

STATE OF WISCONSIN
Town of Nashville
Forest County, Wisconsin

ORDINANCE 051810-01

Re: Town Ethics Ordinance

SECTION I - TITLE AND PURPOSE

The title of this ordinance is the Town of Nashville Ethics Ordinance. The purpose of this ordinance is to regulate, limit, and control certain administrative actions of town officials and employees in the town, including unethical actions of those officials and employees, as determined under this ordinance.

SECTION II - DECLARATION OF POLICY

A. It is declared that certain administrative actions of town officials and town employees are to be regulated, permitted, or limited to allow the official's and employee's actions to occur in an ethical, timely, and efficient manner.

B. It is declared that high moral and ethical standards among town officials and town employees are essential to the conduct of free government and that the town board believes that a code of ethics for the guidance of town officials and town 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 people of the town in their town public officials and employees.

C. It is the intent of the town board that the town ethics board, town officials, and town employees in their administrative operations shall protect to the fullest extent possible the rights of individuals affected and the town and its government from improper, dishonest, and inefficient conduct of its town officials and town employees.

D. The town board reaffirms by this ordinance that a town official or employee holds his or her position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust. This ordinance does not prevent any town official or employee from accepting other employment or following any pursuit that in no way interferes with the full and faithful discharge of his or her duties to this town. The town board recognizes all of the following:

1. That town officials and town employees are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government.

2. That town officials and town employees retain their rights as citizens to interests of a personal or economic nature.

3. That standards of ethical conduct for town officials and town employees need to distinguish between minor and inconsequential conflicts that are unavoidable in a free society and conflicts that are substantial and material.

4. That town officials and town employees 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 provisions of this ordinance.

SECTION III - AUTHORITY AND ADOPTION

This ordinance, adopted pursuant to s. [19.59](#), Wis. stats., by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the town to regulate, permit, or limit certain acts of certain town officials and town employees in the town.

SECTION IV - DEFINITIONS

In this ordinance:

A. "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment to a town official or employee, but does not include compensation and expenses paid by the town board, fees and expenses that are permitted and political contributions that are reported under chapter [11](#), Wis. stats., or money or hospitality extended for a purpose unrelated to town business by a person other than an organization.

B. "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.

C. "Ethics board" means the Town Ethics Board of the Town of Nashville.

D. "Gift" means the payment or receipt of anything of value without valuable consideration.

E. "Immediate family" means parents, grandparents, children, grandchildren, brothers, sisters, parents-in-law, grandparents-in-law, brothers-in-law, sisters-in-law, uncles, aunts, nephews, nieces, spouses, fiancées or fiancés.

F. "Income" has the meaning given under Section 61 of the Internal Revenue Code.

G. "Internal Revenue Code" has the meaning given under s. [71.01 \(6\)](#), Wis. stats.

H. "Ministerial action" means an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual's own judgment as to the propriety of the action being taken.

I. "Nominal value" means having negligible, inconsequential, or slight value and not any substantial value. Examples include pens, hats, date books, calendars, or key chains having a value of less than \$5.00.

J. "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust, or other legal entity other than an individual or body politic.

K. 1. "Security" means any of the following:

- a. A stock.
- b. A treasury stock.
- c. A note.
- d. A bond.
- e. A debenture.
- f. An evidence of indebtedness.

- g. A share of beneficial interest in a business interest.
 - h. A certificate of interest or participation in any profit sharing agreement.
 - i. A collateral trust certificate.
 - j. A preorganization subscription.
 - k. A transferable share.
 - l. An investment contract.
 - m. A commodity futures contract.
 - n. A voting trust certificate.
 - o. Certificates of deposit for a security.
 - p. A limited partnership interest.
 - q. A certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease.
 - r. In general, any interest or instrument commonly known as having the incidents of a security or offered in the manner in which securities are offered; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or option, warrant, or right to subscribe to or purchase or sell, any of the foregoing.
2. Security does not include a certificate of deposit in a bank, savings and loan association, savings bank, credit union, or similar association organized under the laws of any state or the federal government.
- L. "Substantial value" means having more than nominal or inconsequential value or having merchantable value. Any item or service with a value of \$5 or more is presumed to have substantial and not nominal or inconsequential value.
- M. "Town" means the Town of Nashville, Forest County, Wisconsin.
- N. "Town board" means the board of supervisors for the Town of Nashville, Forest County, Wisconsin, and includes designees of the board authorized to act for the board.
- O. "Town clerk" means the clerk of the Town of Nashville, Forest County, Wisconsin.
- P. "Town employee" means any individual who is not a town official, and who holds an office or position in the service of the town.
- Q. "Town official" means any individual holding any of the following:
- 1. A town elective office.
 - 2. An appointive town office or position in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.
 - 3. An appointive town office or position that is filled by the town board or the executive or administrative head of the town and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action, or a position filled by an independent contractor.
- R. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or

"subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI - APPLICABILITY

This ordinance applies to all town officials and town employees.

SECTION VII - ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this ethics code is vested in the ethics board. Any individual may request of the ethics board an advisory opinion regarding the propriety of any matter or matters to which the person is or may become a party as provided in Section IX.

SECTION VIII - SPECIFIC REQUIREMENTS

A. No town official or town employee may use his or her public position or office to obtain financial gain or anything of substantial value for the town official's or town employee's private benefit or that of his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit any of the following:

1. An elected official from using the title or prestige of his or her office to obtain contributions permitted and reported under chapter 11, Wis. stats.
2. A town official or employee from obtaining items or services of nominal or no value.

B. The town board may not sell or give to any town official or town employee, nor may a town official or town employee purchase or receive as a gift from the town, any article, material, product, or merchandise of whatsoever nature, excepting meals, public services, and specialized appliances and paraphernalia required for the safety or health of the officials or employees.

C. No person may offer or give to any town official or town employee, directly or indirectly, and no town official or town employee may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the town official's vote or the town official's or town employee's official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the town official or town employee. This ordinance does not prohibit town officials or town employees from doing any of the following:

1. Engaging in outside employment, but this ordinance specifically does not override any other ordinance or contract prohibiting outside employment, and does not in any way permit a town official or employee from taking action for the benefit of an outside employer that is otherwise prohibited.
2. Accepting any item or service of nominal or no value.

D. No town official or town employee may intentionally use or disclose information gained in the course of, or by reason of, his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information. This provision shall not be interpreted to prevent a town official or town employee from reporting violations of this ordinance or other illegal acts to proper authorities.

E. No town official or town employee may use or attempt to use his or her position to influence or gain unlawful benefits, advantages, or privileges for himself or herself, or others. The prohibition in this subsection E specifically includes, but is not limited to, any of the following violations of the Wisconsin Statutes:

1. Section [125.51 \(1\) \(b\)](#), Wis. stats., which provides that no member of the town board shall sell any bond, material, product, or thing to any license holder or person applying to the town for a license to sell intoxicating beverages under chapter [125](#), Wis. stats.

2. Section [82.11 \(2\) \(a\)](#), Wis. stats., which provides that no town official may act in laying out, altering, or discontinuing a highway if acting would result in a violation of the State of Wisconsin Codes of Ethics for Local Government Officials, Employees, and Candidates, s. [19.59](#), Wis. stats., or of a town ethics ordinance enacted under s. [19.59 \(1m\)](#), Wis. stats.

3. Section [175.10](#), Wis. stats., which provides that no town officer or member or officer of any town board, or any purchasing agent or purchasing agency of any town, shall sell or procure for sale or have in its possession or under its control for sale to any employees of the town any article, material, product, or merchandise of whatsoever nature, excepting meals, public services, and such specialized appliances and paraphernalia as may be required for the safety or health of the employees, except that s. [175.10 \(3\)](#), Wis. stats., provides that the provisions of s. [175.10](#), Wis. stats., shall not apply to the town, nor to any department, agency, officer or employee of the town when engaged in any recreational, health, welfare, relief, safety, or educational activities furnished by the town.

4. Section [946.10](#), Wis. stats., Bribery of Public Officers and Employees, which provides that whoever does either of the following is guilty of a Class H felony:

a. Whoever with intent to influence the conduct of any public officer or public employee in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or with intent to induce the officer or employee to do or omit to do any act in violation of the officer's or employee's lawful duty transfers or promises to the officer or employee or on the officer's or employee's behalf any property or any personal advantage which the officer or employee is not authorized to receive; or

b. Any public officer or public employee who directly or indirectly accepts or offers to accept any property or any personal advantage, which the officer or employee is not authorized to receive, pursuant to an understanding that the officer or employee will act in a certain manner in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or that the officer or employee will do or omit to do any act in violation of the officer's or employee's lawful duty.

5. Section [946.11](#), Wis. stats., Special Privileges from Public Utilities, which provides that, except as provides in s. [946.11 \(3\)](#), Wis. stats., whoever does the following is guilty of a Class I felony:

a. Whoever offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

b. Any public officer who asks for or accepts from any person or uses in any manner or for any purpose any free pass or frank, or any privilege withheld from any person for the traveling accommodation or transportation of any person or property or for the transmission of any message or communication; or

c. Any public utility or agent or officer thereof who offers or gives for any purpose to any public officer or to any person at the request or for the advantage of such officer, any frank or any privilege withheld from any person for any product or service produced, transmitted,

delivered, furnished or rendered or to be produced, transmitted, delivered, furnished, or rendered by any public utility, or any free product or service whatsoever; or

d. Any public officer who asks for or accepts or uses in any manner or for any purpose any frank or privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered by any public utility.

6. Section [946.12](#), Wis. stats., Misconduct in Public Office, which provides that any public officer or public employee who does any of the following is guilty of a Class I felony:

a. Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment within the time or in the manner required by law; or

b. In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority or which the officer or employee knows the officer or employee is forbidden by law to do in the officer's or employee's official capacity; or

c. Whether by act of commission or omission, in the officer's or employee's capacity as such officer or employee exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another; or

d. In the officer's or employee's capacity as such officer or employee, makes an entry in an account or record book or return, certificate, report, or statement which in a material respect the officer or employee intentionally falsifies; or

e. Under color of the officer's or employee's office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value that the officer or employee knows is greater or less than is fixed by law.

7. Section [946.13](#), Wis. stats., Private Interest in Public Contracts Prohibited, which provides that, except as provided in s. [946.13 \(2\)](#) to [\(11\)](#), Wis. stats., any public officer or public employee who does any of the following is guilty of a Class I felony:

a. In the officer's or employee's private capacity, negotiates or bids for or enters into a contract in which the officer or employee has a private pecuniary interest, direct or indirect, if at the same time the officer or employee is authorized or required by law to participate in the officer's or employee's capacity as such officer or employee in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on the officer's or employee's part; or

b. In the officer's or employee's capacity as such officer or employee, participates in the making of a contract in which the officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the officer's or employee's part.

8. Section [946.14](#), Wis. stats., Purchasing Claims at Less than Full Value, which provides that any public officer or public employee who in a private capacity directly or indirectly intentionally purchases for less than full value or discounts any claim held by another against the state or a political subdivision thereof or against any public fund is guilty of a Class I felony.

F. Except for a town official or town employee acting in his or her official capacity, no town official or town employee may represent a person for compensation before any town board, commission, committee, or other body of any type, or any other town official or town employee, except in any of the following cases:

1. In a contested case that involves a party other than the town with interests adverse to those represented by the town official or town employee.

2. At an open hearing at which a stenographic or other record is maintained.

3. In a matter that involves only ministerial action by the town.

G. No former town official or town employee may do any of the following:

1. For 12 months following the date on which he or she ceases to be a town official or town employee, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before or negotiate with, any town official or town employee or a town board, commission, committee, or other body of any type with which he or she was associated as a town official or employee, within 12 months prior to the date on which he or she ceased to be an official or employee.

2. For compensation, act on behalf of any party other than the town in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge that might give rise to a judicial or quasi-judicial proceeding in which the former town official or town employee participated personally and substantially as a town official or town employee.

H. No person, including any town official or town employee, may knowingly make any oral false statements under oath or before any town board, commission, committee, or body of any type that the person does not believe to be true in any matter, cause, action, or proceeding. It is not a defense to a prosecution under this ordinance that the false statement was later corrected or retracted by that person.

I. No person, including any town official or town employee, under oath or affirmation may knowingly make or subscribe a written false statement or knowingly make a false statement with intent that it shall appear to have been served under oath or affirmation that the person does not believe is true. It is not a defense to a prosecution under this ordinance that the false statement was later corrected or retracted by that person.

J. No person, including any town official or town employee, may intentionally take and carry away, use, transfer, convey, or retain possession of property of the town without consent of the town board or its designated agent, with intent to deprive the town permanently of the property.

K. No town official or town employee may do any of the following:

1. Take any official action substantially affecting a matter in which the official or employee, one or more members of the official's or employee's immediate family either separately or together, or an organization with which the official or the employee 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 town official or town employee, one or more members of the official's or employee's immediate family either separately or together, or an organization with which the official or the employee is associated.

L. This ordinance does not prohibit a town official or town employee from taking official action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses.

M. This ordinance does not prohibit the town clerk, or other town elected or appointed official or town employee from making inquiries for information on behalf of a person or organization if the town clerk, official, or employee receives no compensation therefore beyond the salary and other compensation or reimbursements to which the official or employee is entitled by law from the town.

N. All town officials and town employees shall also comply with s. [19.59](#), Wis. stats., which is incorporated into this ordinance by reference.

SECTION IX - ETHICS BOARD

A. Organization, Composition and Operation of the Ethics Board. 1. There is created an ethics board consisting of 5 members who are residents of the town and who shall serve without compensation unless the town board otherwise provides. Members of the ethics board shall not be elected officials or persons appointed to elective office, full-time appointed town officials, or town employees, nor shall they be currently serving on any other town board, committee or commission, or any other town body. Ethics board members shall be selected by the town chairperson and submitted to the town board for confirmation by the town board. Terms of office shall be 3 years. The members of the ethics board shall select their own chairperson. A vacancy shall be filled within one month.

2. The town attorney shall furnish the ethics board with whatever legal assistance is necessary to carry out its functions and the town clerk shall furnish the ethics board with whatever assistance it requires.

3. Any action by the ethics board, except an action relating to procedure of the ethics board, requires the affirmative vote of its members.

4. No later than February 15 of each year, the ethics board shall submit a report to the town board concerning its actions in the preceding year. The report shall contain a summary of its determinations and advisory opinions. The ethics board shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decision or opinions. The ethics board shall make any additional reports on matters within its jurisdiction and recommendations for further legislation, as it deems desirable.

B. Powers and Duties of the Board. 1. The ethics board shall do all of the following:

a. Accept and file, and the chairperson of the ethics board shall act as legal custodian of, any reports, information, or materials required by this ordinance and of any information or materials related to the purposes of this ordinance that is voluntarily supplied by any person.

2. The ethics board may do all of the following:

a. Prepare and publish special reports and technical studies to further the purposes of this ordinance.

b. Adopt written rules, which shall be submitted to the town board for approval, as may be necessary to carry out this ordinance. A copy of the rules shall be filed with the town clerk. The ethics board shall give prompt notice of the contents of its rules to officials who will be affected thereby.

c. Prescribe and make available forms for use under this ordinance.

d. Retain outside counsel and other experts as needed after solicitation of recommendations from the town attorney upon a contract for services approved for form and content by the town attorney.

C. Advisory Ethics Opinion. 1. a. Any individual, specifically including former town officials and town employees, either personally or on behalf of an organization or governmental body, may request of the ethics board an advisory opinion regarding the propriety of any matter or matters to which the person is or may become a party.

b. 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.

2. The ethics board shall review a request for an advisory opinion and may advise the person making the request in writing. It is prima facie evidence of intent to comply with this ordinance 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.

3. Requests for confidential advisory opinions, records obtained or filed in connection with requests for confidential advisory opinions, and confidential advisory opinions rendered shall be closed in whole to public inspection. This paragraph shall not be interpreted to preclude the ethics board from doing any of the following:

a. Compiling or publishing summaries of advisory opinions rendered if no identification of the requestor or any organization identified in the opinion is made.

b. Making an advisory opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. 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 is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the ethics board in connection with the request for an advisory opinion.

D. Complaints. 1. The ethics board shall accept from any individual, either personally or on behalf of an organization or governmental body, a complaint in writing that states the name of any person alleged to have committed a violation of this ordinance and that specifically describes the alleged violation. The ethics board shall forward to the accused within 10 days a copy of the complaint and a general statement of the applicable provisions with respect to the complaint. If the ethics board determines that the complaint does not allege facts sufficient to constitute a violation of this ordinance, it shall dismiss the complaint and notify the complainant and the accused. If the ethics board determines that the complaint alleges facts sufficient to constitute a violation of this ordinance, it may make an investigation with respect to any alleged violation. If the ethics board determines that the complaint was brought for harassment purposes, the ethics board shall so state.

2. a. Following the receipt of a complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis for the belief that a violation of this ordinance has been committed or that an investigation of a possible violation is warranted, the ethics board may investigate the circumstances concerning the possible violation. Prior to invoking any power, the ethics board shall authorize an investigation by a motion of the ethics board that shall state the nature and purpose of the investigation and the actions or activities to be investigated. Upon adoption of a motion, the ethics board shall notify each person who is the subject of the investigation.

b. If no complaint has been filed and the ethics board finds probable cause to believe that a violation of this ordinance has occurred, the ethics board may, on its own motion, make a complaint, which shall be in writing, shall state the name of the person who is alleged to have committed a violation of this ordinance, and shall specifically describe the alleged violation. The ethics board shall forward to the accused within 10 days a copy of the complaint, a general statement of the applicable provisions with respect to the complaint, and a specific statement enumerating the source or sources of information upon which the complaint is based.

c. If a complaint has been filed and the ethics board finds probable cause to believe that a violation of this ordinance, other than one contained in the complaint, has occurred, it may amend the complaint, upon its own motion, to include those other violations. If the complaint is so amended by the ethics board, a copy of the amendment shall be sent to the alleged violator within 48 hours.

3. Upon adoption of a motion authorizing an investigation, the ethics board shall mail a copy of the motion to each alleged violator who is identified in the motion together with a notice informing the alleged violator that the person is the subject of the investigation authorized by the motion and a general statement of the applicable provisions with respect to the investigation. Service of the notice is complete upon mailing.

4. No action may be taken on any complaint that is filed later than 3 years after a violation of this ordinance is alleged to have occurred.

E. **Investigations.** Pursuant to any investigation or hearing conducted under this ordinance, the ethics board has the power to do any of the following:

1. Require any town official or town employee to submit in writing reports and answers to questions relevant to the proceedings conducted under this ordinance as the ethics board may prescribe, within the period and under oath or otherwise as the ethics board may determine.

2. Administer oaths and to require by subpoena issued by it the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Issuance of a subpoena requires action by the ethics board.

3. Order testimony to be taken by deposition before any individual who is designated by the ethics board and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by paragraph 2.

4. To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

5. To retain outside counsel and other experts as needed after solicitation of recommendations from the town attorney and upon such contract for services approved for form and content by the town attorney.

F. **Probable Cause of Violation.** 1. At the conclusion of its investigation, the ethics board shall, in preliminary written findings of fact and conclusions based on its findings, make a determination of whether probable cause exists to believe that a violation of this ordinance has occurred. If the ethics board determines that no probable cause exists, it shall immediately send written notice of the determination to the accused and to the party who made the complaint. If the ethics board determines that there is probable cause for believing that a violation of this ordinance has been committed, its preliminary findings of fact and conclusions may contain any of the following:

a. A referral to the district attorney's office recommending further investigation and possible prosecution.

b. An order setting a date for hearing to determine whether a violation of this ordinance has occurred. The ethics board shall serve by registered mail the order upon the accused. A hearing ordered under this paragraph shall be commenced within 30 days after the date it is ordered unless the accused petitions for and the ethics board consents to a later date. Prior to any hearing ordered under this paragraph, the accused is entitled to full discovery rights, including adverse examination of witnesses who will testify at the hearing at a reasonable time before the date of the hearing.

2. The ethics board shall inform the accused, or his or her counsel, of exculpatory evidence in its possession.

G. Hearing Procedure. 1. During any investigation and during any hearing conducted to determine whether a violation of this ordinance has occurred, the accused may be represented by counsel of his or her own choosing, and the accused, or his or her representative, if any, shall have an opportunity to do all of the following:

- a. Challenge the sufficiency of any complaint that has been filed against him or her.
- b. Examine all documents and records obtained or prepared by the ethics board in connection with the matter heard.
- c. Bring witnesses.
- d. Establish all pertinent facts and circumstances.
- e. Question or refute testimony or evidence, including confronting and cross-examining adverse witnesses.
- f. Exercise fully any pretrial discovery procedure usually available in civil actions.

2. During any hearing conducted by the ethics board to determine whether a violation of this ordinance has occurred, all evidence, including certified copies of records that the ethics board considers, shall be fully offered and made a part of the record in the proceedings. The accused or any other person under investigation shall be afforded adequate opportunity to rebut or offer countervailing evidence. Upon request of the accused, the ethics board shall issue subpoenas to compel the attendance of necessary witnesses.

3. The ethics board may appoint a hearing examiner to conduct hearings under this ordinance. The ethics board may also retain outside counsel and other experts as needed with respect to hearings in accordance with its policies. The selection of a hearing examiner and outside counsel or other experts and any contract for such persons shall be made after solicitation of recommendations from the town attorney and the contract shall be approved for form and content by the town attorney. Any person identified during a hearing conducted by the ethics board and who, in the opinion of the ethics board, may be adversely affected by the results of the hearing, may, upon the request of the person, a representative of the person, or any member of the ethics board, appear personally or by a representative to testify, and the ethics board may permit any other person to appear and to testify at a hearing.

4. After the conclusion of the hearing, the ethics board shall as soon as practicable begin deliberations on the evidence presented at the hearing and proceed to determine whether the accused has violated this ordinance.

H. Determinations: Ethics Board Actions. If the ethics board determines that no violation of this ordinance has occurred, it shall immediately send written notice of the determination to the accused and to the party who made the complaint. If the ethics board determines that a violation of this ordinance has occurred, its findings of fact and conclusions may contain one or more of the following orders or recommendations:

1. In the case of a town official, a recommendation to the town board that the town official be censured, suspended, or removed from office or employment, subject to ss. [9.10](#) and [17.13](#), Wis. stats. The recommendation shall be made to the appropriate appointing authority who may censure, suspend, or take action to remove the official from office or employment.

2. In the case of a town employee, a recommendation to the town board that the town employee be reprimanded, disciplined, or discharged. The recommendation shall be made to the appropriate appointing authority.

3. An order requiring the accused to conform his or her conduct to this ordinance.

I. Settlements. 1. The ethics board may compromise and settle any action or potential action for a violation of this ordinance that the ethics board is authorized to take under this ordinance. An action may be settled for such sum or terms as may be agreed upon between the ethics board and the alleged violator.

2. Whenever the ethics board enters into a settlement agreement with an individual who is accused of a violation of this ordinance or who is investigated by the ethics board for a possible violation of this ordinance, the ethics board shall reduce the agreement to writing, together with a statement of the ethics board's findings and reasons for entering into the agreement, and shall retain the agreement and statement in its office for inspection.

J. Actions by the Town Board. 1. *Actions authorized.* If findings relative to a town official or town employee are filed by the ethics board with the town board under subsection H, the matter shall be considered and decided upon by the town board, referred to the appropriate standing committee of the town board for a report, or the town board may appoint a special committee and the committee shall proceed in accordance with the direction of the town board and this ordinance, as the town board deems appropriate.

2. *Recommendations.* A committee receiving a matter under paragraph 1, in reporting the matter to the town board, may recommend a dismissal of the charges, a reprimand, discipline, or discharge of a town employee, or for a town official, censure, suspension, or removal from office, subject to ss. [9.10](#) and [17.13](#), Wis. stats.

3. *Hearing.* Any hearing by the town board or by a special or standing committee as designated by the town board, shall be conducted in accordance with the following provisions:

a. The accused town official or town employee shall be given at least 20 days' notice of the hearing date.

b. The rules of evidence shall apply to the hearing. All evidence, including certified copies of records and documents that the town board considers shall be fully offered and made part of the record in the case. Each party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

c. During the entire hearing conducted under this subsection, the accused town official or town employee shall be entitled to be represented by counsel of his or her choosing. The town board shall immediately disclose and forward to the person, or his or her counsel, any evidence that it possesses that may tend to clear the official.

d. The accused town official or town employee, or his or her representative, shall have an adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. Upon the request of the accused, the town board shall subpoena named individuals to appear as witnesses at the hearing, if such action is necessary to compel their attendance.

e. The town board shall have the power to compel the attendance of witnesses and to issue subpoenas for books, records, documents, or papers to be designated under the authority granted to it by s. [885.01 \(3\)](#), Wis. stats.

4. *Town Board Action.* a. The town board may dismiss the charges, reprimand, discipline, or discharge a town employee, or censure, suspend, or remove a town official from office, subject to ss. [9.10](#) and [17.13](#), Wis. stats. Town board action shall be by majority vote.

b. The town board shall make a determination in regard to the recommendation of the Ethics Board or committee if the matter is referred to a committee under paragraph 1. Action by the town board shall be by a majority vote.

K. Reimbursement of Legal Expenses. Town funds shall be used to reimburse individuals for reasonable legal expenses incurred in their successful defense of charges filed against them with the ethics board or of charges filed with the ethics board by the ethics board.

L. Records. 1. Except as provided in paragraph 2, all records in the possession of the ethics board are open to public inspection at all reasonable times.

2. Notwithstanding paragraph 1, the following records in the ethics board's possession are not open for public inspection:

a. Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The ethics board may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. 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 is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the ethics board in connection with the request for an advisory opinion.

b. Records obtained or prepared by the ethics board in connection with an investigation, except that the ethics board shall permit inspection of records that are made public in the course of a hearing by the ethics board to determine if a violation of this ordinance has occurred.

SECTION X - PENALTY

In addition to any other action, any person violating this ordinance shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 for each violation. All forfeitures shall be paid to the town treasurer. The town attorney, when so requested by the ethics board, shall institute proceedings to recover any forfeiture incurred under this section in circuit court that is not paid by the person against whom it is assessed. The ethics board or town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION XI - SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION XII - EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

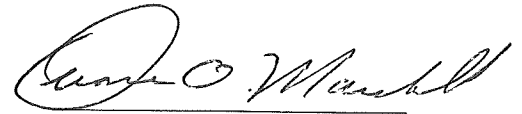
Adopted this 18th day of May, 2010.

Attest: Terri Schabo

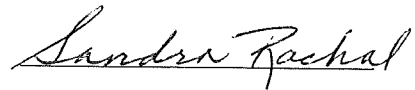
Terri Schabo, Clerk



Chairman Chuck Sleeter



Supervisor Duane Marshall



Supervisor Sandra Rachal