

## CHAPTER 30

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### ETHICS

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## **PART I. GENERAL PROVISIONS.**

### **30.01 Title.**

This ordinance may be referred to as the Ethics Code.

### **30.02 Purpose.**

The purpose of this ordinance is to establish guidelines and standards for ethical conduct by public officials in order to strengthen the confidence of the county's residents in their government; promote the public interest; prevent conflicts between public responsibilities and personal interests; and avoid actions that are incompatible with good government.

### **30.03 Declaration of Policy.**

- (1) The proper operation of a democratic and representative government requires that each public official be independent, impartial, and responsible to the people; that government decisions and policy be made within proper government channels; that public employment and public office not be used for improper personal gain; and that conflicts between public responsibilities and private interests be avoided. To that end, each public official is an agent of the public purpose and shall exercise his or her judgment for the benefit of the public.
- (2) Each public official is bound to uphold the United States Constitution and the Wisconsin State Constitution; to impartially carry out the laws of the nation, state, and county; to perform all official acts in accordance with the highest ethical standards; to faithfully discharge the duties of his or her office regardless of personal considerations; and to conduct all official actions in a manner that is above reproach so as to foster respect for all government.
- (3) The county recognizes that public officials are drawn from society and have personal and economic interests in the decisions and policies of government; that citizens who serve as public officials retain the right of every citizen to have interests of a personal and economic nature; and that the standards of ethical conduct for public officials must distinguish between minor and inconsequential conflicts that are unavoidable in a free society and those conflicts that are substantial, material, and incompatible with the conduct of good government.

### **30.04 Applicability.**

- (1) This ordinance applies to every county public official.

- (2) This ordinance is controlling except when superseded by a statutory provision and statutory action is mandatory.

### **30.05 Reservation of Rights.**

Nothing contained in this ordinance is intended to deny any individual any right granted by the United States Constitution, the Wisconsin State Constitution, the United States Code, the Wisconsin Statutes, or any county labor agreement.

### **30.06 Definitions.**

In this ordinance:

“Advisory opinion” means a statement issued by the ethics board at the request of a public official regarding the propriety of a matter that the public official is or may become a party to.

“Anything of value” means any admission, advance, employment, entertainment, favor, food, forbearance, gift, hospitality, loan, lodging, money, offer, pass, payment, promise, property, recreation, service, ticket, or travel offered or provided by a person other than the county. “Anything of value” does not include awards for meritorious contributions or personal or professional achievement; business-related seminars, trade shows, or training activities; a commercially reasonable loan from a bank or other financial institution; compensation or expenses authorized by the county board; compensation or expenses paid by the county; hospitality extended for a purpose unrelated to county business; political contributions reported pursuant to Wis. Stat. Ch. 11; reimbursement or payment of any expense that is authorized by the county’s travel policy; student loans and scholarship programs; and unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value.

“Associated” means that a public official, his or her spouse, his or her family, or any legal dependent is a director, employee, officer, or trustee of, or controls or owns, directly or indirectly, severally or in the aggregate, at least a 10 percent interest in, any association, body politic, charitable entity, corporation, enterprise, firm, franchise, joint venture, organization, partnership, proprietorship, trust, or other legal entity recognized under Wisconsin law.

“Complainant” means the person who files a verified ethics complaint.

“Confidential information” means information that a public official gains in the course of his or her official duties or by reason of his or her official position and that has been designated as confidential pursuant to code, order, ordinance, regulation, rule, statute, or other lawful authority.

“Contract” means an agreement between the county and another party or parties for construction, goods, materials, services, or supplies in exchange consideration.

“Domestic partner” means an individual who has signed and filed a declaration of domestic partnership in the office of the register of deeds of the county in which he or she resides.

“Economic interest” means a direct or indirect monetary or other material benefit to a public official; his or her spouse; his or her family; any legal dependent; any person that employs, retains, or otherwise compensates the public official for his or her services; or any organization other than the county with which the public official is associated.

“Employee” means a person who is employed by the county in a regular, temporary, or extra-hire position.

“Family” or “family member” means a person who is related to a public official as a child, parent, sibling, or spouse; grandchild or grandparent; brother-in-law, daughter-in-law, father-in-law, mother-in-law, sister-in-law, or son-in-law; or stepbrother, stepdaughter, stepfather, stepmother, stepsister, or stepson; who is the domestic partner or legal dependent of a public official; or who claims the public official as a legal dependent for tax purposes.

“Gift” means the delivery or receipt of anything of value without compensation or payment of an amount equivalent to the actual value of the thing. If the actual value cannot be determined, compensation or payment of a reasonable value is required.

“Judicial officer” means an administrative law judge, circuit court judge, court commissioner, hearing examiner, magistrate, or member of a quasi-judicial body, such as the Board of Adjustment.

“Person” means any association, body politic, charitable entity, corporation, enterprise, firm, franchise, joint venture, natural person, organization, partnership, proprietorship, trust, or other legal entity recognized as a person under Wisconsin law.

“Public official” means a person who is an agent, appointed official or officer, board member, candidate for elective office, commission member, committee member, council member, department director, elective official or officer, or employee.

“Respondent” means the public official against whom a verified ethics complaint is filed.

## **PART II. ETHICAL STANDARDS.**

### **30.07 Campaign Contributions.**

- (1) A public official may not require any person to make a campaign contribution as a condition for the public official’s performance of any official duty.

- (2) A public official may not use his or her position to influence any other public official to make political campaign contributions.
- (3) A public official may not require or coerce any other person to make a monetary contribution to or for the benefit of any candidate for elective office or any incumbent elective office holder.
- (4) This section does not prohibit a public official from contributing to his or her own campaign.
- (5) A candidate for any county office shall report all campaign contributions as required by the Wisconsin Statutes.

### **30.08 Confidential Information.**

- (1) A public official may not disclose confidential information without proper legal authorization.
- (2) A public official may not use confidential information for personal gain.

### **30.09 Conflict of Interest.**

- (1) A public official shall not use his or her position to obtain anything of value for the public official, his or her spouse, his or her family, any legal dependent, or any organization other than the county with which the public official is associated.
- (2) A public official who obtains an economic interest for the county shall report that economic interest to the comptroller and to the appropriate board, commission, committee, or council. The comptroller shall record such information in the official books of the county as may be required and the board, commission, committee, or council shall record the information in its minutes.
- (3) It is not a conflict of interest for a public official to be a member of or participate in the activities of an organization that uses the words "Manitowoc" or "Manitowoc County" in its name, but a public official may not use or make reference to his or her position in connection with such membership or while engaged in such activities without the express consent of the county board.
- (4) This section does not prohibit a public official from participating in the discussion of or taking official action on any matter in which the official has a generalized financial interest that is shared in common with the public or other public officials.

### **30.10 Contracts with County.**

- (1) A public official shall not, in a private capacity, negotiate, bid for, or enter into a contract in which the official has an economic interest if the official is authorized or required by law to participate in an official capacity in making the contract or to perform any official function in regard to the contract that requires the exercise of discretion.
- (2) A public official shall not, in a public capacity, participate in the making of a contract in which the official has an economic interest or perform any function in regard to the contract that requires the exercise of discretion.
- (3) The county board may waive the application of this section to a specific contract by a two-thirds vote of the entire county board.

### **30.11 Employment, Other Business Activity, and Service.**

- (1) A public official may not engage in employment, conduct other business activity, or render service for any private or public interest that is incompatible with the performance of his or her official duties.
- (2) A public official may not engage in employment, conduct other business activity, or render service for any private or public interest that conflicts with the performance of his or her official duties.
- (3) A public official may not engage in employment, conduct other business activity, or render service for any private or public interest that would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
- (4) A public official may not engage in employment, conduct other business activity, or render service for any private interest while the public official is engaged in the performance of his or her public duties.

### **30.12 Fair and Equal Treatment.**

A public official shall not grant any special advantage, consideration, or treatment to any citizen that is not available to every other citizen.

### **30.13 Gifts and Favors.**

- (1) A public official shall not accept, agree to accept, demand, or solicit anything of value from any person as a condition for the public official's performance of any official duty.

- (2) A public official shall not accept, agree to accept, demand, or solicit anything of value from any person that may tend to influence the official's judgment or the performance of his or her official duties.
- (3) A public official may not accept, agree to accept, demand, or solicit anything of value from any person who has any official business pending in which the public official may make or provide any advice, approval, audit, decision, disapproval, investigation, license, permit, recommendation, or other action requiring the exercise of judgment.

### **30.14 Influence Peddling.**

A public official shall not accept, agree to accept, demand, or solicit anything from any person in exchange for using his or her position, influence in government, or connections with persons in authority to obtain any advantage, favor, preferential treatment, or private benefit for himself, herself, or any other person.

### **30.15 Judicial Contact.**

A public official shall not directly contact any judicial officer regarding the conduct, merits, or procedures pertaining to a matter pending before the judicial officer unless the public official is a party to the proceeding and the contact is made in a manner that complies with the rules of the judicial forum in which the matter is pending or unless the contact is necessary in order for the public official to perform his or her official duties.

### **30.16 Legislation.**

A public official who has a personal or economic interest in any proposed action by the county board or any subunit of county government shall disclose the nature and extent of the interest in the record of the county board or the subunit of county government prior to or during the initial discussion of the proposed action if the public official participates in any discussion with, gives an official opinion regarding, makes a recommendation to the county board or any subunit of county government about, or takes any official action regarding the proposed action.

### **30.17 Permits and Licenses.**

A public official who is empowered to issue a discretionary permit or license under any ordinance, law, regulation, or rule shall not issue a permit or license to himself or herself, his or her spouse, his or her family, any legal dependent, or any organization with which the public official is associated until the public official has notified his or her immediate supervisor in writing of his or her intention to do so.

### **30.18 Personal Service.**

A public official shall not require another public official to perform any personal or private service or work for the benefit of the public official, his or her spouse, his or her family, any legal dependent, or any organization with which the public official is associated.

### **30.19 Political Activity.**

- (1) A public official shall refrain from participation in any political activity if the activity could reasonably be expected to create a conflict of interest, interfere with, or impair his or her independence of judgment or action in the performance of his or her official duties.
- (2) A public official may not engage in political activity on county property at any time, except that a public official may engage in political activity in any area that the county board has designated as a forum for political activity.
- (3) A public official shall not bring political campaign materials into a county building. This subsection section does not prohibit items such as campaign buttons on overcoats or purses if such items are not within public view while the public official is working.
- (4) A public official may not use any county equipment, material, supplies, or vehicle in support of political activity.
- (5) A public official who is an employee may not engage in political activity during the hours that he or she is scheduled to work unless the employee is off from work on approved leave.
- (6) A public official may not engage in political activity at any place where the public official performs his or her official duties except at a time when the place is available to all candidates.
- (7) A public official who is seeking elective office may use his or her county title in his or her campaign, and a public official who holds elective office may use his or her county title when endorsing a candidate for another elective office. Any other use by a public official of his or her county title for a political purpose is prohibited.
- (8) A public official may not require any person to assist, endorse, finance, or otherwise support any candidate for public office.
- (9) A public official may not retaliate against any person in any manner because of that person's lawful personal political activity.



- (10) This section does not prohibit any public official from engaging in political activity on the official's own time and at the official's own expense.
- (11) This section does not prohibit a public official from seeking elective office or making reference to his or her county employment or service in his or her campaign for office.
- (12) This section does not prohibit a public official from accepting employment or being involved with any political campaign if the campaign does not create a conflict of interest, interfere with, or impair his or her independence of judgment or action in the performance of his or her official duties.
- (13) This section does not deprive any law enforcement officer employed by the Sheriff's Department who is covered by Wis. Stat. ch. 164, the law enforcement officers' bill of rights, of any right granted by that statute.
- (14) This section does not prohibit the county clerk from assisting any candidate or prospective candidate for elective office in understanding the elective process.

### **30.20 Public Property.**

- (1) A public official may not permit or engage in the unauthorized use of any county equipment, material, property, resource, or vehicle for personal convenience or to engage in employment, conduct other business activity, or render any service for any private interest.
- (2) If a public official has engaged in employment, conducted other business activity, or rendered a service for any private interest that is permitted under this code, this section does not prohibit the public official from meeting with, or delivering goods to, a person on county property provided that the meeting or delivery takes place in a designated employee-only area or outside a county building.

### **30.21 Travel Expenses.**

- (1) A public official shall not accept reimbursement for any travel expense from, or permit any travel expenses to be paid for by, any person other than the county unless the reimbursement or payment is for an expense that is authorized by the county's travel policy.
- (2) A public official who accepts reimbursement for any travel expense from, or permits any travel expense to be paid for by, any person other than the county shall report the reimbursement or payment to the comptroller and to the appropriate board, commission, committee, or council. The public official shall provide the following information: the date of travel, the name of the traveler, the purpose of the travel, the name of the person

providing the reimbursement or payment; a description of each travel expense reimbursed or paid, including the amount of any reimbursement, and to whom the reimbursement or payment was made. The comptroller shall record such information in the official books of the county as may be required and the board, commission, committee, or council shall record the information in its minutes.

### **PART III. VOLUNTARY DISCLOSURE.**

#### **30.22 Disclosure of Potential Breach.**

- (1) A public official who determines that his or her actions in the performance of official duties may breach an ethical standard set by this code may prepare a written disclosure statement identifying the relevant standard and the nature of the potential or actual breach.
- (2) A public official who determines that his or her outside employment, other business activity, service for a private or other public entity, or membership in charitable, fraternal, political, religious, or social organization may breach an ethical standard set by this code may prepare a written disclosure statement identifying each relevant standard and the nature of the potential or actual breach.
- (3) If a public official who is an employee elects to submit a disclosure statement, he or she shall submit the statement to the county executive with a copy to his or her department director.
- (4) If a public official who holds elective office, who is a candidate for elective public office, or who is appointed to a board, commission, or council elects to submit a disclosure statement, he or she shall submit the statement to the county clerk for transmittal to the ethics board.

#### **30.23 Action upon Disclosure of Potential Breach.**

- (1) A public official who submits a disclosure statement must refrain from taking any further action that may breach an ethical standard set by this code and shall cooperate with the county by providing any information necessary to avoid or resolve the potential breach.
- (2) Upon receipt of a disclosure statement from an employee, the county executive and department director shall determine what action is necessary to avoid or resolve the potential breach, such as the reassignment of specific duties. The county executive may refer the matter to the ethics board for an advisory opinion or a recommendation.

- (3) Upon receipt of a disclosure statement from a public official, the ethics board may recommend such action as it deems appropriate to avoid or resolve the potential breach.
- (4) It is prima facie evidence of a public official's intent to comply with the ethical standards set by this code if the public official submits a disclosure statement, refrains from taking any further action that may breach the ethical standard identified in the disclosure statement, and complies with any remedial actions identified by the county executive or the ethics board.

#### **PART IV. ADMINISTRATION AND ENFORCEMENT.**

##### **30.24 Ethics Board.**

- (1) There is hereby created an ethics board.
- (2) Members.
  - (a) The ethics board will consist of 3 regular members and 1 alternate member, each of whom will be appointed by the county executive and subject to confirmation by the county board.
  - (b) A member must be a resident of the county at the time he or she is appointed and at all times during his or her term.
  - (c) A member may not be a county public official at the time he or she is appointed or any time during his or her term.
- (3) Term and Replacement.
  - (a) Each regular member will be appointed for a 3-year term and the terms will be staggered so that one member is appointed each year.
  - (b) The alternate member will be appointed for a 3-year term and shall serve whenever a regular member is unavailable.
  - (c) If a member vacates his or her position prior to the completion of his or her term, a new member will be appointed to serve the balance of the term.
  - (d) A member shall recuse himself or herself from hearing any matter for which the member petitions the ethics board for advice or for a hearing regarding his or her own conduct. If the alternate is unavailable to hear the matter, the county executive shall appoint a substitute member. The appointment is subject to the approval of the executive committee and will be limited to hearing the matter from which the regular member has recused himself or herself.

- (4) Operation.
  - (a) The ethics board may promulgate written rules of procedure which will be filed with the county clerk.
  - (b) The corporation counsel shall serve as legal counsel to the ethics board and the office of the corporation counsel will provide the ethics board with any necessary support services.
- (5) Quorum and Voting Requirement.
  - (a) Three members are required for a quorum.
  - (b) A majority vote of the board is required for any action, except that a referral to the corporation counsel or district attorney for prosecution requires a unanimous vote.
- (6) Duties.

The ethics board may render advisory opinions, receive and review complaints, make preliminary dispositions, conduct hearings, make recommendations, refer matters to the corporation counsel or district attorney for prosecution, void actions taken in violation of this chapter, and make recommendations to the county board for amendments to the ethics code.

### **30.25 Advisory Opinions.**

- (1) A public official who is subject to this chapter may request an advisory opinion from the ethics board on any matter relating to the public official's duties by submitting a written request to the office of the corporation counsel, but a request should be made only after the public official has given the question careful consideration.
- (2) The following guidelines should be observed when requesting an opinion:
  - (a) The request should clearly and fully state the question being presented for an opinion.
  - (b) The request should fully state the facts giving rise to the question presented.
  - (c) The request should identify any information that the requestor is aware of that is relevant to the question presented. This includes identifying any specific administrative codes, guidelines, ordinances, regulations, or statutes that are relevant and any authorities or other sources that have been consulted and the responses received.

- (d) The request should include a copy of any document that will need to be reviewed in order to respond to the request.
- (3) The corporation counsel shall forward a copy of the request to the ethics board within 5 days of its receipt.
- (4) The ethics board shall convene to consider the request within 30 days of the date it is forwarded by the corporation counsel. The ethics board will convene in open session, but its consideration of the request will take place in a closed session. The ethics board shall provide a written opinion. The ethics board may direct the corporation counsel to prepare the advisory opinion for signature by the ethics board's chair.
- (5) The request for an advisory opinion, the record of the ethics board's proceedings, and the advisory opinion are deemed confidential and shall not be made available for public inspection. However, the ethics board may make the request, the record of its proceedings, and the advisory opinion public with the consent of the public official who made the request.
- (6) The ethics board may provide a public summary of any advisory opinion provided that the summary does not disclose the identity of the public official who requested the opinion.
- (7) A public official who receives an advisory opinion shall be guided by the opinion rendered.

### **30.26 Complaints.**

- (1) Any person may file an ethics complaint by submitting a verified complaint form to the office of the corporation counsel. Complaint forms will be available in the offices of the corporation counsel and the county clerk.
- (2) The verified complaint must be based on personal knowledge and must include the following information:
  - (a) name, address, and telephone number of the person filing the complaint;
  - (b) name of the public official who is alleged to have violated the ethics code;
  - (c) specific section of the ethics code that the public official is alleged to have violated;
  - (d) date or dates of the alleged violation;
  - (e) brief description of the conduct that is alleged to violate the ethics code;

- (f) date of the complaint; and
  - (g) notarized signature of the person filing the complaint.
- (3) The verified complaint must be filed within 180 days of the date of the alleged violation. The filing deadline may be subject to equitable tolling, equitable estoppel, or waiver if the complaint includes a statement of the reason for the filing delay.

### **30.27 Preliminary Procedure.**

- (1) The corporation counsel shall review the complaint to assure that it meets all procedural and technical requirements. If the complaint is defective, the corporation counsel shall notify the complainant of the defect within 10 days of receipt of the complaint. The complainant must correct the defect within 30 days of the date of the notice or the complaint will be administratively closed.
- (2) The corporation counsel shall forward a copy of the complaint to the ethics board and to the public official named in the complaint within 5 days of its receipt.
- (3) The public official named in the complaint shall submit a written response to the office of the corporation counsel within 10 days of his or her receipt of a copy of the complaint. The public official's written response may include a request that the hearing be held in closed session.
- (4) The corporation counsel shall provide a copy of the public official's written response to the ethics board within 5 days of its receipt.
- (5) The corporation counsel shall contact the members of the ethics board to schedule a hearing. The ethics board shall, within 30 days of the date that the complaint is forwarded by the corporation counsel, determine the earliest practicable hearing date. The corporation counsel will promptly notify the complainant and the respondent of the hearing date. Both parties have a duty to cooperate in scheduling the hearing at the earliest practicable date, but either party may, for good cause shown in writing, request a different hearing date. A request to change the hearing date must state the reason for the request and indicate the dates on which the person making the request is available to participate in the hearing.
- (6) The corporation counsel shall prepare a public meeting notice for the hearing. If the public official has requested that the hearing be held in closed session, the public official's name will not be included in the meeting notice and public access to records pertaining to the complaint shall be restricted in accordance with Wis. Stat. § 19.35.

### **30.28 Hearing.**

- (1) The ethics board shall convene on the scheduled hearing date. If the ethics board determines that the allegations, if true, would constitute improper conduct under this chapter, it shall conduct a hearing.
- (2) The ethics board may conduct a closed hearing, unless the respondent requests that the hearing be open to the public.
- (3) The ethics board has the power to issue subpoenas pursuant to Wis. Stat. § 885.01 to require the attendance of witnesses and the production of documentary evidence at the hearing.
- (4) The ethics board shall conduct the hearing in accordance with the rules of civil procedure and shall keep a record of the hearing and all evidence that is admitted at the hearing.
- (5) The complainant and respondent shall each have an opportunity to present and cross-examine witnesses, introduce and examine evidence, and rebut or offer countervailing evidence.
- (6) The burden of proof is on the complainant to establish any alleged violation of this ordinance by clear, convincing, and satisfactory evidence.

### **30.29 Deliberation.**

The ethics board shall convene in closed session following the hearing for the purpose of deliberation on the evidence.

### **30.30 Disposition.**

- (1) The ethics board shall issue a written decision. The ethics board may direct the corporation counsel to prepare the decision for signature by the ethics board's chair.
- (2) If the ethics board determines that the complaint was brought for the purpose of harassment, it shall include that finding in its decision.
- (3) The ethics board shall dismiss the complaint if it determines that evidence does not establish a violation of this ordinance by clear, convincing, and satisfactory evidence.
- (4) The ethics board shall refer the complaint to the corporation counsel for prosecution if it determines that the evidence establishes a violation of this ordinance by clear, convincing, and satisfactory evidence or if it finds that the complaint was brought for

the purpose of harassment. Alternatively, the ethics board shall refer the complaint to the district attorney for prosecution if it determines that the evidence establishes a violation of state law by clear, convincing, and satisfactory evidence.

- (5) Whenever a complaint is referred for prosecution, the ethics board shall make the verified complaint, its record, and its determination available to the corporation counsel or the district attorney, but the determination is not admissible as evidence in any court.
- (6) The ethics board may assess a forfeiture against a complainant or respondent who fails to appear for a hearing in an amount not less than \$250 nor more than \$1,000.

### **30.31 Violations.**

- (1) It is unlawful for a person to violate any provision of Part II, Ethical Standards.
- (2) It is unlawful for any person to file a complaint for the purpose of harassment, knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a county agent, board, commission, committee, department, employee, officer, or official acting in an official capacity under this ordinance.
- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.
- (4) A separate offense is deemed committed on each day that a violation occurs or continues.

### **30.32 Penalties.**

- (1) A person will, upon conviction for a violation of this ordinance, forfeit not less than \$25 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation.
- (2) The minimum forfeiture specified in this section is doubled for a person who is convicted of violating the same provision of this ordinance within a 24-month period.
- (3) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.



## HISTORY

02/28/2011: Chapter 30 created by Ord. No. 2010/2011-79 effective March 1, 2011.

10/08/2013: Secs. 30.27(1), (2), and (3) renumbered; secs. 30.26(3), 30.27(1), 30.27(5), 30.27(6), and 30.30(6) created; and secs. 30.28(1), 30.30(4), and 30.31(2) amended by Ord. No. 2013/2014-57 effective October 21, 2013.

03/06/2017: Typographical corrections made to Table of Contents.