

CHAPTER 5

ETHICS CODE FOR CITY OFFICIALS AND DESIGNATED CITY EMPLOYEES

[History: Ord 2010-11]

5.01 Statement of Purpose.

(1) 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 City of Richland Center officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the City, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City.

(2) 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 City of Richland Center and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. The Common Council 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 City in their elected and appointed officials and employees. The Common Council hereby reaffirms that each elected and appointed City 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 are hereby declared to be in the best interests of the City of Richland Center.

5.02 Persons to whom this chapter applies. This chapter shall apply to the following public officials and public employees of the City of Richland Center: Mayor, Alderpersons, Members of City boards, commissions or committees, City Clerk/Treasurer, Deputy City Clerk/Treasurer; Chief of Police; any non-union employee of the police department and all non-union City department heads.

5.03 Definitions. The following definitions shall be applicable to terms used in this Chapter:

(1) **Anything of Value:** Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and/or expenses paid by the City or hospitality extended for a purpose unrelated to City business by a person other than an organization..

(2) **Associated:** When used with reference to an organization, includes 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% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

(3) **Business:** Any sole proprietorship, corporation, partnership, limited liability company, firm, enterprise, franchise, association or any other legal entity which engages in profit-making activities.

(4) **Financial Interest:** Any interest which shall yield, directly or indirectly, a monetary or other material benefit to a shareholder, member, officer or employee of a business entity or to any person employing or retaining the services of the officer or employee.

(5) **Gift:** The payment or receipt of anything of value without valuable consideration.

(6) **Immediate Family:** Any person having the following specific blood or marriage relationship to the City official or City employee: spouse, mother, father, child, brother or sister or a spouse of any of such person.

(7) **Organization:** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association trust or other legal entity other than an individual or body politic.

(8) **Personal Interest:** Any interest of a City official or City employee in his or her own right or of any person having the following specific blood or marriage relationship to the City official or City employee:

- (a) A person's spouse, mother, father, child, brother or sister or a spouse of any of such persons; or
- (b) A person's relative by blood or marriage who receives, directly or indirectly, more than one-half (1/2) of his or her support from such person or from whom such person receives, directly or indirectly, more than one-half (1/2) of his or her support.

(9) **Public Employee:**

- (a) Any person excluded from the definition of a public official who is employed by the City.
- (b) Public employee is synonymous with City employee herein and the terms may be used interchangeably.

(10) **Public Official:**

- (a) A person serving in statutory elected or appointed offices provided for in Chapter 62 of the Wisconsin Statutes
- (b) All members appointed to City boards, commissions and committees established or appointed by the Mayor and/or the Common Council pursuant to the City Code of Ordinances, whether paid or unpaid.
- (c) Public official is synonymous with City official herein, and the terms may be used interchangeably.

5.04 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 a part of this Code of Ethics and shall apply to public officials and public employees whenever applicable, to wit:

- (1) Sec. 19.59 Codes of Ethics for Local Governmental Officials.
- (2) Sec. 946.10 Bribery of Public Officers and Employees.
- (3) Sec. 946.11 Special Privileges from Public Utilities.
- (4) Sec. 946.12 Misconduct in Public Office.
- (5) Sec. 946.13 Private Interest in Public Contract Prohibited.

5.05 General Statement of Responsibility of Public Office. Public officials and public

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.

5.06 Dedicated Service Standard.

(1) City officials and City employees are expected to perform dedicated service to the city and its citizens.

(2) City officials and City 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 they are prohibited from so doing by law or by the confidential nature of the matter they are working on. If there is a question in the official or employee's mind as to confidentiality, they should assume confidentiality until informed otherwise by the Mayor or City Attorney.

(3) Members of the City staff are expected to follow their appropriate professional code of ethics, if one exists.

5.07 Fair and Equal Treatment.

(1) **Unauthorized Use of Public Property.** No City official or City employee shall use or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to members of the public generally.

(2) **Obligations to Citizens.** No City official or City employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen similarly situated. No City official or City employee shall use or attempt to use his or her position with the City to secure from the City any advantage, preference or gain, over and above his rightful remuneration and benefits from the City, for himself or for a member of his or her immediate family. The foregoing shall not be deemed to prohibit the Common Council from negotiating or approving special consideration to an individual or entity as part of a contractual agreement with the City where the agreement has a specific benefit to the City unique to the contractual agreement.

(3) **Political Contributions.** No City official shall solicit from any City employee, other than from an elected official, a contribution to a candidate or political campaign committee for which the person subject to this Chapter is a candidate or treasurer.

5.08 Conflicts of Interest.

(1) Financial and Personal Interests Prohibited.

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This paragraph does not prohibit a local 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 ch. 11 Wis. Stats.. [19.59(1)(a)]

(b) No local public official may take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is

associated has a substantial financial interest. [19.59(1)(c)1]

(c) No local public official may use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated. This paragraph 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, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance. [19.59(1)(c)2 and (d)]

(a) No City official or City employee, whether paid or unpaid, shall:

1. Participate in or perform any discretionary action with respect to a matter in which he or she has a substantial financial interest or other personal interest which is incompatible with the proper discharge of his or her official duties.

2. Directly engage in any business or transaction with the City contrary to the provisions of this Chapter or which would be reasonably likely to impair the official or employee's independence of judgment or action in the performance of his or her official duties.

(b) The Mayor or any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall, before the commencement of debate on the subject matter, disclose on the record of the Common Council the nature and extent of such interest, and such member shall not participate in debate or vote for adoption or defeat of such legislation unless the City Attorney or the majority of the Common Council affirmatively determines that such interest is of insufficient magnitude to disqualify the member from participation. To avoid the appearance of impropriety, a non-participating official shall step down from his or her normal seat and leave the room while the debate and vote is carried on.

(c) Any non-elected City official, other than a City employee, who has a financial interest or the official has a personal interest with persons involved in any proposed legislative action of the Common Council or of any City 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, before addressing the subject matter, disclose on the records of the Common Council or of 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 unless the City Attorney or the majority of the Common Council determines that such interest is of insufficient magnitude to disqualify the member from participation.

(d) Any City employee who has a financial interest or personal interest in any proposed legislative action of the Common Council or any board, commission or committee of the City upon which the employee has any influence or input by virtue of City employment, or of which the employee is a member, who is called upon to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall, before addressing the subject matter, disclose on the records of the Common Council or of the appropriate board, commission or committee the nature and extent of such interest.

(2) Gifts and Favors.

(a) Items That Could Influence Judgment. No City official or City employee, personally or

indirectly through a member of his immediate family, may solicit or accept from any person or organization, anything of value if it could reasonably be expected to influence the City official's vote, official actions or judgment or could reasonably be considered a reward for any official action or inaction on the part of the official or employee. This subparagraph does not prohibit a City official or City employee from engaging in outside employment and receiving remuneration for such outside employment. [19.59(1)(b)]

(b) Rewards for Official Action. No City official or City employee may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05 Wis. Stats. or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.[19.59(1)(br)]

(c) Items or Services Offered Because of Public Position A City official or City employee shall not accept any item or service, including food, drink and travel, of more than nominal value 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 recipient, or a member of the recipient's immediate family, is a City official or City employee. Participation in informational meetings, celebrations, grand openings, open houses and similar events open to a significant number of persons who are not public officials are excluded from this prohibition, provided the hospitality is of nominal or insignificant value. This paragraph 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. Acceptance of hospitality incidental to a meeting, convention, school or similar gathering for municipal officials or employees sponsored by a governmental agency, college or university or organization such as the League of Municipalities shall not be prohibited under this paragraph.

(d) Disposal of Gifts. Gifts received by a City official or City employee or member of such official or employee's immediate family under unusual circumstances or of greater than nominal, insignificant or trivial value shall be referred to the Common Council within ten (10) days of receipt for recommended disposition. Any person subject to this Chapter who becomes aware that he is or has been offered any gift, the acceptance of which might constitute a violation of this Subsection, shall, within ten (10) days after such offer, disclose the details surrounding said offer to the Common Council.

(3) Representing Private Interests Before City Agencies or Courts.

(a) Non-elected City officials and City employees shall not appear on behalf of any private person other than himself or herself, his or her spouse or minor child before any City agency, board, commission or the Common Council 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.

(b) Elected City officials may appear before City 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 limitations set forth in paragraph (1) above shall be applicable to such appearances.

(4) Contracts with the City. No City official or City employee who, in his capacity as such City officer or City employee, is authorized to take some discretionary action in the making of a contract in

which he or she has a private pecuniary interest or performs in regard to that contract some function requiring the exercise of official discretion on his part or her shall enter into any contract with the City unless within the limits or exceptions set forth in Sec. 946.13, Wis. Stats.

(5) **Disclosure of Confidential Information.** No City official or City employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall any such information be used to advance the financial or other private interests of the City official or City employee or others.

5.09 Hiring of Relatives.

(1) This Section governs the proposed hiring of individuals for regular full-time or part-time work as City employees who are members of the immediate family of City employees or elected officials. Excluded from the provisions of this Section are seasonal or temporary employees. "Immediate family" includes those relatives by blood or marriage defined in paragraph 5.03(7) as personal interests.

(2) Hiring an immediate family member of any current City employee or elected City 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, City board or commission or Common Council) before a hiring decision is made; in every case, the decision to hire an immediate family member or former spouse will be subject to Common Council approval, with notice, before the new employee is permitted to begin work. Marriage between two (2) individuals already employed by the City at the time of the marriage or their relatives will not be considered a violation of this policy.

(3) This Section does not apply to non-elected City officials who are asked to accept appointment as members of a City board, commission or committee; however, such persons shall disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of a member of their immediate family if such family member is currently employed or is being considered for employment by the City.

5.10 Advisory Opinions. Any questions as to the interpretation of any provisions of this Code of Ethics Chapter shall be referred to the City Attorney. Such requests shall be as detailed as possible and shall be made in writing. Advisory requests and opinions shall be kept confidential, except when disclosure is authorized by the requestor, in which case the request and opinion may be made public.

5.11 Employees Covered by Collective Bargaining Agreements. In the event an employee allegedly involved in an Ethics Code violation is covered under a collective bargaining agreement, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of this Chapter.

5.12 Conflict with provisions of Section 19.59 Wisconsin Statutes.

Where any provision of this chapter is in conflict with the provisions of Sec. 19.59 Wisconsin Statutes, the following rules of construction shall apply:

(1) If the provisions, restrictions or standards of this chapter are more restrictive than those set forth in sec. 19.59 Wis. Stats., the provisions, restrictions or standards in this chapter shall be deemed controlling.

(2) If the provisions, restrictions or standards of this chapter are less restrictive than those set forth in sec. 19.59 Wis. Stats., the provisions, restrictions or standards in sec. 19.59 chapter shall be deemed controlling.

5.13 Severability. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, illegal, unconstitutional or otherwise not legally enforceable, whether as to any specific property or as to all properties in a class or as to all properties within the City of Richland Center, such holding or decision shall not affect the validity of the remaining portions of this Ordinance, or the applicability of this Ordinance to any property outside of the class to which it has so been held invalid, it being specifically intended that the various provisions of this Ordinance be deemed severable.