

Chapter 28

ETHICS, CODE OF

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[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 2, Ch. 5 of the 1992 Code. Amendments noted where applicable.]

§ 28-1. Statement of purpose.

A. The proper operation of democratic 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 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 in this chapter a Code of Ethics for all Village of Albany officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the village, as well as any individuals who are candidates for elective office, as soon as such individuals file nomination papers with the village.

B. The purpose of this Ethics 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 Albany and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the village. The Village Board believes that a Code of Ethics for the guidance of elected and appointed officials and 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 citizens of this village in their elected and appointed officials and employees. The Village Board hereby reaffirms that each elected and appointed village official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such rules and regulations as may be established are hereby declared to be in the best interests of the Village of Albany.

§ 28-2. Definitions.

The following definitions shall be applicable in this chapter:

ANYTHING OF VALUE -- Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation

or expense reimbursement paid by the village, honorariums, fees and expenses under the standards and reporting requirements set forth in W.S.A. s. 19.56, campaign contributions as regulated by § 28-6D of this chapter, or hospitality extended for a purpose unrelated to village business by a person other than a firm, corporation, partnership or joint venture.

BUSINESS -- Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

FINANCIAL INTEREST -- Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

PERSONAL INTEREST -- Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

PUBLIC EMPLOYEE -- Any person excluded from the definition of a "public official" who is employed by the village.

PUBLIC OFFICIAL -- Those persons serving in statutory elected or appointed offices provided for in W.S.A. ch. 61, and all members appointed to boards, committees and commissions established or appointed by the Village President and/or Village Board pursuant to this Code, whether paid or unpaid.

SIGNIFICANT INTEREST -- Owning or controlling, directly or indirectly, at least 10% or \$5,000 of the outstanding stock of at least 10% or \$5,000 of any business.

§ 28-3. Statutory standards of conduct.

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made part of this Code of Ethics and shall apply to public officials and employees whenever applicable, to wit:

- A. W.S.A. s. 946.10, Bribery of public officers and employees.
- B. W.S.A. s. 946.11, Special privileges from public utilities.
- C. W.S.A. s. 946.12, Misconduct in public office.
- D. W.S.A. s. 946.13, Private interest in public contract prohibited.

§ 28-4. Responsibility of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

§ 28-5. Dedicated service.

A. Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

B. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

C. Members of the village staff are expected to follow their appropriate professional Code of Ethics. Staff members shall file a copy of such professional ethics codes with the Village Clerk-Treasurer. The Village Board shall notify the appropriate professional Ethics Board of any ethics violations involving village employees covered by such professional standards.

§ 28-6. Fair and equal treatment.

A. Use of public property. No official or employee shall use or permit the unauthorized use of village-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as village policy for the use of such official or employee in the conduit of official business, as authorized by the Village Board or authorized board, commission or committee.

B. Use of village stationery. Copies of any correspondence written on village stationery shall be filed with the Village Clerk-Treasurer, or his designee.

C. Obligations to citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. No official or employee shall use or attempt to use his or her position with the village to secure any advantage, preference or gain, over and above his rightful remuneration and benefits, for himself or for a member of his or her immediate family.

D. Political contributions. No official shall personally solicit from any village employee, other than an elected official, a contribution to a political campaign committee for which the person subject to this chapter is a candidate or Treasurer.

§ 28-7. Conflict of interest.

A. Financial and personal interest prohibited.

(1) No official or employee of the village, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this chapter or which would tend to impair independence of judgment or action in the performance of official duties.

(2) Any member of the Village Board who has a financial interest or personal interest in any proposed legislation before the Village Board shall disclose on the records of the Village Board the nature and extent of such interest; such official shall not participate in debate or

vote for adoption or defeat of such legislation. If the matter before the Village Board involves a member's personal interest with persons involved, the member may participate in debate or discussion and vote on the matter following disclosure, unless an ordinance or contract is involved; if an ordinance or contract is involved, such official shall not participate in debate or discussion and vote on the matter.

(3) Any nonelected official, other than a village employee, who has a financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.

(4) Any village employee who has financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the employee has any influence of input, or of which the employee is a member, that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest.

B. Disclosure of confidential information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the village, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

C. Incompatible employment. No official or employee shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair such official's or employee's independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.

D. Gifts and favors.

(1) No official or employee shall accept or offer to accept anything of value from any person who, to his or her knowledge, is interested, directly or indirectly, or is seeking an interest, directly or indirectly, in any manner whatsoever in business dealings with the village; or from any person who conducts activities which are regulated by the village; or from any person who has interests which may be substantially affected by actions of the village.

(2) No official or employee shall accept or offer to accept anything of value that may tend to influence such official or employee in the discharge of his or her duties or grant in the discharge of his or her duties any improper favor, service or thing of value.

(3) Gifts received under unusual circumstances should be referred to the Ethics Board within 10 days for recommended disposition.

(4) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a village official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This subsection

further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

E. Representing private interests before village agencies or courts.

(1) Nonelected village officials and employees shall not appear on behalf of any private person (other than himself or herself, his or her spouse or minor children) before any village agency, board, commission or the Village Board if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.

(2) Elected village officials may appear before village agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, the disclosure requirements of Subsection A above shall be applicable to such appearances.

F. Ad hoc committee exceptions. No violation of the conflict of interest restrictions of this section shall exist; however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic in which that individual, or the employer or a client of that individual, has an interest, so long as the individual discloses to the Village Board that such interest exists.

G. Contracts with the village. No official or employee who, in his or her capacity as such officer or employee, participates in the making of a contract in which such officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the part of such official or employee, shall enter into any contract with the village unless:

(1) The contract is awarded through a process of public notice and competitive bidding.

(2) The contract or activity is exempt from or otherwise deemed appropriate by W.S.A. s. 946.13.

(3) The Ethics Board waives this requirement after determining that it is in the best interest of the village to do so.

H. Disclosure of interest in legislation. To the extent known, any member of the Village Board who has a financial or personal interest in any proposed legislation before the Board shall disclose on the record of the Board the nature of and extent of such interest. Any other official or employee who has a financial or personal interest in any proposed legislative action of the Board and who participates in discussion with or gives official opinions or recommendations to the Board shall disclose on the record of the Board the nature of and extent of such interest.

§ 28-8. Advisory opinions.

When an official or employee has doubt as to the applicability of a provision of this section, such official or employee may apply to the Village Attorney for an advisory opinion. The official or employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of this section before such advisory decision is made. This section shall be operative in all instances covered by its provisions, except when superseded by an

applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary but determined to be more appropriate or desirable.

§ 28-9. Hiring relatives.

A. This section governs the proposed hiring of individuals for full-time or part-time work as village employees who are members of the immediate family of village employees or elected officials. "Immediate family" includes those relatives by blood or marriage defined in § 28-2 as "personal interests."

B. Hiring an immediate family member of any current village employee or elected village official is discouraged and will be considered only if that individual has the knowledge and skills, experience or other job-related qualifications that warrant consideration for the position. It is required that either the current employee or the relative seeking employment will make the personal interest relationship known to the hiring authority (department head, village board or commission or Village Board) before a hiring decision is made; in every case, the decision to hire an immediate family member or former spouse will be subject to Village Board approval, with notice, before the new employee is permitted to begin work. Marriage between two individuals already employed by the village or their relatives will not be considered a violation of this policy.

C. This section does not apply to nonelected officials who are asked to accept appointment as members of a village board, commission or committee; nonelected officials, however, will be expected to disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of their immediate family if currently employed or being considered for employment by the village.

§ 28-10. Employees covered by collective bargaining agreements.

In the event that an employee, covered under a collective bargaining agreement, is allegedly involved in an Ethics Code violation, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of §§ 28-1 through 28-12.

§ 28-11. Sanctions.

A determination that an employee's actions constitute improper conduct under the provisions of this chapter shall constitute a cause of suspension, removal from office or employment or other disciplinary action. Sanctions, including any disciplinary action that may affect employees covered under a labor agreement, will be consistent with the terms and conditions set forth in the applicable labor agreement.¹

¹ Editor's Note: Former § 28-12, Outside employment, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).