

## Chapter 48

### ETHICS, CODE OF

**[HISTORY: Adopted by the Village Board of the Village of Plover by Ord. No. 29-94 (§ 1.055 of the 1985 Code). Amendments where noted where applicable.]**

#### **§ 48-1. Declaration of findings.**

The proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established this Code of Ethics for Village officials. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interest of the Village and its residents. The Village Board finds that this code will help avoid conflicts, will improve standards of public service, and will promote and strengthen the confidence of Village residents in their public officials. This chapter is enacted pursuant to the authority set forth in § 19.59(2), Wis. Stats.

#### **§ 48-2. Definitions.**

The terms used herein shall be defined as follows:

**ANYTHING OF VALUE** — Any money or property, favor, service, payment, advance, forbearance, loan or promise of future payment, but does not include compensation and expenses paid by the Village, fees and expenses which are permitted and reported under § 19.56, Wis. Stats., political contributions which are recorded under Ch. 11, Wis. Stats., or hospitality extended for a purpose unrelated to Village business by a person other than an organization.<sup>1</sup>

**ASSOCIATED** — When used with reference to an organization, includes any organization in which an individual or a member of his immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, severally or in aggregate, at least 10% of the outstanding equity, or of which an individual or a member of his or her immediate family is an authorized representative or agent.<sup>2</sup>

**GIFT** — The payment or receipt of anything of value without valuable consideration.

**IMMEDIATE FAMILY** — A local public official's spouse, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, stepmother, stepfather, stepson, stepdaughter, stepsister, stepbrother, son-in-law or daughter-in-law.

**LOCAL PUBLIC OFFICE** — Any of the following offices:

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
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- A. An elective office of the Village or its government.
- B. The Village Administrator.
- C. An appointive office or position of the Village government which is filled by the Village Board or the Village President and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.
- D. An appointive office or position of the Village government in which an individual serves for a specified term, except for a position limited to the exercise of ministerial action or a position filled by an independent contractor.
- E. A position of department head for the Village, which includes all program directors and administrators who supervise and implement their respective programs and report directly to a governing committee or committees of the Village Board.

LOCAL PUBLIC OFFICIAL — An individual holding a local public office.

**§ 48-3. Standards of conduct.**

- A. The Village Board recognizes that:
  - (1) In a representative democracy its leaders are drawn from the very society that they serve; therefore, they cannot and should not be expected to be without any personal or economic interest in the decisions and policies of government;
  - (2) Citizens who serve as local public officials retain their rights as citizens to interests of a personal and economic nature;
  - (3) The standards of ethical conduct for local public officials need to distinguish between minor and inconsequential conflicts that are unavoidable in a free society and those conflicts which are substantial and material; and
  - (4) Local public officials may need to engage in employment, professional or business activities other than official public duties in order to support themselves or their families and to maintain a continuity of professional business activity or may need to maintain investments; however, such activities or investments must not conflict with the specific provisions of this code.
- B. This code does not prevent a local public official from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge of his duties as a local public official.

**§ 48-4. Offer or acceptance of gifts; overnight travel with vendor.**

No person may offer to give 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. An item offered or received with a fair market value greater than \$5

shall give rise to a rebuttable presumption that the item could reasonably be expected to influence the local public official or be considered a reward. Any overnight trip, regardless of its purpose, taken by a local public official with a vendor doing business with the Village is prohibited unless prior approval by the governing committee of the local public official is received.

**§ 48-5. Examples of prohibited gifts.**

By way of illustration and not limitation, the following gratuities shall be considered anything of value, the receipt of which by a public official may be in violation of § 48-4 above. These are examples only, and receipt of any other gratuities of like value are also prohibited. Examples are food and/or drink offered in connection with meetings concerning Village government, bottles of liquor, turkeys and meals.

**§ 48-6. Examples of permissible gifts.**

For the purpose of illustration and not limitation, the following items shall not be deemed to be anything of value for purposes of § 48-4 above. These are examples only, and other gratuities of like value may also be acceptable. Examples are promotional items of small value with advertising prominently displayed, such as baseball caps, calendars, pens, pencils and ash trays.

**§ 48-7. Confidential information.**

No local public official shall use or disclose information gained in the course of or by reason of his official position or activities in any way that could result in the receipt of anything of value for himself, for his immediate family or for any other person if such information has not been communicated to the public or is not public information.

**§ 48-8. Use of Village property.**

No local public official shall use or permit the use of any Village property for personal convenience, use or profit.

**§ 48-9. Equal treatment.**

No local public official shall grant special consideration, treatment or advantage to any person.

**§ 48-10. Conflict of interest; exception.**

A. Except as otherwise provided in § 48-4 above, no local public official may:

- (1) Take an 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 financial gain or a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family, whether separately or together, or an organization with which the official is associated.

- (3) Use or attempt to use his public position to influence or gain unlawful advantage or privileges for himself or others.
- B. This section 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 nor does it prohibit a local public official from taking official action with respect to any proposal to modify Village law so long as the requirements of § 48-12 below are observed. This section does not prohibit a local public official from using the title or prestige of his office to obtain campaign contributions that are permitted and reported as required by Ch. 11, Wis. Stats.

**§ 48-11. Public contracts.**

No local public official shall violate § 946.13, Wis. Stats., titled "Private interest in public contract prohibited."

**§ 48-12. Disclosure of interest in legislation.**

Any local public official who has a financial interest or personal interest in any proposed legislation before the Village Board or a constituent committee shall disclose on the record of the Village Board or the constituent committee the nature and extent of such interest.

**§ 48-13. Ethics Committee.**

There is hereby established an Ethics Committee which shall enforce the provisions of this code. It shall develop and adopt reasonable rules of procedure consistent with this code. The Committee shall have such other duties as set by resolution of the Village Board. It shall consist of two members of the Village Board and three citizen members, one member from each of the three Village election wards, who shall be selected in the same manner as other standing committees of the Village Board. Compensation, if any, shall be set by the Village Board. The Committee shall elect a Chairperson and Vice Chairperson who shall serve for two-year terms, but the Chairperson may not hold such position for longer than four consecutive years. Appointed Committee members shall serve for two-year terms and may be reappointed.

**§ 48-14. Enforcement; violations and penalties.**

- A. Complaint. Anyone desiring to report an alleged violation of this code shall submit a verified complaint to the Ethics Committee.
- B. Investigation. Investigation of an alleged violation of this code following submission of a verified complaint shall be conducted by the Ethics Committee if the Committee first finds that the complaint sets forth a probable violation. Once the Committee determines that the complaint sets forth a probable violation, it shall continue to investigate the complaint as necessary and:
  - (1) Cause notice to be given to the subject of the complaint. Such notice shall specify the charges against the subject as well as a notice that the subject may file a written statement of his response to the complaint.
  - (2) Schedule and hold hearings on the complaint, if and as necessary.

- (3) Hear the subject's position and the testimony of witnesses, if any.
  - (4) Permit the subject and the complainant to call such witnesses as either desires and to cross-examine the witnesses of the other.
  - (5) Consider the evidence presented and make findings thereon.
  - (6) By the Committee's Chairperson or his designee, make rulings on motions and objections made by any party in such a manner as to assure due process protection to the parties.
  - (7) Based upon the evidence presented to it, determine whether or not to seek imposition of a forfeiture.
    - (a) If a forfeiture is deemed advisable, the Committee may direct the Village Attorney to start action in the name of the Village against the violator. When deciding to seek imposition of a forfeiture, the Committee shall, at the time of notifying the Village Attorney, serve notice by mail upon the subject to the effect that a forfeiture will be sought against the subject, specifying the amount and that court action may be avoided if the amount specified is paid within 30 days of the date of the notice. If a person against whom the Committee decides to seek imposition of a forfeiture fails to pay the amount specified by the Committee within 30 days of the date of the notice, the Village Attorney shall initiate an action for the collection of the forfeiture in Circuit Court.
    - (b) If the Committee determines that a violation of this code occurred but it does not desire to seek a forfeiture, the Committee may take other appropriate action as it sees fit. Other appropriate action may include issuing a written warning setting forth the specified violation. A violation of any provision of this code may constitute a cause for suspension or removal from office or employment. Any Village Board member who is found to have violated any provision of this code, in addition to any other penalties as prescribed herein by law, may be required by the Committee to forfeit any per diem payments otherwise due and owing if the violation occurred during an event or meeting at which that member conducted or engaged in official Village business.
- C. Penalty. For each violation of a provision of this chapter for which no penalty is specified, the violator shall forfeit not less than \$100 nor more than \$1,000 for each offense.<sup>3</sup>
- D. Executive session. Pursuant to § 19.85(1)(a), (b) and (f), Wis. Stats., the Committee shall conduct its hearing in executive session unless the subject requests an open hearing.
- E. Records. All records of the Committee relating to enforcement of the code shall be closed to public investigation until a determination has been made by the Committee, pursuant to this chapter, that a violation of the code has occurred. If the recommended discipline is a written warning, the Committee shall further determine whether or not said warning shall be a public or private reprimand. All determinations by the Committee as to public reprimands or warnings, or requests for forfeiture actions against a Village official or

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

employee, shall be open records and accessible to the public.

**§ 48-15. Advisory opinions.**

Any person subject to the provisions of this code may at any time request the Committee to issue an advisory opinion as to the applicability of this code to any given set of facts. Such request shall be as detailed as possible and shall be in writing. The Committee may request legal assistance from the Village Attorney, if necessary. Advisory requests and opinions shall be kept confidential, except where disclosure is authorized by the subject of the inquiry, in which case the request and opinion may be made public.