

STATE OF WISCONSIN

VILLAGE OF EAST TROY

WALWORTH COUNTY

ORDINANCE 2023 - 03

AN ORDINANCE TO REPEAL AND RECREATE CHAPTER 149 RELATING TO  
A VILLAGE CODE OF ETHICS

WHEREAS, the Village Board for the Village of East Troy has adopted Ordinance 2023-01 establishing a Village Code of Ethics; and

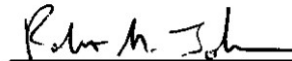
WHEREAS, the Village Board determined the adopted code needs to be modified.

NOW, THEREFORE, the Village Board of the Village of East Troy, Walworth County, Wisconsin do ordain as follows:

**Section 1.** Repeal and Recreate Chapter 149 of the Code of Ordinances as set forth in Exhibit A, attached.

**Section 2.** This ordinance shall become effective upon passage and posting or publication as provided by law.

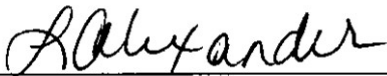
Adopted this 20 day of March, 2023.



~~Scott Seager~~  
Village President

Robert M. Johnson  
Acting President

ATTEST:



Lorri Alexander  
Village Clerk



## EXHIBIT A

### **Chapter 149 Village of East Troy Code of Ethics**

#### **§ 149-1 Declaration of Policy.**

The proper operation of democratic government requires that:

- public officials and employees be independent, impartial, and responsible to the people
- government decisions and policy be made in proper channels of the governmental structure
- public office and employment not be used for personal gain
- the public has confidence in the integrity of its government.

In recognition of these goals, the Village Code of Ethics applies to all Village elected officials, appointed officials, and employees. The Village Board believes that a Code of Ethics for guidance will help officials and employees avoid conflicts between their personal interests and their professional responsibilities, distinguish between minor and inconsequential conflicts that are unavoidable, identify substantial and material conflicts, improve standards of public service, and promote and strengthen the faith and confidence of the citizens.

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 Village and are promulgated under the authority granted to the Village pursuant to Section 19.59(1), Wisconsin Statutes.

#### **§ 149-2 Application.**

A. This policy applies to the following persons:

1. Elected officials of the Village of East Troy: Village President, Village Trustees, and the Municipal Judge. This policy will become applicable when a candidate files nomination papers for an elective office with the Village.
2. All employees of the Village of East Troy.
3. All members of Village committees, commissions, subcommittees, ad hoc committees, and boards.
4. All appointed officials as defined in Chapter 97 of the Village of East Troy Municipal Code. This includes those appointed officials under contract to perform professional services through another entity, business, or as an independent contractor.
5. The following persons under contract to perform professional services whether individually or through another entity, business, or as an independent contractor are considered to be Public Officials for purposes of this ordinance:
  - a. Assessor
  - b. Attorney
  - c. Zoning Administrator
  - d. Land Use Planner
  - e. Engineer

- f. Building Inspector
- g. Code Compliance Officer

### **§ 149-3 Statutory Standards of Conduct.**

The provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Code of Ethics and shall apply to all officials and employees:

1. Section 946.10 Bribery of Public Officers and Employees
2. Section 946.11 Special Privileges from Public Utilities
3. Section 946.12 Misconduct in Public Office
4. Section 946.13 Private Interest in Public Contract Prohibited

### **§ 149-4 Responsibility of Public Office.**

- A. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to carry out efficiently and impartially the laws of the nation, state, and municipality and to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.
- B. Officials and employees shall adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. They shall not exceed their authority, breach the law, ask others to breach the law, grant special consideration or treatment to any citizen, or ask others to grant them special consideration or treatment beyond that which is available to all other citizens. This ethics code does not prevent any official or employee 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 the Village.

### **§ 149-5 Definitions.**

- A. **Anything of value:** This includes money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment for the individual or for his or her immediate family. This includes any of the following items (either alone or in combination) whose value in a calendar year from any one person or entity is more than \$50:
  - (1) money, gift card, credit card reward points, frequent flyer miles, property, favor, service, gift, loan payment, subscription, advance forbearance, lodging, food or drink, travel, recreational or entertainment expense, thing or promise of future reward or employment that could reasonably be expected to influence such official or employee's actions or judgment, or could reasonably be considered as a reward for any official action or inaction.
  - (2) Non-monetary gratuities, such as but not limited to, food or flowers given by members of the public or vendors at holidays or on special occasions may not exceed \$100 in total value annually and may be accepted only when made available to an entire department and not an individual official or employee. Flowers or other memorial provided in conjunction with a funeral or similar service held for the family member of a public official or public employee shall not be considered a non-monetary gratuity.
  - (3) Officials and employees attending an event at the expense of the Village must reimburse the Village

the value of any raffle or door prize obtained at that event if they have the authority to make a decision, influence a vote, or vote on a matter related that vendor. This subsection does not apply when the prize is donated to or used solely for Village purposes.

- (4) This does not include compensation and expenses paid by the Village, or political contributions which are properly reported, unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal value.
- B. **Confidential information:** At the time of a proposed disclosure, information where the Village's interests in its confidentiality or in the Village's effective functioning outweigh an interest in free speech to disclose same. Confidential information includes, but is not limited to, information where the disclosure is prohibited by common law, or state or federal law or statute unless the release of same is ordered pursuant to a lawful order of a court or the informed consent of the subject, as applicable; and information that is subject to the exemptions of the requirement to meet in open session for a governmental body under Wisconsin Statute Section 19.85 unless release is authorized by the legal custodian or other proper legal authorization is given. For purposes of this section information shall include knowledge imparted orally, recordings, and written documents or records.
- C. **Department Head:** a person employed by the Village as the Village Administrator, Director of Public Works & Utilities, or Chief of Police.
- D. **Financial interest:** Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee, an immediate family member, or to any person employing or retaining the services of the officer or employee.
- E. **Immediate family:** Includes an official's or employee's spouse/domestic partner and children living at home and/or family member who contributes more than 50% of the support of the official or employee or receives that level of support from the official or employee.
- F. **Official:** a person holding an elected or appointed position with the Village of East Troy which includes members of Village committees, commissions, subcommittees, ad hoc committees, and boards. This includes individuals that have filed nomination papers for an elected position.
- G. **Person:** means any natural person, corporation, partnership or joint venture, proprietorship, firm, enterprise, franchise, association, organization, trust, or other legal entity recognized as such by the laws of the State of Wisconsin.
- H. **Personal interest:** means any interest arising from blood or marriage relationships or from close business or political associations, whether any financial interest is involved.

#### **§ 149-6 Standards of Conduct.**

- A. **Generally:** No official or employee may use their position or office for private gain, to offer or receive anything of value, or take action affecting a matter which the official or employee has a financial interest.
- B. **Specific Circumstances:**
- (1) **Confidential Information:** No Village official or 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 or organization, if the information has not been communicated to the public or is not public information.

- (2) **Incompatible Employment/Self Employment:** No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties unless otherwise permitted by law and unless disclosure is made as hereinafter provided.
- (3) **Incompatible Consulting or Serving on Board of Directors:** Except as otherwise may be expected as part of an official's or employee's job description and in the normal course of employment by the Village, no official or employee is to serve as a consultant to or, except as hereinafter provided, serve as a member of the Board of Director of any entity or corporation doing business either as a contractor or sub-contractor or otherwise with, or seeking to do business with, the Village of East Troy, subject to exemptions in the Wisconsin State Statutes. This provision shall not apply to officials or employees serving on a Board of Directors where such service has been required and approved by the Village Board or in cases where the Village Attorney has reviewed such membership and found no conflict of interest.
- (4) **Incompatible Representation:** No appointed individual who is contracted to provide a service to the Village may engage in contracts representing private parties or public entities when that service rendered would be incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.
- (5) **Issuance of Permits:** No Village official or employee empowered to issue a discretionary permit under either the state or local laws or regulations shall issue any such permit to himself or herself or to any member of that individual's immediate family without first revealing in writing the request for such permit to that individual's immediate superior who shall then assign another official or employee to process such permit.
- (6) **Use of Public Property:** No Village official or employee shall request or permit the use of Village services or personnel or of Village-owned vehicles, equipment, materials or property for non-official purposes or personal profit unless it is in accordance with a use that would generally be available to the public and the same procedures are followed for that use.
- (7) **Solicitation or Acceptance Prohibited:** No official or employee or members of their immediate family shall solicit nor accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the officials or employees vote, official action or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the official or employee. No official or employee shall grant, in the discharge of his duties, any improper favor, service or thing of value. Campaign contributions may be accepted if properly noted in Wisconsin campaign finance statements.
- (8) **Hospitality:** An official or employee is not to accept hospitality, if after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest or a member of the guest's immediate family was an official or employee. Participation in groundbreaking ceremonies, grand openings, chamber of commerce events, open houses, informational meetings, voter forums, and similar events are excluded from this prohibition provided the official or employee is not accepting anything of value over \$50 and the event is not exclusively hosted for Village officials and employees. Any event that is open to any member of the public with the same level of hospitality being provided to the

public is also excluded.

- (9) **Representing Private Interests before Village Agencies or Courts:** No officer or employee shall appear on behalf of any private person, other than himself or his spouse or minor children, before any Village agency or municipal court. However, members of the board may appear before Village agencies on behalf of the constituents in the course of their duties as representatives of the electorate. No officer or employee shall attempt to use their position or title or act officially to gain advantage or favorable treatment from any Village agency.
- (10) **Contracts with the Village:** No Village official or employee who, in their capacity as such official or employee, participates in the making or approval of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion of his part, shall enter into any contract with the Village unless it is specifically permitted under Section 946.13, Wisconsin Statutes. In which case the value of any contracts will comply with the limits stated in Section 946.13, Wisconsin Statutes.
- (11) **Conducting Private Business on Village Time:** No employee shall engage in his or her private business or other employment while he or she is engaged in their public duties.
- (12) **Political Activity:** No employee while on duty or on official Village business shall, for the apparent purpose of influencing the outcome of any referendum or improving the chance of election of a person seeking elective office: wear or display any campaign material, distribute any campaign literature, solicit or receive contributions or service for any candidate or referendum position, or actively campaign for any candidate or referendum position.
  - (a) No official or employee, whether on duty or official business or off duty shall in any way coerce or attempt to coerce subscriptions, contributions, or service from subordinate employees in support of a political party or retaliate against or reward an employee for refraining from participating in any political activity. No employee on or off duty shall use his or her title or position or indicia thereof in any elective political activity.
- (13) **Disclosure of Interest in Matters Required:** Any member of a board, commission, or committee who has a financial interest or personal interest in any matter before them shall disclose the nature and extent of such interest. If it is a consideration before the Village Board, this interest shall be disclosed on the record.
  - (a) Any other official or employee who has a financial interest or personal interest in any proposal before any board, commission or committee upon which the official or employee has any influence or input or of which the official or employee is a member that is to make a recommendation or decision upon any item which is the subject of the proposed action shall disclose on the records of the appropriate board, commission or committee the nature and extent of such interest.
- (14) **Initial and Annual Disclosure Filing:** All Village elected officials and Department Heads shall complete a disclosure filing with the Village's Administrator or their designee informing the Village of other employment, payment for services, or personal relationships, so Village officials, and/or Municipal Attorney are aware of conflicts that may exist with vendors or persons within the Village. This is done to avoid circumstances where an official or employee is involved in the decision process related to vendors or persons in which they would have a conflict. The filing shall be made upon initial employment, appointment or filing of nomination papers for elected office and thereafter on an annual basis. This subsection shall not apply to employees and independent

contractors providing professional services or the Municipal Judge, which must comply with the State of Wisconsin Statement of Economic Interest filing requirements. Employees shall inform their Department Head of any other employment, payment for services, or personal relationships that may result in a conflict so the Department Head can ensure that employees are avoiding conflicts.

(15) **Employment Fair and Equal Treatment:** Any person who is a candidate for Village employment who canvasses or contacts any member of the Village Board, an appointing authority or any person involved in the screening or examination of applicants outside of scheduled procedures in order to obtain preferential consideration in connection with any appointment to any Village position shall be disqualified from employment with the Village. This provision shall apply to all candidates whether currently employed by the Village or not.

(a) No person shall receive preferential treatment in the selection process or be appointed to or hired from or promoted in a Village position, nor be denied appointment, employment, or promotion because he or she is a member of an official or employee's immediately family. No official or employee shall use his or her position to bring about appointment, employment or promotion of a member of his or her immediate family.

(b) No official or employee shall participate in any final decision in any employment matter involving a candidate or employee who is a member of his or her\* immediate family.

\*For purposes of this section relatives shall include immediate family as defined above plus any child by blood or adoption whether living at home or receiving support from the official or employee, son-in-law, daughter-in-law, spouse or domestic partner's child, fiancé, sibling, parent, parent-in-law, uncle, aunt, niece, nephew or the spouse or a partner thereof, grandparent or grandparent-in-law.

(c) Except as set forth below, no Village official or employee shall be the direct supervisor of a member of the official's or employee's immediate family as defined above in addition to those relatives listed in subsection 149-6 (15)(c). Where a supervisory relationship is created while two such related officials or employees are employed in the same department or division, the Village shall make every effort to transfer one of the officials or employees as soon as practical. Where the applicable Department Head determines that a transfer of the official or employee is impractical or otherwise not in the best interests of the Village, the Department Head shall perform, or designate another person to perform, the supervisory functions with respect to matters involving hiring, promotions, discipline, and salary recommendations of the employee in question. In the event a Department Head is conflicted under this section, the Village Administrator shall designate an appropriate person to oversee compliance with these provisions. Conflicts involving the Village Administrator under this section shall be referred to the Village Board, or its authorized designee, for oversight.

(16) **Outside Vendors Contract with the Village:** Village officials and employees will incorporate the following statements in contracts when possible: The Vendor shall disclose to the Village any known employees, directors, officers, agents, or subcontractors that are any Village elected or appointed officials, employees, or members of the officials or employee's immediate family.

#### § 149-7 Advisory Opinion.

A. Any questions as to the interpretation or application of any provision of this code of ethics shall be referred to the Village Administrator, and if it is deemed necessary or appropriate, they may request an

advisory opinion from the Village Attorney.

- B. If it is determined that the Village Attorney's opinion in response to a request for an advisory opinion as to the interpretation or application of a provision of this code of ethics to certain fact situations would be of value to other officials or employees in terms of providing guidance or guidelines in future fact situations of a same or similar nature, the Village Attorney may issue a summary opinion setting forth what it deems to be appropriate conduct in such fact situation. Such summary opinion shall be drafted in such a manner that it does not disclose the identity of the person whose original request prompted the issuance of such summary opinion.
- C. In the event an employee who is covered under either a collective bargaining agreement or civil service regulation is allegedly involved in an ethics code violation, provisions in the respective collective bargaining agreement or civil service regulation shall prevail in the administration and interpretation of this ethics code if they conflict with the provisions of the code.
- D. Notwithstanding Section 19.35, Wisconsin Statutes, the following records in the possession of the Village Attorney are not open for public inspection:
  - 1. Requests for advisory opinions or records obtained in connection with a request for an advisory opinion are not open to public inspection.
  - 2. Advisory opinions are not open for public inspection except that advisory opinions that do not disclose the identity of the person whose original request for an advisory opinion prompted the issuance of such advisory opinions are open for public inspection.
  - 3. The Village Attorney may make advisory opinions which disclose the identity of the person whose original request for an advisory opinion prompted the issuance of such advisory opinions open for public inspection with the written consent of the person requesting the advisory opinion.

#### **§ 149-8 Complaint Process.**

The complaint process shall be started by a complainant submitting a verified complaint to the Village Police Department alleging a violation of the Ethics Code by any person listed under § 149-2. The Police Department will then determine whether the allegations in the complaint have merit and, if so, perform an investigation of the allegations in the complaint. After an investigation, the Police Department will decide whether to issue citations to the individual with a forfeiture as described under § 149-9.

#### **§ 149-9 Forfeiture.**

Any person violating the provisions of this section shall be subject to a municipal forfeiture of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) for each violation.

#### **§ 149-10 Anti-Retaliation.**

The Village of East Troy is committed to maintaining an environment free of harassment, intimidation, and discrimination, which includes any actions of this nature against a person for reporting a violation or participating in an investigation. Retaliation occurs when adverse action is taken because an official, employee, or citizen files a complaint, request for investigation, or notifies an official or employee their actions are improper. Examples of adverse action include, but are not limited to: demotion, suspension, termination, failing to consider for employment or promotion, adversely impacting working conditions, creating a hostile or intimidating environment, specifically targeting the person for violations. Any employee