state and to carry out impartially the laws of the nation, state and county, and to observe in their official acts the highest standards of ethics and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in their official actions should be above reproach so as to foster respect for all government.

(c) The county board recognizes that the officials of the county are drawn from society and, therefore, cannot and should not be without all personal and economic interests in the decisions and policies of public government; that citizens who serve as county officials retain their rights as citizens to interests of a personal and economic nature; and that the standards of ethical conduct for county officials need to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material.

(d) It is intended that this code shall apply to all persons whose functions require the exercise of discretion and judgment. Nothing contained herein is intended to deny, to any individual, rights granted by the United States Constitution, the constitution of this state, the laws of this state or by labor agreements negotiated with bargaining representatives.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-2 Definitions.

Advisory opinion means an interpretation requested by a public official and issued by the ethics board regarding the propriety of any matter to which the public official is or may become a party.

Anything of value means any money or property, favor, gift, service, payment, advance, forbearance, loan, or promise of future employment, including, without restriction by enumeration, tickets, passes, lodging, travel, recreational expenses, and admission offered and provided by persons doing business, or interested in doing business, with the county. "Anything of value" does not include compensation and expenses paid by the county; political contributions which are reported under Chapter 11, Wisconsin

Statutes; occasional meals and beverages, unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value; or hospitality of nominal value, or extended for a purpose unrelated to county business; or business related seminars, trade shows or other training related activities.

Associated means [includes], when used with reference to a person, any organization in which a person or member of his or her immediate family is a director, officer or trustee, or owner, or controls, directly or indirectly and severally or in the aggregate at least ten (10) percent of the outstanding equity.

Board means the ethics board created by this code of ethics.

Confidential information means written material or oral information related to county government which is not otherwise subject to the open records law and which is designated by statute, ordinance, court decision, lawful order, or custom as confidential.

Conflict of interest means a public official's action or failure to act in the discharge of his or her official duties which could reasonably be expected to produce or assist in producing a substantial economic or personal benefit for such official, his or her family or an organization with which he or she is associated.

Contract means all agreements executed between the county or a sub-unit thereof and another party or parties for the provision of goods, materials, supplies, construction, or services in exchange for valuable and sufficient consideration.

County facilities means all buildings that are owned, leased, or rented by the county.

Economic interest means any interest that will yield directly or indirectly a monetary or other material benefit to the public official or to any person employing or retaining the services of the public official, or any member of the family of said public official, except as permitted by section 946.13 of the Wisconsin Statutes.

Employee means all persons filling an allocated full-time or part-time position of county employment.

Family means any individual related to a public official as spouse, parent, child, sibling, grandparent, grandchild, parent-in-law, sibling-in-law and step relations of the above, or as a legal dependent of the public official for tax purposes.

Gift means the payment or receipt of anything of value without valuable and sufficient consideration.

Immediate family means any individual related to a public official as spouse or legal dependent for federal income tax purposes.

Income means the meaning given under the federal internal revenue code.

Incompatibility means a conflict between one's official responsibilities and personal or economic interests which would prevent the public official from the complete and proper discharge of his or her official county duties.

Nominal value means a value of ten dollars (\$10.00) or less received by a public official from any one (1) person within one (1) calendar month.

Organization means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual, body politic, or charitable entity.

Person means any natural person, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, joint venture, trust, or other legal entity recognized as such by the laws of the state.

Personal interest means any interest arising from a blood, marriage or adoptive relationship.

Principal income means earnings which constitute at least one-half (1/2) of total annual earnings.

Private business means those activities related to non-county government employment in which the public official has an economic interest.

Public official means any person holding an elected county office and candidates for elected county office, or any person holding an appointed county office, including all county department heads, all county employees, and all citizens appointed by the county executive to advisory boards or commissions, and elected officials, and appointed members of committees and panels who are not elected.

Valuable and sufficient consideration means payment or compensation of an amount equivalent to the actual value of any item or service received. If the actual value cannot be determined, payment or compensation of a reasonable value is acceptable.

(Ord. No. 147-126, § 1, 1-26-93)

Secs. 2-3 - 2-10 Reserved.

ARTICLE II. CONFLICTS OF INTEREST AND DISCLOSURE

Sec. 2-11 Specific conflicts of interest and standards of conduct.

(a) *Economic and personal interest.* No public official shall engage in any business or transaction or shall act in regard to economic or personal interest, direct or indirect, [in a manner] which is incompatible with the proper discharge of his or her official duties or which would tend to impair his or her independence of judgment or action in the performance of his or her official duties. This section is not intended to interfere with public officials having duties or employment in addition to those related to the county, provided those duties or employment do not cause violations of this code of ethics and are disclosed to his or her supervisor.

(b) *Gifts.* It shall be a breach of ethical standards for any public official to solicit, demand, accept or agree to accept anything of value if it is in relation to a particular contract, solicitation, or proposal, therefore, or if it could reasonably be expected to influence his or her independence of judgment, action or inaction in the performance of his or her official duties. In addition, the acceptance of a gift offered in relation to any proceedings such as decision, approval, disapproval, recommendation, rendering of advice, investigation, auditing or any other advisory capacity is also prohibited.

(c) *Campaign contributions.* No public official shall use his or her position to influence other public officials to make political campaign contributions.

(d) *Political activity.* Public officials are prohibited from contributing monetarily to candidates for elected county office and current elected office holders. These offices include: county executive, county board supervisor, county clerk, register of deeds, sheriff, county treasurer, and clerk of courts.

This section does not prohibit a public official from contributing to his or her own campaign.

Public officials will refrain from participation in any political activity if such activity could reasonably be expected to create a conflict of interest with the full discharge of his or her official county duties.

No public official may bring any type of political campaign materials into county buildings. This section does not prohibit items that may be displayed by a public official such as campaign buttons on overcoats or purses if such items are not within full view during official hours of said building.

Further, this section does not prohibit a public official from accepting employment or being involved with any political campaign which in no way interferes or could reasonably be expected to interfere with the full discharge of his or her official duties. This section may not fully apply to law enforcement officers employed by the Waukesha County Sheriff's Department and who are covered by the law enforcement officers' bill of rights contained in chapter 164 of the Wisconsin Statutes.

(e) *Contracts with county.* Except as permitted by [section] 946.13, Wisconsin Statutes, no public official shall, in his or her official capacity, negotiate, bid for, participate in the making of a contract or enter into a contract in which he or she has a private economic interest.

(f) *Use of public property.* No public official shall request or knowingly permit the use of county services or of county-owned vehicles, equipment, materials or property for non-authorized nongovernmental purposes or personal profit, except when such services or uses are available to the general public.

(g) *Incompatible employment.* No public official shall engage in or accept private employment or render service for private interest when such employment or service is in conflict with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(h) *Use and disclosure of confidential information.* No public official shall knowingly use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any other person. Nor shall a public official, without proper legal authorization, disclose confidential information gathered in the course of public employment to an unauthorized person.

(i) *Influence peddling.* No public official shall use or attempt to use his or her public position to influence or gain unlawful benefits or to influence or gain advantage or privileges for himself or herself or others.

(j) *Personal services.* No public official shall require another public official to perform any private work or private or personal service.

(k) *Issuance of permits.* No public official empowered to issue a discretionary permit under either the

state or local laws or regulations shall issue any such permit to himself or herself or to any member of that public official's immediate family without first revealing in writing the request for such permit to that public official's immediate supervisor.

(l) *Conducting private business on county time.* No public official shall engage in his or her private business while he or she is engaged in his or her public duties.

(Ord. No. 147-126, § 1, 1-26-93; Ord. No. 149-111, § 1, 1-24-96)

Sec. 2-12 Action upon conflict of interest or potential conflict of interest.

(a) Any public official who, in the discharge of his or her official duties, is involved in or is about to be involved in any matter that could result in a breach of this code of ethics on his or her part, shall prepare a written statement describing such matter and the nature of the possible breach. This statement shall be delivered to the county clerk for transmittal to the ethics board chairman for the ethics board review and recommendation. In the case of employees, this statement shall be delivered to their department head and in the case of department heads, to the county executive. The public official is to withdraw from further participation in the potential breach involved until such discussion or determination is made.

(b) Non-county government employment which may be related to the public official's county duties and membership in social, political, fraternal, charitable, or religious organizations is not prohibited. However, it is the responsibility of the public official to ensure that non-county government employment or membership does not conflict or interfere with the complete and proper discharge of his or her duties for the county. Any non-county government employment or membership which could potentially lead to a conflict situation should be discussed with the public official's immediate supervisor or with the ethics board to determine the best means of preventing conflict situations from developing.

(c) If the conflict of interest matter reported by the public official in writing to the department head cannot be resolved at a departmental level through reassignment of specific duties or other means and/or further clarification is needed, the matter shall be referred on behalf of the public official by the department head to the ethics board for an advisory opinion.

(d) It is prima facie evidence of intent to comply with the code of ethics when a public official seeks advice from supervisory personnel and/or from the ethics board on how to resolve a real or potential conflict situation and abides by that advice.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-13 Disclosure of economic interest.

(a) Public officials required to file statement.

1. All elected officials and all public officials whose duties and responsibilities include the evaluating, awarding and executing of contracts for the purchase of supplies, services, materials, and equipment for or on behalf of the county or any board or commission thereof, or for the construction of public works, or for the sale or lease of real estate, are required to file statements of economic interest as set forth in this section. All appointees to any Waukesha County board, committee or commission whose duties and responsibilities include making land use decisions, including land use decisions to grant or deny any petition, application, request or appeal regarding

zoning, permits, conditional uses, variances, special exceptions, land divisions or plan amendments, are also required to file a statement of economic interest.

2. Those required to file shall include all elected officials and all public officials in managerial position classifications. In addition, each department head shall prepare a list of all other positions within his or her department, whose duties include those outlined above. These position lists shall be submitted to the ethics board for its determination of which public officials, in addition to those in the managerial level, shall be required to file statements of economic interest.
3. Each public official required to file a statement under this section shall do so during the month of May of each year, commencing in the first full calendar year following adoption of this code of ethics. Public officials required to file who are hired, and/or assume responsibilities requiring them to file, after April 30 of the calendar year, shall file within thirty (30) work days of assuming such responsibilities. These statements shall be filed with the county clerk.
4. The statements of economic interest are considered public record and shall be open to public inspection. Requests for examination of these statements shall be made in writing to the county clerk. The public official shall be notified of the request for examination of his or her statement of economic interest and shall be supplied with the identity of the requester.

(b) *Content of statement.* The ethics board shall prescribe the format for the filing of the statements of economic interest, which shall include the following:

1. The names and addresses of the public official and all members of his or her immediate family. The inclusion of the addresses of the public official and members of his or her immediate family are optional at the discretion of the public official.
2. The names of all employers of the public official and spouse.
3. The nature and source of principal income of the public official and spouse. Specific dollar amounts need not be disclosed.
4. The address of real property located in the county, other than principal residence, in which the public official or a member of his or her immediate family has a fair market interest in the property exceeding five thousand dollars (\$5,000.00).
5. The names and addresses of all creditors to whom the public official or member of his or her immediate family is indebted by more than ten thousand dollars (\$10,000.00).
6. The names of all corporations and other business interests, both profit and nonprofit, in which the public official or members of his or her immediate family hold any office or directorship or own or control, directly or indirectly, more than ten (10) percent of the outstanding stock or more than ten (10) percent of other business ownership.

(Ord. No. 147-126, § 1, 1-26-93; Ord. No. 165-53, 10-27-10)

Editor's Note: Managerial positions are listed in the Waukesha County Personnel Policy and Procedures Manual.

Sec. 2-14 Disclosure of legislative interest.

Any public official who has or whose family has a personal or economic interest in any proposed legislation before the county board and who participates in discussion with or gives an official opinion or recommendation to the county board on that proposed legislation shall make disclosure of the nature and extent of such personal or economic interest to be recorded in the journal of proceedings prior to or during the initial discussion of the particular legislation.

(Ord. No. 147-126, § 1, 1-26-93)

Secs. 2-15 - 2-20 Reserved.

ARTICLE III. ETHICS BOARD

Sec. 2-21 Created.

There is hereby created an ethics board to consist of three (3) members and one (1) alternate.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-22 Composition.

The [three (3)] members [and one (1) alternate] of the ethics board shall be residents of the county and shall not be county public officials during the time of their appointment. The members of the ethics board shall be appointed by the county executive and shall be subject to approval by the county board; the corporation counsel shall provide legal advice, secretarial service and assistance to the board.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-23 Terms of members; majority.

(a) The terms of office shall be three (3) years, except that when the initial appointments are made one (1) member shall be appointed for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. The alternate shall serve on the board when one (1) of the members of the board is unavailable [and his term] shall be three (3) years. A chairman of the ethics board shall be elected annually by the members of the board. In the event that a member or alternate leaves the board prior to the completion of his or her term, a new member or alternate shall be appointed in the same manner to serve the balance of the term.

(b) A quorum of the ethics board shall be three (3) members. A majority vote of the board shall be required for any action taken by the board, with the exception that action taken by the board pursuant to a hearing conducted under section 2-27 of this article shall require a unanimous vote.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-24 Written rules of procedure.

The ethics board shall develop and promulgate written rules of procedure which shall be filed with the

office of the county clerk and which shall be distributed to all candidates for public office and all public officials affected by this code of ethics.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-25 Advisory opinions.

Any public official to whom this code of ethics applies may request from the ethics board an advisory opinion and shall be guided by the opinion rendered. The requesting public official shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of this code of ethics before the advisory decision is made or rendered. The board's deliberations and action upon such requests shall be in meetings not open to the public. Records of the board's opinions, opinion request and investigations of violations shall be closed to public inspection. The board, however, will make such records public with the consent of the individual requesting the advisory opinion. The board may make public a summary of an advisory opinion after making sufficient alterations in the summary to prevent disclosing the identities of individuals and departments involved.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-26 Complaints - Filing and preliminary disposition.

(a) The board shall accept from any identified person a verified complaint in writing which states the name of the public official alleged to have committed a violation of this code of ethics and which shall set forth the particulars thereof. The board shall forward within ten (10) work days a copy of the complaint to the accused public official.

(b) If the board determines that the verified complaint does not allege facts sufficient to constitute a violation of the code of ethics, it shall dismiss the complaint and notify the complainant and the accused.

(c) If the board determines that the verified complaint was brought for harassment purposes, the board shall so state.

(d) If the board determines that the verified complaint alleges facts sufficient to constitute a violation of the code of ethics, it may make an investigation with respect to any alleged violation after notifying the accused public official in writing. Such notice shall state the exact nature and purpose of the investigation, the public official's specific action or activities to be investigated and a statement of the public official's due process rights.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-27 Same - Actions and procedure when probable cause exists.

(a) If after investigation the board finds that probable cause exists for believing the allegations of the complaint, then not later than thirty (30) work days after such finding is made the board shall announce that it will conduct a hearing. The board shall give the complainant and the accused at least twenty (20) work days notice of the hearing date. The hearing shall be closed to the public unless the accused requests that it be opened.

(b) The rules of civil procedure shall apply to such hearings.

(c) All evidence, including certified copies of records and documents which the board considers, shall be fully offered and made part of the record of the case.

(d) The evidence presented shall be limited to the scope of the charge(s) made in the complaint.

(e) Every party shall be offered, during all stages of any investigation or proceeding conducted under this code of ethics, adequate opportunity to rebut or offer countervailing evidence.

(f) The accused or his or her representative shall have an adequate opportunity to examine all documents and records to be used at a hearing under this section at a reasonable time prior to the date of the hearing.

(g) During the hearing the parties shall have the opportunity to present witnesses, confront and cross-examine adverse witnesses, and establish all pertinent facts.

(h) The burden of proving the violation(s) alleged in the complaint shall be on the complainant. Violations shall be proved by evidence that is clear, satisfactory, and convincing.

(i) The board shall keep a record of the hearing. The board shall have the power to compel the attendance of witnesses and to issue subpoenas as granted to other boards and commissions under section 885.01(3), Wisconsin Statutes.

(j) Within five (5) work days of the conclusion of the hearing, the board shall file its written findings and recommendations signed by all participating board members, together with findings of fact and conclusions of law concerning the propriety of the conduct of the public official. If the board determines that no violation of the code of ethics has occurred, it shall dismiss the complaint, and if requested to do so by the accused, issue a public statement.

(k) No recommendation of the board becomes effective until twenty (20) work days after it is issued, or while an application for rehearing or a rehearing is pending, expressly or by implication, or the board has announced its final determination on rehearing.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-28 Penalties.

If after investigation and a hearing, the ethics board determines that a violation of the code of ethics has occurred, it shall refer its findings and a recommendation for sanction to the appropriate supervising authority. In the case of a county employee, the referral shall be made to the employee's department head, and in the case of a department head, the referral shall be made to the county executive, and in the case of an elected official, the executive committee for referral to the county board. The recommendation may be private reprimand, public reprimand, denial of merit increase, suspension without pay, discharge or fine (private reprimand, public reprimand and fine will be the only sanctions which apply to elected officials and appointees to boards, commissions, committees and panels) as is appropriate for the category of public official being sanctioned. Any action taken by a public official in violation of this code may be deemed void.

(Ord. No. 147-126, § 1, 1-26-93)

Sec. 2-29 Appeals process.

The accused public official shall have the right to a rehearing with the ethics board upon the service of a decision by the ethics board to the accused public official, and provided a request for rehearing is filed with the board within ten (10) work days of service. Only one (1) rehearing shall be granted by the board for each case. An application for rehearing is governed by such general rules as the board may establish. The rehearing will be done in closed session within thirty (30) work days of the ethics board receiving the application for rehearing. The accused and the complainant will have a minimum of ten (10) work days notice prior to the rehearing date. Both shall have the opportunity to present arguments to the ethics board. The rehearing shall become a matter of record.

(Ord. No. 147-126, § 1, 1-26-93)