

Ordinance 2022-02 Ethics Ordinance

SECTION I – TITLE AND PURPOSE

The title of this Ordinance is the Town of Brooklyn 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 and 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 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 interest 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 ADOPTIONS

This Ordinance adopted pursuant to s. 19.59, Wis, stats., by a majority of the Town Board and 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, payments, 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 outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.
- C) “Gift” means the payment or receipt of anything of value without valuable consideration.
- D) “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, or fiancés.
- E) “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.
- F) “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.
- G) “Organization” means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust, or other legal entity other than an individual or body politic.
- K) “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.
- L) “Town Employee” means any individual who is not a Town Official, and who holds an office or position in the service of the Town.
- M) “Town Official” means any individual holding any of the following:
 - 1. A Town elective office
 - 2. An appropriate 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 of 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.
- N) “Wis. Stats.” Means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V – APPLICABILITY

This Ordinance applies to all Town Officials and Town employees

SECTION VI – 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.
 - 3) A Town Official or employee from purchasing surplus or discarded items under s. 175.10(1m), Wis stats.

- 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 provided 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 permission 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. An 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 the 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. 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 associate.
- G. 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.
- H. 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 therefor beyond the salary and other compensation or reimbursements to which the Official or Employee is entitled by law from the Town.
- I. All Town Officials and Town Employees shall also comply with s. 19.59, Wis. stats., which is incorporated into this Ordinance by reference.

SECTION VII – 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 \$1000 for each violation.

SECTION VIII – 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 IX – 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 July 12, 2022.

By the Town Board of the Town of Brooklyn:

Attested by:

Mike Wuest, Town Chairperson

Kathleen Morris, Clerk

Roll Call: Ayes 4 Nays 0