

CITY OF NEW LONDON		
Public Official's & Employee's Code of Ethics		
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I. PURPOSE

The purpose of this policy is to affirm ethical standards of conduct for all City of New London officials and employees by identifying actions that are incompatible with the best interests of the City.

II. POLICY

The City maintains certain policies to guide its employees with respect to standards of conduct expected in areas where improper activities could damage the reputation and otherwise result in serious adverse consequences to the City and to employees involved. This policy outlines the Wisconsin State Statutes regarding ethical standards and guidelines established by the Wisconsin Board of Ethics.

A. Prohibited Conduct

1. Use of office for private gain

No public official may use their public position or office to obtain financial gain or anything of substantial value for the private benefit of themselves or their immediate family, or for an organization with which they are associated (§19.59(1)(a)).

A local public official is not prohibited from using the title or prestige of their office to obtain campaign contributions that are permitted and reported as required by Chapter 11 of the State Statutes.

2. Offering or receiving anything of value.

No person may offer or give to a public official, directly or indirectly, and no public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the official. However, a public official is not prohibited from engaging in outside employment (§19.59(1)(b)). Anything of value means items whose market value exceeds \$15.00)

A candidate for office or a public official may not utilize their vote to influence or promise to take or refrain from taking official action on matters under consideration or upon condition that any person make or refrain from making a political contribution or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under §11.05, or any person making a communication that contains a reference to a clearly identified public official or candidate for public office (§19.59(1)(br)).

3. Taking action affecting a matter in which an official has financial interest.

A public official may not take any official action that substantially affects a matter in which the official, a member of their immediate family, or an organization with which the official is associated has a substantial financial interest. Nor, may the official's office be used in a way that

directly or indirectly produces or assists in the production of a substantial benefit for the official, or one or more members of the official's immediate family, or an organization that the official is associated with.

However, a public official is not prohibited from taking any action concerning the lawful payment of salaries, employee benefits or reimbursement of actual and necessary expenses. Nor is the official prohibited from taking official action to any proposed modification of a municipal ordinance (19.59(1)(c)).

4. Bribery

Public officials and employees are prohibited from accepting any property or other personal advantage they are not authorized to receive by anyone who promises this with the intention of influencing the public official or employee's conduct regarding any matter in which law is pending (§946.10).

5. Misconduct in office

a. Public officials and employees are prohibited from:

1. Intentionally failing or refusing to perform a known mandatory, nondiscretionary, ministerial duty of their office or employment within the time or in the manner required by law (§946.12(1)).
2. Performing an act knowingly in excess of their lawful authority or one in which they know they are forbidden by law to do in their official capacity (§946.12(2)).
3. Whether by act of commission or omission, exercising a discretionary power in a manner inconsistent with the duties of their office or employment or the rights of others and with intention to obtain a dishonest advantage for themselves or another (§946.12(3)).
4. Intentionally falsifying an account, record book, return, certificate, report or statement in the officer or employee's official capacity (§946.12(4)).
5. Intentionally soliciting or accepting anything of value, known by the officer or employee to be greater or less than is fixed by law, for the performance of any service or duty (§946.12(5)).

B. Private interest in public contracts (§946.13)

1. Private action

An official or employee is prohibited from negotiating, bidding or entering into a contract in which they have a private pecuniary interest, direct or indirect, if the officer or employee is authorized or required by law to participate in the making of the contract or perform some official function requiring the exercise of discretion (§946.13(1)(a)).

2. Official action

- a. An official or employee is prohibited from participating in the making of a contract or performing some function requiring the exercise of discretion in which they have a private pecuniary interest, direct or indirect (§946.13(1)(b)).
- b. This section is not applicable to an officer or employee by reason of their holding not more than 2% of the outstanding capital stock of a corporate body involved in such contract (§946.13(5)).

3. A contract entered into in violation of this section is void and the City in whose behalf the contract was made incurs no liability (§946.13(3)).

- a. This section is not applicable to contracts creating a public debt (as defined in §18.01(4)), if the requirements of §18.14(1) have been met. No evidence of indebtedness (as defined in

§18.01(3)) shall be invalidated on account of a violation of this section by an official or employee, but such officer or employee and the surety on the officer's or employee's official bond shall be liable to the state for any loss to it occasioned by such violation (§946.13(6)).

b. Exceptions

1. Contracts that a single officer or employee is privately interested that don't involve receipts and disbursements by the City aggregating more than \$15,000 in any year (§946.13(2)(a)).
2. Contracts involving the deposit of public funds in public depositories (§946.13(2)(b)).
3. Contracts involving loans made pursuant to §67.12 (§946.13(2)(c)).
4. Contracts for publication of required legal notices (at a rate not higher than that prescribed by law) (§946.13(2)(d)).
5. Contracts issued to an official or employee of tax titles, certificates or instruments representing an interest in, or secured by, any fund consisting of taxes in the process of collection, provided they are issued in the payment of salary or other obligations due to such official or employee. (§946.13(2)(e)).
6. Contracts for the sale of bonds or securities issued by the City, provided they are sold at a public sale to the highest bidder and the official or employee acquiring the private interest has no duty to vote upon the issuance of the bonds or securities (§946.13(2)(f)).
7. Contracts with or tax credits or payments received by officials or employee for wildlife damage claims or abatement under §29.889, for farmland preservation under subchapter IX of chapter 71 and §91.13, soil and water resource management under §92.14, soil erosion control under §92.10, 1985 statutes, animal waste management under §92.15, 1985 statutes, and nonpoint source water pollution abatement under §281.65 (§946.13(2)(g)).
8. Contracts or transactions made or consummated or bonds issued under §66.1103 (§946.13(8)).
9. This section is not applicable to the member of a local committee appointed under §289.33(7)(a) acting as a member of that committee in negotiation, arbitration or ratification of agreements under §289.33 (§946.13(9)).
10. This section is not applicable to an individual who receives compensation for services as an official or employee of less than \$10,000 annually because they are a partner, shareholder or employee of a law firm that serves as legal counsel to the City/Village (exclusive of advances or reimbursement for expenses), unless one of the following applies:
 - a. The individual has an interest in that law firm greater than 2% of its net profit or loss.
 - b. The individual participates in making a contract between the City/ and that law firm or exercises any official discretion with respect to a contract between them.
 - c. The individual's compensation from the law firm directly depends on the individual's procurement of business with public bodies (§946.13(11)).

C. Eligibility of Other Officers

1. Members of the Common Council are not eligible for any office or position that has been created by, or the selection to which is vested in, the board or council, unless they resign from the board or council before being appointed to an office or position which was not created during the member's term in office (§66.0501(2)).
2. Members of the Common Council may be represented on boards and commissions where no additional compensation (except a per diem), is paid to the representatives of the governing body and the tenure of the representatives is fixed. A representative who is a member of a board or commission may receive a per diem only if the remaining members of the board or commission may receive a per diem (§66.0501(2)).

3. Members of the Common Council may run for a new or existing elective office, but the compatibility doctrine applies if the member is elected and would be required to choose between two elected offices. Individuals may run for two elected offices at the same time (§8.03(2m)).

D. Incompatibility Doctrine (§66.11(2))

1. An official cannot hold two offices or an office and a position where one is superior to the other, or from a public policy perspective, it is improper for one person to perform the duties of both positions. Generally, municipal governing body members may not hold other municipal offices or positions, unless specifically authorized by statute. However, elected officials can serve as volunteer firefighters or EMT's when the annual compensation is \$2500 or less (including fringe benefits) (§66.11(4)).
2. Elected officials are prohibited, during their elected term, from taking municipal jobs created during their term of office, even if they resign. A governing body member may be appointed to an office or position which was not created during the member's term in office, as long as the member resigns first.
3. Governing body members may run at any time for a new or existing office, but, if elected, "incompatibility doctrine" applies.
4. Governing body members may be appointed to serve on local boards or commissions where no salary is paid to such board members.

E. State Code of Ethics Guidelines

1. Receipt of goods and services
 - a. Under the State Board of Ethics, local public officials may accept and retain:
 1. Items and services offered unrelated to the official's position (i.e. food, drink, transportation, and lodging) (§19.59(1)(a)), and which could not be expected to influence or reward an official's vote, action or judgment.
 2. Expenses provided by or for the benefit of the governmental unit.
 3. Items of insubstantial value.
 - b. Officials should not accept:
 1. Items or services offered that are more than nominal value because of an official's public position.
 2. Items that could influence an official's vote, actions or judgment.
 3. Items or services that could be considered a reward for an official's action or inaction.
 4. Transportation or traveling accommodations which would normally be charged.
2. Seminars and conferences
Officials may accept food, drink, travel and lodging that is provided by or approved by the event's organizer and approved by the governmental unit. Food, drink and entertainment provided outside of the conference or activities at hospitality suites or receptions should not be accepted.
3. Participating in general policy decisions
Officials may participate in actions where they have a personal interest as long as:
 - a. The action affects a class of similarly situated interests;
 - b. The interest or the effect of the action on the interests of the official, an immediate family member, or an organization the official is associated with is not significant when compared to other members of the class.
4. Creating or modifying a policy

When called upon to circulate a rule or issue a policy, a public official may participate in the action (even though it may affect them, a member of their immediate family, or an organization with which they are associated, as long as:

- a. The official's action affects a whole class of similarly situated interests.
- b. The official's interest, or that of their family, or the associated organization is insignificant when compared to all affected interests in the class.
- c. The action's effect on the official's interest, or that of their family, or the associated organization is neither significantly greater nor less than upon other members of the class.

5. Abstaining from official action

When a matter comes before a board, commission or other body in which the official is a member and should not participate, the official should leave that portion of the meeting that involves discussion, deliberations or votes related to the matter, and the meetings minutes should reflect this.

G. Ethics Advisory Opinions

1. Any individual (personally or on behalf of an organization or governmental body) or appointing officer (with the consent of a prospective appointee) may request of the City attorney, an advisory opinion regarding the propriety of any matter to which the person is or may become a party.
2. Advisory opinions and requests shall be in writing. Any individual requesting an advisory opinion or any individuals or organizations mentioned in the opinion shall not be made public, unless the individual, organization or governmental body consents to it and alterations are made to the summary of the opinion, which prevents disclosure of the identities of individuals involved in the opinion.

III. DEFINITIONS

- A. Anything of value:** Any money or property, favor, service, payment, advance, forbearance, loan in excess of \$15.00 or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56 of the State Statutes, political contributions which are reported under chapter 11 of the State Statutes, or hospitality extended for a purpose unrelated to state 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 their 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 member of their immediate family is an authorized representative or agent.
- C. Contract:** Includes a conveyance.
- D. Gift:** The payment or receipt of anything of value without valuable consideration.
- E. Immediate Family:** An individual's spouse, and an individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of their support from the individual or from whom the individual receives, directly or indirectly, more than one-half of their support.
- F. Organization:** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.