DIVISION 2. - CODE OF ETHICS

Footnotes:

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State Law reference— *Code of ethics for public officers and employees, Wis. Stat. § 19.41 et seq.; code of ethics for local government officials, employees and candidates, Wis. Stat. § 19.59.*

Sec. 2-126. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Anything of value means 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 City, fees, honorariums and expenses which are permitted and reported under Wis. Stat. § 19.56, political contributions which are reported under Wis. Stat. ch. 11 or hospitality extended for a purpose unrelated to City business by a person other than an organization.

Public employee means any person excluded from the definition of a public officer who is employed by the City of La Crosse.

Public officer means all City officers as defined in Wis. Stat. § 62.09 and all members of Boards, Commissions and Agencies established or appointed by the Mayor or Common Council, whether paid or unpaid.

(Code 1980, § 2.48(A))

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 2-127. - Declaration of policy.

It is declared that high moral and ethical standards among City officers and employees are essential to the conduct of good representative government and that a Code of Ethics for the guidance of Public officers and employees will help them avoid conflicts with improved standards of public service and will promote and strengthen the confidence of the residents of this City in their public officers and employees.

(Code 1980, § 2.48(B))

Sec. 2-128. - Distribution of division.

(a) The City Clerk shall cause to be distributed to each public officer and employee a copy of this division before entering upon the duties of the public officer or employee's office or employment.

(b) Each public officer, the President of the Common Council, the Chair of each board, commission or agency and the head of each department shall, between January 1 and January 31 each year, review the provisions of this division and with fellow Council, board, commission, agency members or subordinates, as the case may be, and certify to the City Clerk by February 15 that such annual review had been undertaken. A copy of this division shall be continuously posted on each department bulletin board wherever situated.

(Code 1980, § 2.48(F))

Sec. 2-129. - Ethics Board.

(a) *Membership.*

(1) The Ethics Board shall be composed of five voting members. The members shall be citizens chosen from the private sector who shall not have an affiliation with City government in any capacity. The members shall be appointed by the Mayor with the approval of the majority vote of the City Council.

(2) Terms of office of the citizen members shall be three years.

(b) *Officers and staff.*

(1) The Ethics Board shall have its own Chair and Vice-Chair.

(2) The City Attorney shall furnish the Ethics Board whatever legal assistance, which may become necessary. The Ethics Board may determine the need for private counsel.

(c) *Advisory opinions.* Any person governed by this Code may apply in writing to the Ethics Board for an advisory opinion. Applicants shall present their interpretation of the facts at issue and of the applicability of the provision of this Code before the advisory opinion is rendered. All opinions shall be in writing and adopted by the Ethics Board by resolution. The Ethics Board's deliberations and action

upon such applications shall be in meetings not open to the public, but notice of such meetings shall be given pursuant to Wis. Stat. § 19.84, Record of the Ethics Board opinions, opinion request and investigations of violations may be closed to public inspection, as permitted by Wis. Stat. ch. 19. The Ethics Board, however, may make such records public with the consent of the applicant.

(Code 1980, § 2.48(G)(1), (G)(2))

Cross reference— Boards and commissions, ch. 2, art. X.

Sec. 2-130. - Violations and complaints.

(a) The City Clerk shall accept from any person, except a member of the Ethics Board, a signed original complaint that states the name of the official or employee alleged to have violated this Code and that sets forth the material facts involved in the allegation. The City Clerk shall forward the original complaint to the Ethics Board Chair within three working days.

(b) Time limitations. No action may be taken on any complaint that is filed more than one year after a violation of this division is alleged to have occurred.

(c) Ethics Board procedures. Following the receipt of a complaint:

(1) The Ethics Board shall notify the accused within ten calendar days.

(2) The Ethics Board shall convene within 20 calendar days.

(3) The Ethics Board may make preliminary investigations with respect to alleged violation of this Code. A preliminary investigation shall not be initiated unless the accused official or employee is notified in writing within ten calendar days from the initial meeting. The notice shall state the purpose of the investigation and the individual's specific action or activities to be investigated.

(4) The Ethics Board shall make every effort to conclude within 120 calendar days.

(d) Hearings. If the Ethics Board finds that probable cause exists for believing the allegations of the complaint, the Ethics Board may issue an order setting a date for a hearing. If the Ethics Board elects to hold a hearing, the Ethics Board shall give the accused at least 20 calendar days' notice of the hearing date. Such hearing shall be conducted pursuant to the contested case hearing requirements of Wis. Stat. ch. 227 at open session unless the accused petitions for a hearing closed to the public and good cause to close the hearing is shown.

(e) Right of representation. During all stages of an investigation or proceeding conducted under this section, the accused or any person whose activities are under investigation is entitled to be represented by counsel of personal choice and at personal expense.

(f) Due process. The accused or the accused's representative shall have an adequate opportunity to:

(1) Examine all documents and records to be used at the hearing within a reasonable time before the date of the hearing as well as during the hearing;

(2) Have witnesses heard;

(3) Establish all pertinent facts and circumstances; and

(4) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(g) Power to subpoena and administer oaths. The Ethics Board shall have the power to administer oaths and compel the attendance of witnesses by issuing subpoenas as granted other boards and commissions.

(h) Vote of the Ethics Board. The majority vote of the Ethics Board shall be required for any action taken by the Ethics Board.

(i) Evidentiary standard. If the recommendation is that a violation of this division has occurred, the Ethics Board must be convinced by clear and convincing evidence that such violation occurred.

(j) Violations.

(1) If the Ethics Board finds that a violation of this division has occurred, the Ethics Board shall report their findings in writing to the City Council, complainant, and accused, through the City Clerk, within ten working days after reaching a conclusion.

(2) If the Ethics Board determines that an official or employee has violated any provision of this Code, the Ethics Board may, as part of its report to the City Council, make any of the following recommendations:

a. In case of an official who is an elected City Council Member, that City Council considers sanctioning, censuring or removing the person.

b. In the case of a citizen member or other elected or appointed City officer, that the City Council consider removing the person from the committee, board or office.

c. In the case of an employee, that the employee's appointing authority consider discipline up to and including discharge of the employee.

d. That the City Council consider imposing a civil forfeiture in an amount not exceeding $1,000.00 for each offense.

(3) If the Ethics Board finds that no violation has occurred, the Ethics Board shall notify the complainant, the accused, and City Clerk in writing within five working days.

(k) Penalties.

(1) If the Ethics Board files a report with the City Council finding that an official or employee has violated the Ethics Code, such report shall be referred to the Judiciary and Administration Committee for a report. The Judiciary and Administration Committee may recommend to the City Council a penalty for the violation and/or recommendation that a hearing be held on the issue of the penalty. If a hearing is recommended by the Judiciary and Administration Committee, then the Mayor shall schedule a hearing before the City Council and cause notice to be mailed to the interested parties, including the person accused of the violation at least ten days prior to the date set for the hearing. At the hearing, the evidence in support of the penalty recommendations by the Ethics Board and/or Judiciary and Administration Committee shall be presented by the City Attorney or by a member of the City Attorney's staff. The accused, who may appear in person or who may be represented by an attorney, shall be entitled to present the City Council such evidence as may be relevant, competent and material in regard to the penalty for the violation.

(2) Upon completion of the hearing or other proceeding by the City Council, judgment shall be entered by the City Council determining the penalty for violation of this division found by the Ethics Board and may include a recommendation of discipline of the person to the person's appointing authority up to and including discharge from employment or removal from office, in accordance with Wis. Stat. Ch. 17.

(3) Any person violating this division may be subject to a Class A forfeiture for each offense.

(Code 1980, § 2.48(G)(3)—(G)(12))

Cross reference— Class A forfeitures, § 1-7.

Sec. 2-131. - Standards of conduct.

(a) 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.

(b) Accordingly, the provisions of the following sections of the Wisconsin Statutes are made a part of this division and shall apply to public officers and public employees whenever applicable, to-wit:

Wis. Stat. § 946.10 - Bribery of Public Officers and Employees

Wis. Stat. § 946.11 - Special Privileges from Public Utilities

Wis. Stat. § 946.12 - Misconduct in Public Office

Wis. Stat. § 946.13 - Private Interest in Public Contract Prohibited

(Code 1980, § 2.48(C))

Sec. 2-132. - Disclosures.

In addition to the foregoing statutory provisions, the following disclosure and related requirements are hereby established:

(1) *Disclosure of interest in legislation.* To the extent that a member of the Common Council and any public officer or employee of the City of La Crosse knows thereof, such member, officer or employee, whether paid or unpaid, who participates in the discussion or gives official opinion to the Council on any legislation before the Council, shall publicly disclose the nature and extent of any direct or indirect financial or other private interest such person has in such legislation.

(2) *Disclosure of interest in other matters.* To the extent that a member of a board, commission or agency, and any other public officer or public employee of the City of La Crosse knows thereof, such member, officer or employee, whether paid or unpaid, who participates in discussion or gives official opinion to any such board, commission or agency on any matter before it, shall publicly disclose the nature and extent of any direct or indirect financial or other private interest such person has in such matters.

(3) *Confidential information.* No public officer or employee may intentionally use or disclose information gained in the course of or by reason of such public officer or employee's official position or activities in any way that could result in receipt of anything of value for such person, or such person's immediate family as defined by Wis. Stat. § 19.42, or for any other person or organization, if the information has not been communicated to the public or is not public information.

(4) *Special privileges.* No public officer or employee may use or attempt to use any public position to influence or gain unlawful benefits, advantages or privileges for the public officer or employee or others.

(5) *Conduct after termination of employment.* No public officer or employee, after the termination of service or employment with the City, shall appear before any Board or Agency of the City of La Crosse in relation to any case, proceeding or application in which the public officer or employee personally participated during the period of service or employment, or which was under the public officer or employee's active consideration.

(Code 1980, § 2.48(D))

Sec. 2-133. - Gifts and gratuities.

(a) No public officer or employee shall receive or offer to receive, either directly or indirectly, any gift, gratuity, or anything of value which the public officer or employee is not authorized to receive from any person, if such person:

(1) Has or is seeking to obtain contractual or other business or financial relationships with such public employee's employer or the governmental body of the public official;

(2) Conducts operations or activities which are regulated by such public employee's employer or the governmental body of a public official; or

(3) Has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.

The receipt of any gift, gratuity, or anything of value as denoted in this subsection (a) is contrary to the public policy of the City of La Crosse.

(b) The following is the policy to be followed in determining whether or not public officer or employees of the City of La Crosse may attend as a guest:

(1) It will be the choice of the official or employee to accept or not accept guest status when such individual is the primary speaker or on the program agenda as a participant in the program.

(2) It will be the choice of the official or employee to accept or not accept guest status when such individual is honored for distinguished service.

(3) It will be the choice of the official or employee to accept or not accept guest status when such individual attends functions in other capacities than that as an elected official or as an employee of the City.

(4) It will be the choice of the official or employee to accept or not accept a meal at meetings which are instructional and job-related and, if the employee or official chooses to accept a meal, the cost of such should be submitted to the City of La Crosse for payment.

(Code 1980, § 2.48(E))

Secs. 2-134—2-164. - Reserved.