

Title I – Chapter 5

Ethics

§ 5.01 Code of Ethics

§ 5.02 Ethics Board

Appendix “A”

Appendix “B”

5.01 **Code of Ethics.**

(1) Definitions.

- (a) “Anything of value” means any gift, money or property, favor, service, payment, advance, forbearance, loan, hospitality, or promise of future employment for any public official or the public official's immediate family if it could reasonably be expected to influence the local public official's vote, official action or judgment, or could reasonably be considered to be a reward for any official action or inaction §§ 19.59(1)(b), Stats. Excluded from this definition are seasonal, anniversary, or customary gifts among immediate family members or friends, hospitality unrelated to Village business, and all political contributions that are reported under Chapter 11, Wisconsin Statutes.
- (b) “Associated”, when used with reference to an organization, means any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity.
- (c) “Business” means any corporation, partnership, proprietorship, firm, enterprise, franchise, or association, organization, self-employed individual or any other legal entity that engages in profit making activities.
- (d) “Village” means the Village of Poynette.
- (e) “Financial interest” means any interest which shall yield, directly or indirectly, a monetary or other material benefit to a public official.
- (f) “Ethics Board” means the board created in Section 5.02.
- (g) “Immediate family member” means an individual's spouse or domestic partner, or an individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

(h) “Public officials” means the following persons:

1. Elected and appointed officials of the Village of Poynette.
2. The Village Administrator.
3. All members of Village committees, commissions, subcommittees, ad hoc committees, and boards.

(i) “Organization” means any public or private, profit or non-profit, religious, educational, charitable or political organization or entity with the exception of governmental bodies.

(j) “Personal interest” means any interest involving relationships with immediate family members or close business or political relationships, whether or not any financial interest is involved.

(k) “Verified” means to confirm or substantiate by Oath or Affidavit.

(2) Declaration of Policy.

(a) 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 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 a Code of Ethics for all Village of Poynette officials, whether elected or appointed, paid or unpaid, including members of boards, committees, and commissions of the Village. (§§19.59)

(b) The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all officials, to set forth those acts or actions that conflict with the best interests of the Village and conflict with or are incompatible with the proper discharge of duties and required independence of judgment, and to direct disclosure by such officials of private financial or personal interests in matters affecting the Village. The Village Board believes that a Code of Ethics for the guidance of officials will help them avoid conflicts between their personal interests and their professional 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.

(c) The Village Board hereby reaffirms that each official holds his or her position as a public trust and any intentional effort to realize personal gain through official conduct is a violation of that trust. The provisions and purpose of this Code of Ethics are hereby declared to be in the best interests of the Village of Poynette.

- (d) This Code of Ethics does not cover public employees, except for the Village Administrator. Employees are to follow the guidelines found in the Village of Poynette Employee Manual.
- (3) Statutory Standards of Conduct. There are certain provisions of the Wisconsin Statutes that should 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 a part of this Code of Ethics and shall apply to all public officials whenever applicable:
- (a) Section 19.59, Codes of ethics for local government officials, employees and candidates
 - (b) Section 946.10, Bribery of Public Officers and Employees
 - (c) Section 946.11, Special Privileges from Public Utilities
 - (d) Section 946.12, Misconduct in Public Office
 - (e) Section 946.13, Private Interest in Public Contract Prohibited
 - (f) Section 946.14, Purchasing Claims at Less Than Full Value
 - (g) Section 946.15, Public Construction Contracts at Less Than Full Rate.
- (4) Responsibility of Public Office. Public officials 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 the State of Wisconsin and to carry out impartially the laws of the nation, state, and Village. They are bound to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. They shall not exceed their authority or breach the law or ask others to do so, and shall reasonably cooperate with others unless prohibited from doing so by law or by officially recognized confidentiality of their work.
- (5) Standards of Conduct for Public officials.
- (a) Use of office or position. No public official may use or attempt to use his or her position or office to obtain financial gain or anything of value or any advantage, privilege or treatment for the private benefit of himself or herself or his or her immediate family, or for an organization or business with which he or she is associated. This paragraph does not prohibit a public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by Chapter 11, Wisconsin Statutes.

- (b) Disclosure of conflict of interest. Every public official prior to assuming his/her duties is required to file a statement that the person knows of no personal or financial interest which might disqualify the person from holding and/or exercising the duties of the office. A public official who has a financial interest or personal interest in any proposed legislation or resolution before the Village Board, or any board, commission, or committee upon which the public official is also a member or has any influence or input, shall disclose on the records of the Village Board, or the appropriate board, commission, or committee, the nature and extent of such interest.
- (c) Limitations on actions. In addition to the provisions of Section 5.01(5)(a):
1. No public official may participate in debate or vote for adoption or defeat of any legislation or resolution with which he or she has a financial interest or personal interest.
 2. No public official may take any official action affecting, directly or indirectly, a matter in which he or she, a member of his or her immediate family, or an organization or business with which he or she is associated, has a financial or personal interest.
 3. No public official may use his or her office or position in a way that produces, or assists in the production of, a benefit, direct or indirect, for him or her, a member of his or her immediate family, either separately or together, or an organization or business with which the public official or his or her immediate family member is associated.
 4. With regard to any matter before the Village Board, another board, commission, or committee involving a member's personal interest with persons involved, the member shall not participate as a member of the official body in debate, discussion, or vote on the matter. However, a member who has recused him/herself and physically removed him/herself from the official body may participate in discussion as a member of the public or as a petitioner.
 5. Representing Private Interests Before Village Agencies or Courts. A public official who has recused him/herself from the official body may appear on behalf of any business, organization, or individual before any board, commission, or committee of the Village. A public official shall not represent an individual with whom the public official has a personal interest in any action or proceeding against the Village. This paragraph shall not be construed as prohibiting the appearance of officials when subpoenaed as witnesses by parties involved in litigation which also may involve the Village of Poynette. An elected public official may appear before Village Boards, Commissions, and Committees to represent the public interest in the course of her/his duties as a representative of the electorate.

6. Ad Hoc Committee. It shall not be a violation of this Section, however, when an individual serves on an ad hoc committee charged with the responsibility of addressing an 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 Ethics Committee that such interest exists.
- (d) Public Privileges. Notwithstanding anything in this Ethics Code to the contrary, a public official shall not be precluded from any privilege, anything of value, special consideration, treatment, or advantage that is available to every other citizen.
- (6) Use of Village Property. No public official shall use, or permit the use of, Village owned vehicles, equipment, materials or property, except when the vehicles, equipment, materials or property are: (a) used for official Village business; (b) available to the public generally; or (c) used pursuant to Village Board authorization.
- (7) Disclosure of Information.
- (a) No public official may use or disclose non-public or confidential information gained in the course of or by reason of his or her official position or activities that could result in the receipt of anything of value for himself or herself, for a member of his or her immediate family, or for any other person or entity.
- (b) No public official may disclose in any fashion any information made available, disclosed, discussed, debated or acted upon in a closed session of any meeting of the Village board or other Village commission, committee or governmental body, except as otherwise required by law or court order.
- (8) Receipt of Anything of Value.
- (a) Except as allowed under Section 5.01(5)(d), no public official, personally or through a member of his or her immediate family, may solicit or accept or expend, either directly or indirectly, anything of value that is advanced, paid, or donated by or on behalf of any person, business, or other entity having any financial interest or personal interest in any legislation or matter that is, or may be, considered by the Village Board.
- (b) Without first having obtained approval from the Finance Committee and Village Board, no public official shall receive and retain from the Village or on behalf of the Village, transportation, lodging, meals, food or beverage, or reimbursement therefore unless the same were incurred or received primarily for the benefit of the Village.
- (c) Participation by public officials in celebrations, grand openings, open houses, and similar events are excluded from the prohibition on the receipt of anything of value. This prohibition shall not be construed to prevent public officials who are candidates

for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

- (d) Any public official who becomes aware that he or she is, or has been, offered anything of value, the acceptance of which would constitute a violation of this Ethics Code or Wisconsin Statutes, shall, within ten (10) days, disclose the details surrounding said offer to each member of the Village Board and the members of the Ethics Board (Section 5.02). Failure to comply with this reporting requirement shall constitute a violation of this Section. Disclosed information may be referred to the County District Attorney's office as appropriate under Wisconsin Statutes.

5.02 **Ethics Board.**

(1) **Establishment**

- (a) There is hereby established an Ethics Board to consist of members who shall serve without any compensation from the Village.
- (b) The membership of the Ethics Board shall consist of four (4) citizen members, one (1) representative of the Village Board, who shall be a Trustee, and two (2) citizen alternates. The Village Clerk shall provide necessary staff assistance to the Ethics Board, shall serve as its secretary, but shall not vote. The Village Attorney shall attend all hearings held by the Board and shall furnish the Board legal assistance as necessary in the carrying out of its functions.
- (c) A quorum of the Ethics Board shall consist of at least three members for routine administrative meetings and five members for Hearings.

(2) **Appointments; Terms.**

- (a) The members of the Ethics Board shall be appointed by means of the process established in Title I Section 3.01 (Committees in General).
- (b) The citizen members may not be public officials as defined in Section 5.01(1)(h).
- (c) All citizen members shall serve for a term of three years, except that when the initial appointments are made, two (2) of the citizen members shall serve for three years, and two (2) of the citizen members shall serve for two years.
- (d) The term of any Trustee appointed to the Ethics Board shall expire with the expiration of his or her term as a Trustee and they may not be appointed to the Ethics Board for one year following the expiration of his or her term of office. No Trustee may serve as a member of the Ethics Board for more than two consecutive years.

- (e) At such time as any citizen member becomes a public official, they shall no longer be eligible for appointment to the Ethics Board, unless as the chosen representative of the Village Board.

(3) Duties. The Ethics Board shall:

- (a) The Ethics Board shall elect its own chairperson annually at the first meeting following May committee appointments.
- (b) The Chairperson of the Ethics Board shall preside at hearings or other official actions held by the Board. In the Chairperson's absence the Clerk of the Ethics Board shall call the meeting to order and preside until the Board shall, by motion, select an acting Chairperson for the meeting.
- (c) The Ethics Board shall maintain written procedures for the conduct of ethics hearings.
- (d) Administer and enforce the provisions of the Ethics Code.
- (e) Issue advisory opinions.
- (f) Issue subpoenas, administer oaths, and investigate violations of the Ethics Code upon its own motion or the complaint of any person.
- (g) determine and impose sanctions.
- (h) develop and make recommendations to the Village Board regarding amendments to the Ethics Code.

(4) Advisory Opinions.

- (a) A public official may request that the Ethics Board issue an advisory opinion regarding the propriety of any situation in which the public official is or may become involved. The request may provide the public official's opinion related to the situation, with specific reference to whether the situation violates the provisions of the Ethics Code. The Ethics Board shall review the request and provide an advisory opinion to the person making the request. The Ethics Board may authorize the Village Attorney to act on its behalf in instances where a delay is of substantial inconvenience or detriment to the requesting party. It shall be considered evidence of intent to comply with the Code of Ethics when a person refers a matter to the Ethics Board and abides by the advisory opinion, if the material facts are as stated in the opinion request. Advisory opinions and requests shall be in writing.
- (b) The identity of the person requesting an advisory opinion is confidential, and the Village Attorney or a member of the Ethics Board cannot reveal the person's identity. However, the Ethics Board or Village Attorney replying to a request for an advisory opinion may make the opinion public with the consent of the individual

requesting the advisory opinion, or may issue a public summary of an advisory opinion after sufficiently altering the summary to prevent disclosing the identities of individuals involved in the opinion. If a person makes public the substance or any portion of an advisory opinion requested by or on behalf of that person, he or she waives the confidentiality of the request and of any records connected to the request for an advisory opinion. (§§19.59(5))

(5) Complaints.

- (a) If a complaint is filed against any member of the Ethics Board, other than the designated representative of the Village Board, the Village Board shall hear the complaint, acting as the Ethics Board and following the same rules, procedures, and precedents of the Ethics Board.
- (b) If a complaint is brought under this Section against the designated representative of the Village Board serving on the Ethics Board, a panel of three (3) persons shall hear the complaint. The Village President shall select one panel member, the Village Board shall select one panel member, and those selected persons shall select the third panel member. No panel member under this subsection may be a public official. Panel members shall serve without compensation.
- (c) The Ethics Board and the Village Board, when acting as the Ethics Board under the provisions of Section 5.02(5)(a) and the panel described in Section 5.02(5)(b), may request that the Village Attorney issue subpoenas to collect information relevant to the complaint.
- (d) If the complaint indicates that State statutes have been violated, the Ethics Board may forward a copy of the complaint to the Columbia County District Attorney.
- (e) No action shall be taken on any complaint that is filed later than three (3) years after a violation of the Code of Ethics is alleged to have occurred.

(6) Procedures.

- (a) The Ethics Board shall accept from any person a verified written complaint, relating to the Code of Ethics. Such complaint shall specify the activities of such public officials which are alleged to be in violation of the Code of Ethics, and shall specify the part of the Code of Ethics that has been violated. Specialized Complaint Forms may be used, but are not required. The form is available from the Village Hall.
- (b) Within ten (10) days of receipt of an unverified complaint, the Ethics Board shall contact the complainant to have the complaint verified.
- (c) Incomplete Verified Written Complaints shall be accepted, however the Ethics Board may contact the complainant for more information before acting on the complaint.

- (d) Due Process. The Ethics Board within ten days after receipt of a verified written complaint shall notify the public official accused in such complaint of the existence of the complaint, provide a copy of the Village Code of Ethics and inform the public official of their right to legal council. The public official has an opportunity to provide an answer to the complaint within 14 days from receipt of the complaint. The Ethics Board shall thereafter, in closed session, determine whether the facts stated in the complaint, if true, would constitute a violation of this Ethics Code.
- (e) If the Ethics Board determines that the facts would not constitute a violation, it shall dismiss the complaint and notify the accused public official, the complainant, and such other persons as the Ethics Board determines to have an interest.
- (f) If the Ethics Board determines that the facts would constitute a violation, it shall hold a hearing using the following procedures:
 - 1. Notice of the determination and notice of hearing and a copy of the complaint shall be sent to the accused public official by certified mail at his or her last known post office address.
 - 2. Such hearing shall be held within 60 calendar days of the date the Ethics Board's notice of determination and hearing is mailed to the accused public official.
 - 3. The hearing shall be held in open session before the Ethics Board. Alternatively, hearings may be held in closed session in accordance with the requirements of Wis Statutes §§ 19.59, Codes of ethics for local government officials, employees and candidates, and 19.85 Exemptions, [to requirements for open meetings]. The Village Attorney shall act as counsel to the Ethics Board. The accused may be represented by private counsel.
 - 4. The hearing shall be held in accordance with the "Hearing procedures" outlined in Appendix "A"
 - 6. The accused may file a written brief relating to the hearing and the complaint with the Ethics Board within 10 days of the hearing.
- (g) Within 30 days of the completion of the hearing and the filing of briefs, if any, the Ethics Board shall make a written determination as to the existence of a violation of the Ethics Code by the accused public official. It shall also make a written statement as to what action, if any, should be taken to discipline such public official, or what sanctions to impose. A copy of the written determination shall be mailed by certified mail to the public official. Copies shall also be delivered to the Village Board in the same manner as a report of a standing committee.
- (h) The Ethics Board may compromise or settle any actual or complained of violation of the Ethics Code. Whenever the Ethics Board enters into a settlement agreement with an individual who is accused of a violation of this chapter, the Village Attorney

shall reduce the agreement to writing, together with a statement of the board's findings, and reasons for entering into the agreement. The statement and agreement shall be retained in Village records for inspection by the public. Copies shall also be delivered to the Village Board in the same manner as a report of a standing committee.

(7) Sanctions.

(a) If the Ethics Board determines that a violation of the Ethics Code has occurred, its finding of fact and conclusions may contain one or more of the following orders or recommendations:

1. An order requiring the accused to forfeit a penalty not to exceed \$1,000 for each violation. Any sanctions imposed by the Ethics Board shall be applied in addition to any other applicable penalties. (§§ 946.10-946.15)
2. If the Ethics Board determines that the accused has realized economic gain as a result of the violation, an order requiring the accused to forfeit the amount gained as a result of the violation.

(b) The Ethics Board may make a recommendation to the Village Board as to other sanctions regarding the accused, under State statutes or Village ordinances.

(c) Any violation of the Ethics Code should raise conscientious questions for the public official as to whether voluntary resignation or other action is necessary to promote the best interests of the Village of Poynette.

(8) Frivolous Complaints. To preserve the integrity of the Ethics Code and protect public officials from any intentional effort to defame them or unfairly hinder their ability to perform their professional responsibilities, the Ethics Board may develop written guidelines for determining, deterring, and punishing any person found to have brought a frivolous complaint.

Appendix "A"

HEARING PROCEDURES

1. Call the meeting to order. All proceedings shall be taken in full by a stenographer or by a recording device, the expense thereof to be paid by the Village. The Board may order that the notes are transcribed, and in case of an appeal or other court proceedings they shall be transcribed. If a recording device takes the proceedings, the Clerk shall keep a list of persons speaking in the order in which they speak.
 - a. A quorum consisting of 5 primary or alternate members must be present to conduct a hearing.
 - b. If a quorum is not present for a scheduled hearing, those members present shall establish an alternate date for the hearing.
2. Approve minutes from prior meeting (if necessary).
3. Explain purpose for meeting.
 - a. Enter the complaint into the record as Exhibit 1. (If the complaint is short, it may be read. If the complaint is long, it may be summarized.)
 - b. Confirm with the accused that he or she:
 - (1) Was given a copy of the written complaint prior to the hearing. Identify date received.
 - (2) Was given a copy of Title I Chapter 5 of the Village Code (Code of Ethics and Ethics Board) and of these Procedures. Identify date received.
 - (3) Was notified of his or her right to be represented by an attorney at the hearing. (This right should have been identified in the notice of determination and hearing sent to the accused. The notice letter should be entered into the record as Exhibit 2.)
4. Enter any other exhibits into the record, such as the public official's answer to the complaint.
5. Ask whether there is any board primary or alternate member who has prior knowledge and is biased or has an interest in the matter and could not make a decision based on the facts presented at the hearing. Any board member answering "yes" should withdraw. (Note responses for the hearing record.)

6. Advise: The hearing before the Board is not a court of law. Accordingly, the rules of evidence will not be strictly enforced and the Board will consider all relevant testimony presented by the parties. Indicate that the Board wishes to make the most fully informed decision possible based upon all of the evidence presented. Objections may be made, ruled upon, and noted for the record.
7. All witnesses will be sworn. (This can be done at one time for all witnesses.)
8. Give the complaining party an opportunity to explain the event(s) and the information contained in the complaint.
9. Give the accused an opportunity to ask questions of the complaining party.
10. Give the Ethics Board, by its members or through its attorney, an opportunity to ask questions of the complaining party.
11. Give other witnesses providing testimony related to the complaint an opportunity to testify.
12. Give the accused an opportunity to ask questions of any witnesses providing testimony related to the complaint.
13. Give the Ethics Board, by its members or through its attorney, an opportunity to ask questions of any witnesses providing testimony related to the complaint.
14. Give the accused an opportunity to testify and/or call witnesses and submit evidence relevant to the alleged ethics violation.
15. Give the complaining party an opportunity to ask questions of any witnesses.
16. Give the Ethics Board, by its members or through the Village attorney, an opportunity to ask questions of any witnesses.
17. Give the parties a chance to make closing comments.
18. At the closing of the hearing, the Ethics Board should meet to consider all relevant testimony and evidence. The Ethics Board must consider only the evidence presented. The Ethics Board may convene into closed session pursuant to Wis. Stat. § 19.85(1)(a) to deliberate concerning a case which was the subject of a quasi-judicial hearing before the Ethics Board.

Appendix "B"

Village of Poynette Ethics Board Ethics Complaint Form

Please read the following instructions completely before completing your Ethics Complaint Form.

1. Print all information except for your signature.
2. A copy of the Village of Poynette Code of Ethics may be obtained from the Village Hall or at www.poynette-wi.gov.
3. Provide as much detailed information about the alleged misconduct as you can, including relevant dates, times and places; identify any known witnesses.
4. Attach any pertinent documents in your possession regarding the specific incident. Include witness statements and other documents, materials, minutes or resolutions you feel directly relate to your complaint. Submit copies only - keep the originals in your possession.
5. Once complete, **have the document notarized by a Notary Public of the State of Wisconsin**. The document must be signed in front of the Notary Public and include their official seal. (Notaries Public are available at the Village Hall at no charge)
6. Make a copy of your Ethics Complaint Form and keep the copy for your personal records.
7. Complete Complaints may be submitted to the Ethics Board by mail or in person at Poynette Village Hall, PO Box 95, 106 S. Main Street, Poynette, WI 53955.

Please Provide Your Personal Information:

Name:

Phone:

Address:

Please Identify The Person You Are Making This Complaint Against:

Name:

Phone:

Address:

Please specify the activities of the public official which you allege violate the Code of Ethics or Wisconsin Statutes and provide details regarding your complaint (attached additional pages if necessary):

Please Identify Specific Poynette Ethics Codes or Wisconsin State Statutes You Feel Have Been Violated:

Please List Any Documents, Materials, Minutes, or Other Evidence That Support Your Allegations (include copies of these documents with your complaint if possible):

This section must be completed in front of a Notary Public:

I, _____, being first duly sworn, on oath, state that the contents contained in the above complaint are known to me to be true except for those allegations stated on information and belief, which I believe to be true. Sign Here:

Sworn to and subscribed before me this

_____ day of _____, 20 _____

Wisconsin Notary Public
My commission expires:

Effective 06/07 SF