

701 IOWA COUNTY ETHICS CODE ORDINANCE

The County Board of Supervisors of Iowa County do ordain as follows:

701 Title.

- (a) Title:
This ordinance shall be cited as the Iowa County Ethics Code.

701.01 Authority

- (a) Statutory Authorization
 - (1) This ordinance is enacted under the Authority of Wisconsin State Statute 19.59.

701.02 Ethics Board.

- (a) There is hereby created an Ethics Board to consist of five members who are individuals from the Iowa County community, appointed by the County Board Chairperson, or his or her designee, with the approval of the County Board. The members of the Ethics Board shall be residents of the Iowa County and shall not be County Public Officials during the time of appointment, and the Ethics Board members shall serve staggered three-year terms expiring on the third Tuesday in April of the third year following their appointment except as otherwise provided in the implementation of this ordinance. The Board shall elect a Chairperson, Vice Chairperson, and Secretary from among its members. The County Administrator shall provide administrative support and assistance to the Board. The Corporation Counsel shall provide legal advice and assistance to the Board. The Board shall be entitled to mileage and per diem payments for meetings and hearings of the Board on the same basis as provided other Iowa County Boards, Committees or Commissions.
- (b) *Powers and duties.* The Ethics Board shall be responsible for investigating an ethics complaint, and conducting a fact-finding hearing as described in Section 701.22 below, in any case where the Ethics Board receives a written complaint or allegation of an ethics violation pursuant to Section 701.21 below.
- (c) *Burden of proof.* The burden of proving a violation alleged in the complaint shall be on the Ethics Board. The Respondent may be called as a witness but may not be required or compelled to testify. Violations shall be proved by evidence that is clear, satisfactory, and convincing.
- (d) *Hearing.* The Ethics Board may hold, and an individual against whom a complaint has been made and where the complaint has been referred to the Ethics Board may request, a hearing before the Board using the procedures described in Section 701.22 below. The Board shall keep a record of the hearing. The Board shall have the power to compel the attendance of witnesses and to issue subpoenas as granted to other boards and commissions under Wis. Stat. § 885.01.
 - i. Within ten work-days of the conclusion of the hearing, the Board shall file its written findings and recommendations signed by the Ethics Board

- Chairperson and Secretary, together with findings of fact and conclusions of law, concerning the propriety of the conduct of the public official. In order for the Board to find and substantiate a violation of the Ethics Code by a Respondent, it must be supported by a two-thirds (2/3) supermajority vote of those Board members present and voting. If the Board determines that no violation of the Code of Ethics has occurred, it shall dismiss the complaint.
- ii. No recommendation of the Board becomes effective until 20 work-days after it is issued, or while an application for rehearing or rehearing before the Board is pending, or the Board has announced its final determination on rehearing.
 - (e) *Enforcement and penalties.* If the Ethics Board finds that clear, satisfactory, and convincing evidence exists for believing the allegations of the complaint, the Ethics Board may make recommendations or take action as indicated in Sections 701.22, 701.24, and 701.26. The Ethics Board shall also refer all findings and recommendations to the County Board, and in the case of a County employee, to the County Administrator.

701.03 Definitions

- (a) General
 - (1) The word "shall" is mandatory; the word "may/should" is permissive.
 - (2) The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.
 - (3) The word "person" includes any individual, firm, association, joint stock association, organization, partnership, limited, trust, body politic, governmental agency, company, corporation and includes any trustee, receiver, assignee, or other representative thereof.
- (b) Definitions
 - (1) Administrative Agency – any board, commission, committee, task force, or other entity which is listed in Chapter 15.
 - (2) Anything of value – any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and expenses paid by the county, fees and expenses which are permitted and reported under Ordinance 701.16, political contributions which are reported under §11, hospitality extended for a purpose unrelated to county business by a person other than an organization or anything having a value of less than \$20 per occurrence or \$50 in total during a calendar year.
 - (3) Board – the Iowa County Ethics Board created by Section 701.02 of the Iowa County Code of Ordinances.
 - (4) Business – any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making or nonprofit activities.

- (5) Citizen or citizen member refers to a person appointed to any position by the County Board, who is neither an elected county office holder nor a county employee.
- (6) County employee shall refer to any person holding a full- or part-time position with Iowa County, other than a county official.
- (7) County official – any person holding a county elected office.
- (8) Department – any department of county government having its own budget.
- (9) Elected Official – any person who holds an elected position and whose salary is funded in full or in part by Iowa County.
- (10) Organization – any legal entity other than an individual or body politic.
- (11) Public official – a person who is a “County employee,” “County official,” or “Elected Official.”
- (12) Respondent – a person against whom has been filed a complaint alleging a violation of this chapter.
- (13) Substantial financial interest¹ – any interest required to be placed on a disclosure statement by 701.19 of this ordinance.

701.04 Application of Chapter

- (a) This ordinance shall apply to all county officials and county employees.

701.05 Administration

- (a) The Iowa County Ethics Board shall be the administrative body with respect to the enforcement of the provisions of this ordinance. The board may call upon the Iowa County Administrative Offices for staff assistance as the need arises. The Corporation Counsel shall provide such legal assistance as the board requires.

701.06 Certain County Transactions Prohibited.

- (a) The county shall not have or seek to have a business or financial relationship with a county official which would potentially place the official in violation of § 946.13 or any provision of this chapter.
- (b) It shall be the duty of the department head overseeing negotiations and requests for bids or proposals or other proposed transactions to assure compliance with this section.

¹ “Substantial financial interest” is not currently defined in the Wisconsin Statutes or Wisconsin Administrative Code. However, Wis. Stat. § 19.44 requires certain state public officials to disclose “substantial income” from certain sources for the purposes of financial disclosure requirements. Wis. Stat. § 19.44 provides several categories of “substantial income” that must be reported, and these categories and reporting thresholds can be viewed as examples of “substantial financial interest” for the purposes of this ordinance.

701.07 Declaration of Policy.

- (a) The proper operation of representative government requires that county officials and employees 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 County of Iowa officials and employees. The purpose of this code is to assist county officials and employees in avoiding conflicts between their personal interest and their public responsibilities in order to improve standards of public service and promote and strengthen the faith and confidence of the people of Iowa County in their county public officials and employees and to provide for disclosure by county officials and managerial employees of substantial financial interest in matters affecting the county. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the County of Iowa.
- (b) The county board hereby reaffirms that each county official and employee occupies a position of public trust that requires adherence to a high standard of conduct. Any effort to realize substantial personal gain through official conduct is a violation of that trust. This code of ethics does not prevent any county public official from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this county. The county board further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as county officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for county officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that county officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments which activities or investments do not conflict with the specific provisions of this code.

701.08 Standard of Conduct; Use of public position to obtain private benefit prohibited.

- (a) No county official, county employee or citizen member 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.

701.09 Standard of Conduct; Solicitation or acceptance of anything of value.

- (a) No county official, county employee or citizen member may solicit or accept from any person directly or indirectly, anything of value if it could reasonably be expected to influence official actions or judgement, or could reasonably be considered as a reward for any official action or inaction on the part of the county official, county employee or citizen member.

701.10 Standard of Conduct; Conflict of interest prohibited.

- (a) No county official, county employee or citizen member may:
 - (1) 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.
 - (2) 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.
- (b) Paragraph (a) does not prohibit a county official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a county official from taking official action with respect to any proposal to modify a county or municipal ordinance.

701.11 Mileage Reimbursement Eligibility

- (a) A county board supervisor is eligible for reimbursement, at the current mileage reimbursement rate as established by the Internal Revenue Service, of only that mileage actually traveled in attending those meetings for which she or he is eligible for reimbursement.

701.12 Standard of Conduct; Use or disclosure of information gained in course of official activities.

- (a) No county official or employee may intentionally use or disclose information gained in the course of or by reason of her or his official position or activities in any way that could result in the receipt of anything of value for herself or himself, for a member of her or his immediate family, or for any other person or legal entity if the information has not been communicated to the public or is not a public record.

701.13 Impermissible use of public Office.

- (a) No county official or county employee shall use or attempt to use his or her public office or employment to influence or gain unlawful benefits, advantages or privileges personally or for others.

701.14 Standard of Conduct; Representation for compensation by county official before county entities.

- (a) No county official shall appear on behalf of private interests for compensation, before any county entity nor represent private interests in any action or proceedings against the county.
 - (1) This subsection shall not apply:
 - i. In a contested case which involves a part other than the county with interests adverse to those represented by the public official or employee; or
 - ii. At an open hearing before a body other than the county board or a committee of the county board, at which a stenographic or tape record is maintained; or
 - iii. In a matter that involves only ministerial action by the department; or
 - iv. To representation by an elected official acting in his or her official capacity.
 - (2) This section may not be construed to limit in any fashion whatsoever an elected official's business or professional partner's or associate's right to practice or appear before a county entity, provided, however, the elected official does not participate in any vote or in the decision-making process.
 - (3) Nothing in this section shall be construed to prohibit an elected official from representing herself or himself before any county entity, including the one of which he or she is a member.

701.15 Standard of Conduct; Representation by citizen members and employees before county entities.

- (a) No county employee or citizen member shall appear on behalf of private interest with or without compensation before any entity for or with which the person works nor appear on behalf of private interests with or without compensation in any action or proceeding against the county.
 - (1) This subsection shall not apply to matters involving employee appearances before any county entity as a representative of a collective bargaining unit, whether on behalf of the unit or a county employee represented by the unit.
- (b) This section shall not be construed to prohibit a citizen member from dealing directly with staff of the agency on behalf of private interests, for compensation or otherwise, provided that if the representation is for compensation, that fact is contemporaneously disclosed, in writing, to the affected county department or agency.
- (c) This section shall not be construed to limit in any fashion whatsoever a citizen member's or employee's business or professional partner's or associate's right to practice or appear before the administrative agency.

- (d) Nothing in this section shall be construed to prohibit a citizen member or employee from representing herself or himself before any county entity, including the one of which he or she is a member.

701.16 Standard of Conduct; Receipt and retention of anything of value unrelated to official duties.

- (a) County officials, employees and citizen members may receive and retain anything of value if the activity or occasion on or for which it is given is unrelated from his or her use of the county's time, information, facilities, equipment, services or supplies not generally available to all residents of the county and he or she can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient's holding or having held her or his position and was paid for a purpose unrelated to a matter being considered by or affecting the county. Such persons may accept and retain from persons or entities other than the county the cost of reimbursement or actual and reasonable expenses related to speaking engagements whether or not the same arise from their county roles or positions.

701.17 Standard of Conduct; Receipt and retention of anything of value for the benefit of the county.

- (a) County officials, employees and citizen members may accept and retain anything of value which consists of transportation, lodging, meals, food or beverage, or reimbursement therefore, if the official, employee or citizen member can show by clear and convincing evidence that the same was incurred or received primarily for the benefit of the county and not primarily for his or her private benefit or that of any other person. It is prima facie evidence that the acceptance of anything of value consisting of enumerated items or services is primarily for the benefit of the county:
 - (1) when received by an official, employee or citizen member in connection with a speech or other presentation being given by the county official, employee or citizen member;
 - (2) when received by an official, employee or citizen member attending a government-related function where the same or similar items or services are provided free of direct charge to all attendees; or
 - (3) when received by an official employee or citizen member in a situation where the county would have to assume the costs of the item or service if not otherwise provided.

701.18 Standard of Conduct; Receipts from political committees.

- (a) Notwithstanding any other provision of this chapter, county officials may receive and retain from a political committee under §11, transportation, lodging, meals, food, beverages, or reimbursement therefor, or payment or reimbursement of costs permitted and reported in accordance with §11.

701.19 Standard of Conduct; Disclosure by county officials.

- (a) A county Official who has a substantial financial interest in a matter pending before the body of which he or she is a member shall disclose the nature of the interest. The disclosure shall be made on the record before the body, or if there is no formal record, in writing to the body.

701.20 Standard of Conduct; Disclosure by county officials of matters pertaining to a closed session prohibited.

- (a) No county official may disclose any information discussed, debated or acted upon in a closed session of the Iowa County Board or its standing committees.

701.21 Complaints.

- (a) All complaints regarding violations of this ordinance shall be made in writing and submitted to the county clerk who shall deliver them to the chairperson of the Ethics Board.

701.22 Procedure before the Board.

- (a) Upon receipt of a complaint, the board shall:
 - (1) Cause notice to be given to the respondent. Such a notice shall contain a specification of the charges against the respondent as well as the notice that the respondent may file a written statement of his or her position with the board.
 - (2) Schedule and hold hearings on the complaint.
 - (3) Hear the respondent's position and the testimony of witnesses, if any.
 - (4) Permit the respondent and the complainant to call such witnesses as either desires and to cross-examine the witnesses of the other.
 - (5) Consider the evidence presented and make findings thereon.
 - (6) By its chairperson or his or her designee, make rulings on motions and objections made by any party in such a manner as to assure due process protection to the parties.
 - (7) Based upon the evidence presented to it, determine whether or not to seek imposition of a forfeiture pursuant to the penalty provisions of this ordinance. If a forfeiture is deemed advisable, the board may direct the corporation counsel to start an action in the name of the county against the violator.
 - (8) When deciding to see the imposition of a forfeiture, the board shall at the time of notifying the corporation counsel, serve notice by mail upon the respondent to the effect that a forfeiture will be sought against the respondent, specifying the amount and that court action may be avoided if the amount specified is paid within 30 days of the date of the notice.

- (9) If a person against whom the board decides to seek imposition of a forfeiture fails to pay the amount specified by the board within 30 days of the date of the notice, the corporation counsel shall initiate an action for the collection of the forfeiture in the circuit court for the County of Iowa.

701.23 Closed Session.

- (a) Pursuant to §19.85(1)(a) and (f), the board shall conduct its hearings in closed session unless the person complained of requests open hearings.

701.24 Advisory Opinions.

- (a) Any person subject to the provisions of this ordinance, either personally or on behalf of an organization or governmental body, may at any time request of the board an advisory opinion regarding the propriety of any matter to which the person is or may become a part. Any appointing officer, with the consent of a prospective appointee, may request of the ethics board an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The Ethics Board shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and request therefor shall be in writing. Except as provided in sub. (3), neither the corporation counsel nor a member or agent of the Ethics Board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion. The Board shall annually publish a synopsis of any advisory opinions it has issued, after first reviewing such material with the corporation counsel to ensure that all individual identifying material has been deleted.
- (b) It is prima facie evidence of intent to comply with the Iowa County Ethics Code or any amendment of the same 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.
- (c) The Ethics Board may make an advisory opinion public with the consent of the individual requesting the opinion or the organization or governmental body on whose behalf it is requesting and may make public a summary of an advisory opinion issued under this section after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the Ethics Board or corporation counsel in connection with the request for an advisory opinion.
- (d) The Board is expressly authorized to issue advisory opinions interpreting those provisions of chapter 19 of the Wisconsin Statutes which are expressly incorporated in this ordinance.

701.25 Open Records.

- (a) All records of the board shall be open to public inspection at any time except that the names of individuals and identifying matter which clearly discloses the identity of any individual shall be kept confidential, and copies of such records shall be altered to remove any such identifying information.

701.26 Sanctions.

- (a) Violation of any provision of this code should raise conscientious questions for the official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the County of Iowa. If the Ethics Board determines that an official or employee has violated any provision of this code, the board may, as part of its report to the County Board, make any of the following recommendations:
 - a. In the case of an official who is an elected County Board Supervisor, that the County Board consider sanctioning, reprimanding, censuring or expelling the person;
 - b. In the case of a citizen member, the County Board or other appointing authority consider removing the person from the administrative agency;
 - c. In the case of an employee, that the employee's appointing authority consider imposing discipline, up to and including discharge of the employee.
- (b) In addition to the sanctions available under sub. (1), any official or employee violating the provisions of this section shall be subject to a non-reimbursable forfeiture of not more than one hundred dollars (\$100).

701.27 Severability.

- (a) The provisions of this chapter are severable. If any provision of this chapter is held to be invalid or unconstitutional or if the application of any provision of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the County Board that this chapter would have been adopted had any invalid or unconstitutional provisions or applications not be included herein.

John M Meyers

By: John M. Meyers, Chairman
Iowa County Board of Supervisors

ATTEST:

Kristy K. Spurley

Kristy K. Spurley, County Clerk

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