

LAKE MILLS ETHICS BOARD

POLICY MANUAL

February 2013

I. Purpose and Responsibilities of the Ethics Board

The purpose of the Ethics Board is to see that the provisions of the code of Ethics as outlined in Title 1, Chapter 11 of the Lake Mills Municipal Code are uniformly applied to all City of Lake Mills Officials and Employees.

The areas of responsibility under the Code include but are not limited to:

- A. Fair and Equal Treatment
- B. Conflict of Interest
- C. Incompatible Employment
- D. Disclosure of Confidential Information
- E. Gifts and Favors
- F. Political Activity
- G. Campaign Contributions
- H. Disclosure of Interests
- I. Real Estate Disclosure

The Ethics Board stands ready to hear and advise on all questions within its scope of authority brought to it by any City Official, Employee, or Citizen.

This includes reviewing actions that have occurred in the past, as well as giving opinions on activities contemplated in the future. Board opinions shall be based solely on the applicable provisions of Title 1, Chapter 11 of the Lake Mills Municipal Code (“Code”).

(For further reference to purpose and responsibilities -- See Section 1-11-8, -9, -10 and 11 Code.

II. Members and Officers of the Board

- A. The membership of the Ethics Board shall consist of five (5) city resident members. All members of the Ethics Board may not hold any elective office in, nor may they be under contract with or employed by, the City of Lake Mills while serving on the Ethics Board. Each member of the Ethics Board must have had experience with applying Ethics codes to specific facts by satisfying the membership qualifications listed in Section 1-11-8, Code. The City Attorney shall furnish the Board whatever legal assistance necessary in the carrying out of its functions.

- B. The Ethics Board shall elect its own Chair, Vice-Chair and Secretary and shall develop written rules of procedure which shall be submitted to the City Council for approval.

III. Meeting Agenda and Notices for the Board

NOTICES:

The following notices are prepared, mailed, and posted as necessary.

- A. Notices of the date of the meeting and the agenda are sent to all of the members of the Ethics Board.
- B. Notice of all meetings and agendas are submitted to the City Clerk pursuant to the Wisconsin Open Meetings Law.
- C. Notice of the Public Hearings are distributed in the manner prescribed by law.

AGENDA:

The agenda is a statement by the City Ethics Board Chairman on the items of interest to the Board and contains a preliminary listing of the items of business to be discussed at the meeting. The following list shows the order and type of business items to be discussed that appear on the Agenda:

- A. Approval of minutes of previous meeting.
- B. Public Hearings.
- C. Communications not requiring personal appearances.
- D. Special staff reports requested by the Board at previous meetings or related to important new business.
- E. Reports concerning items of general interest to the Board such as changes in state or federal laws which affect operations.
- F. Referrals from Council for action.

IV. Procedures for Hearing Complaints and Rendering Opinions

- A. Rules of Procedure (Complaints).
 - 1. All complaints shall be made in writing, indicating the provision of the Ethics Code believed to have been violated, and shall be notarized prior to filing. No action may be taken on any complaint which is filed

later than twelve months after a violation of the Ethics Code is alleged to have occurred.

2. All written complaints shall be submitted to the City Attorney and shall be public documents.
3. The complaint shall contain the following:
 - (a) The name and address of complainant.
 - (b) The name, address, and position of the individual who is the subject named in the complaint.
 - (c) The facts constituting the alleged breach of ethics set forth in detail and with clarity and certainty.
4. The complaint may be made upon information and belief.
5. The person named in the complaint shall be notified in writing that a complaint has been filed and the parties shall be supplied with a copy of the complaint, of the Policy Manual and of the Ethics Code, and shall be notified of the date of the jurisdictional hearing.
6. The Board Chair or Vice-Chair shall present the complaint to the Board for further action.
7. The Board shall convene as expeditiously as possible to determine if it has jurisdiction over the subject matter of the complaint. The complainant shall be present. If the complainant does not personally appear, the Board may dismiss the complaint without prejudice.
8. If the Board finds it has jurisdiction over the subject matter, both the complaining party and the party or parties who are the subject matter of the complaint shall be given at least 15 days' notice to appear before the Board for a hearing on the matter, unless both parties waive this time limit, or unless time limitations are waived by the Board.
9. The Board may issue subpoenas and administer oaths. Fees associated with the issuance of subpoenas shall be paid by the person requesting the subpoenas.
10. All hearings shall be conducted under oath or affirmation, with a record being made thereof.
11. The parties may make a brief opening statement to acquaint the Board with the nature of the complaint.

12. The parties shall be allowed to question each other and present pertinent witnesses on their behalf, consistent with the subject matter before the Board and under the guidance of the Board Chair or Vice-Chair.
13. The voting members of the Board may direct questions to any party or witness.
14. The Board may deliberate in closed sessions.
15. Upon completion of the Board's inquiry into the subject matter, a written report consisting of the Board's findings and its recommendation shall be submitted to the City Council, such report to be made a public document.
16. A minority opinion may be provided to the City Council on all recommendations submitted.

B. Rules of Procedure (Requests for Opinions).

1. a. When an incumbent or a candidate for City elected office has doubt as to the applicability of a provision of the Ethics code to a particular situation in which she or he is or may become involved or definitions of terms used in the code, she or he should ask the Ethics Board in writing for an advisory opinion and be guided by that opinion when given. Forms for that purpose may be obtained from the Office of the City Attorney.
- b. The applicant shall have the opportunity to present her or his interpretation of the facts at issue and the applicable provision(s) of the code before such advisory decision is made. It is prima facie evidence of intent to comply with the particular section of the Ethics Code 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.
- b. When a request for an advisory opinion is made, the name of the requester and the nature of the request may, at the requester's choice, be kept confidential. When confidentiality is requested, the Board shall hear and determine the request in closed session. The agenda for the meeting shall identify the session as a closed session to hear a request for a confidential opinion pursuant to Sec. 1-11-9 of the Lake Mills Municipal Code and Sec. 19.59, Wis. Stats. When confidentiality is requested, the report of the Board shall also be kept confidential, but the Board shall prepare a redacted summary of the report as a public document; however, if the requester

requests in writing that the full report be made public, it shall become a part of the public record. If the requester makes public any portion of the opinion or report, all confidentiality is waived by the requester and the Board shall release the un-redacted report.

2. All requests shall be made in writing.
3. All requests shall be submitted to the Office of the City Attorney.
4. The requests for opinions shall state:
 - (a) The name, address, and occupation or position of person submitting request.
 - (b) A particular, factual situation upon which the request is being predicated.
 - (c) Particular questions arising out of the factual situation submitted, upon which opinions are requested.
5. Upon receipt of the request for an opinion, the Board shall meet as expeditiously as possible and determine if it has jurisdiction over the subject matter of the request. If the Board finds it has jurisdiction, it may hear the merits of the request at the same meeting.
6. The person requesting an opinion may be present at the meeting at his or her option.
7. Upon completion of its considerations, the Board shall make a written determination of the matter and its opinion thereon as provided in Sec. IV, B., 1., above.
8. One or more members of the Board may issue a minority opinion which shall be appended to the majority opinion, subject to the requirements of Sec. IV, B., 1., above.

V. Code of Ethics

(See copy attached of entire Title 1, Chapter 13 of Code)

CHAPTER 13

ETHICS; CONFLICTS OF INTEREST

(Ord. 1064A, 08-03-10)

SECTION:

- 1-13-1: Purpose, Intent, and Applicability
- 1-13-2: Responsibility of Public Office
- 1-13-3: Definitions
- 1-13-4: Standards of Conduct
- 1-13-5: Disclosure of Interests
- 1-13-6: Disclosure and Disqualification Due to Conflict of Interest
- 1-13-7: Effect Of Disqualification On Voting Requirements
- 1-13-8: Ethics Board
- 1-13-9: Advisory Opinions
- 1-13-10: Complaints
- 1-13-11: Sanctions
- 1-13-12: Other Responsibilities of Public Office

1-13-1: **PURPOSE, INTENT, AND APPLICABILITY:**

- A. The proper operation of democratic government requires that:
 - 1. Public officials be independent, impartial and responsible to the people;
 - 2. Government decisions and policies be made within proper channels of the governmental structure;
 - 3. Public office not be used for personal gain;
 - 4. The public have confidence in the integrity of its government; and
 - 5. Guidance be provided to all city officials and employees on ethical standards of conduct by stating those acts or omissions that would be incompatible with the best interests of the City of Lake Mills or that conflict with or are incompatible with the proper discharge of duties and required independence of judgment.
- B. This section applies to the following persons:

1. Elected officials of the City;
2. All appointed officers of the City;
3. All members of City boards, committees, commissions, subcommittees and ad hoc committees;
4. All department directors and all employees; and
5. Incumbents, which shall mean all persons included in paragraphs 1, 2, 3 or 4, above.

1-13-2: **RESPONSIBILITY OF PUBLIC OFFICE:** Incumbents are agents of public purpose and hold their offices or have their positions for the benefit of the public. As recipients of this public trust, they are expected to conform their official acts to those that are consistent with that trust. In so doing they should strive always to:

- A. Uphold the Constitution of the United States and the Wisconsin Constitution, and carry out impartially the laws of the nation, state and city;
- B. Discharge faithfully the duties of their office or position, regardless of personal considerations, recognizing that the public interest must be their prime concern;
- C. Remain loyal to the objectives expressed by the electorate through elected representatives, and to the programs developed to attain those objectives;
- D. Exercise their authority in a manner consistent with the authority lawfully entrusted to them, and without exceeding that authority or breaching the law or asking others to do so;
- E. Work in cooperation with other City officials and employees, unless prohibited from so doing by law or by officially recognized confidentiality of their work.

1-13-3: **DEFINITIONS:**

- A. "Act" or "action," means discussing, advising, recommending, or making either mandatory or discretionary decisions in the context of one's office or position, or in the context of performing one's duties or exercising one's powers. For purposes of this section, an omission is an act.
- B. "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the City, political contributions which are reported as required under Ch. 11, Wis. Stats., or hospitality extended for a purpose unrelated to City business by a person other than an organization.
- C. "Associated," when used with reference to an organization, includes any organization in which an individual or a member of the individual's immediate family is a director or officer or owns or controls, directly or indirectly, and severally or in the aggregate, at least five percent (5%) of the outstanding equity or indebtedness.
- D. "Economic interest" or "financial interest" means a business or cause in which a person or that person's immediate family member has a concern, responsibility, share, right or title in

the ownership of property in a commercial or financial undertaking which relates to the source, production, distribution or use of the person's or immediate family member's income, wealth or goods, including debts, or which affects or is apt to affect the welfare or the material resources of the person or immediate family member.

- E. "Immediate family" means an individual's spouse, a relative by marriage, lineal descent or adoption who receives, directly or indirectly, one-half or more of his or her support from the individual or from whom the individual receives, directly or indirectly, one-half or more of the individual's support.
- F. "Organization" means any public or private, profit or non-profit, religious, educational, charitable or political organization or entity, but does not include governmental bodies.
- G. "Personal interest" means any interest greater than nominal, which is either direct or indirect, arising from blood, marriage, adoption or guardianship or from close business or other associations, such as political, fraternal, civic, quasi-governmental or religious organizations, for which the incumbent serves as an officer or director.

1-13-4: **STANDARDS OF CONDUCT:**

- A. Use of Office or Position. No incumbent may use or attempt to use his or her position or office to obtain financial gain or anything of value or any advantage, privilege or treatment for the private benefit of the incumbent or the incumbent's immediate family, or for an organization with which the incumbent or the incumbent's immediate family member is associated. This paragraph does not prohibit an incumbent from using the title or prestige of office to obtain campaign contributions that are permitted and reported as required by Ch. 11, Wis. Stats.
- B. Influence and Reward. No person or entity may offer or give to an incumbent or member of an incumbent's immediate family, directly or indirectly, and no incumbent may solicit or accept from any person or entity, directly or indirectly, anything of value if it could reasonably be expected to influence the incumbent's vote, official actions or judgment, or if it could reasonably be considered as a reward for any official action or inaction on the incumbent's part.
- C. Limitations on Actions. Except as otherwise provided in paragraph D, no incumbent may:
 - 1. Take any official action affecting, directly or indirectly, a matter in which the incumbent, or a member of the incumbent's immediate family, or an organization with which the incumbent or a member of the incumbent's immediate family is associated has a financial or personal interest;
 - 2. Use the incumbent's office or position in a way that produces or assists in the production of a benefit, direct or indirect, for the incumbent, a member of the incumbent's immediate family either separately or together, or an organization with which the incumbent or the incumbent's immediate family member is associated.
- D. Paragraph C, above, does not prohibit an incumbent from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit an incumbent from taking official action with respect to any proposal to create, modify, or repeal a City ordinance, resolution or motion benefiting or affecting the public and the incumbent in a like manner and degree.

- E. **Privilege and Advantage.** No incumbent shall request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit, or for that of another, except when the same are available to the public generally or except as otherwise authorized in employment policies or by the City Council. No incumbent may grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- F. **Outside Employment.** No incumbent may engage in or accept private employment or render service for private interest, whether compensated or uncompensated, when such employment or service is incompatible with the proper discharge of his or her official duties or would reasonably appear to impair his or her independence of judgment or action in the performance of his or her official duties, unless otherwise permitted to do so by law.
- G. **Disclosure of Information.** No incumbent may intentionally use or disclose information gained in the course of or by reason of the incumbent's official position or activities in a manner that could result in the receipt of anything of value for the incumbent, for a member of the incumbent's immediate family, or for any other person or entity if the information has not been communicated to the public or is not a public record.
- H. **Contracts or Leases.** No incumbent, member of an incumbent's immediate family, nor any organization in which the incumbent or a member of the incumbent's immediate family owns or controls at least five percent (5%) of the outstanding equity or indebtedness or voting rights, may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from funds administered by the City, unless the incumbent has first made written disclosure of the nature and extent of such relationship or interest to the City Council and to the department acting for the City in regard to such contract or lease.
 - 1. Any contract or lease entered into in violation of this provision may be voided by the City in an action commenced within 3 years of the date on which the City Council, or the department or incumbent acting for the City in regard to the allocation of funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred.
 - 2. Nothing in this provision affects the application of criminal penalties under § 946.13, Wis. Stats., as it exists or as it may be amended in the future, relating to an incumbent's activity concerning a direct or indirect financial interest in a City contract.
- I. **Receipt of Anything of Value:** No incumbent may receive and retain any transportation, meals, entertainment, fee, food, beverage, or reimbursement therefore, nor any honoraria, service fee, gift, loan or contract payment or anything of value except in accord with the following:
 - 1. During his or her service to or employment with the City, no incumbent shall receive and retain anything of value unless the activity or occasion for which it is given did not arise from the incumbent's use of the City's time, facilities, equipment, services or supplies not generally available to all residents of the City, or unless the thing of value was given for purposes unrelated to the incumbent's service or employment with the City and unrelated to any legislation, policies, business or issues being or having been considered by or affecting the City.
 - 2. During his or her service to or employment with the City, no incumbent shall receive and retain from the City or on behalf of the City any transportation, lodging, meals, food or beverage, or reimbursement therefore unless the same were incurred or received primarily

for the benefit of the City and not primarily for his or her private benefit or that of any other person.

3. During his or her service to or employment with the City, no incumbent shall receive and retain honoraria such as money or anything of value other than commemorative or other items of nominal value for or in recognition of activities related to or arising from their City roles or positions. Such persons may accept and retain from persons or entities other than the City the cost or reimbursement of actual and reasonable expenses related to such activities whether or not such activities arise from their City roles or positions, except that elected officials may not receive and retain any such payments from a lobbyist or from a business or organization or local government that employs a lobbyist.

4. When incumbents perform or provide services for persons or entities other than the City, and said services arise from the incumbents' City employment, and the compensation and expenses related thereto are paid for or reimbursed by the City, all monies received by the incumbent from other persons or entities for those services shall be paid promptly to the City Clerk-Treasurer.

5. Elected officials may receive and retain from a political committee under Ch. 11, Wis. Stats., transportation, lodging, meals, food or beverages, or reimbursement thereof or payment or reimbursements of costs permitted and reported in accordance with Ch. 11, Wis. Stats.

6. If an incumbent receives anything of value not authorized by this subsection, the incumbent shall not retain it but shall within 10 days of receipt thereof deposit the money or the equivalent cash value of anything of value with the City Clerk-Treasurer or return the payment or thing to the payer or giver.

7. If the receipt of anything of value is permitted under this subsection G, whenever an incumbent receives anything of value from, or has any fee or expense waived or reduced by, a person or entity other than the City in connection with the incumbent's official duties, the incumbent shall, within 10 days of the occurrence, file a written report of such receipt with the City Clerk-Treasurer.

J. Fair and Equal Treatment:

1. No person shall receive preferential treatment in the selection process or be appointed to or hired for or promoted in a City position nor be denied appointment, employment or promotion solely because that person is a member of an incumbent's family.

2. No incumbent shall use his or her position to bring about the appointment, employment or promotion of a member of the incumbent's family.

3. No member of an incumbent's family may be hired, appointed or promoted, except through a competitive application or evaluation process that shall not include any participation or influence by any incumbent.

4. No incumbent shall participate in any final decision in any employment matter involving an employee who is a member of the incumbent's family. For purposes of this subsection only, "final decision" means any supervision, evaluation of performance, training, establishment of compensation or benefit level, approval of vacation or other leave requests, approval of any temporary or permanent assignment or transfer affecting the employee either directly or indirectly, recommendation or approval of any level of funding directly or indirectly affecting the employee's employment status, or any other similar decision.

5. For the purposes of this subsection only, "family" means the incumbent's spouse, child by blood or adoption, spouse's child, sibling, parent, parent-in-law, brother- or sister-in-law, uncle, aunt, niece, nephew, or the spouse thereof, grandparent or grandparent-in-law, or fiancé or fiancée.

K. Logrolling Prohibited; Freedom of Debate.

1. No member of the Council shall give, offer, or promise to give his or her vote or influence in favor of or against any measure or proposition pending or proposed to be introduced to the Council, in consideration of or upon condition that any other person elected to the Council will give or will promise or agree to give his or her vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced to the Council or shall give, offer or promise to give his or her vote or influence in favor of any change in any other matter pending or proposed to be introduced to the Council.

2. Nothing in this Subsection shall be construed as prohibiting free discussion and deliberation upon any question pending before the Council by members thereof, nor as prohibiting agreements by members to support any single measure pending, on condition that certain changes are made in such measure.

3. Whenever the word "Council" appears in this subsection, it is to be construed to also include members of any board, committee, commission, subcommittee or ad hoc committee.

L. No incumbent or candidate for elective office may, directly or by means of an agent, give or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other 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 Wis. Stat. § 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

1-13-5: **DISCLOSURE OF INTERESTS:**

A. Definitions: The following definitions apply in this subsection relating to Disclosure of Interests:

1. "Appointed official" means any officer of the City of Lake Mills appointed pursuant to section 1-5A-3 of the Municipal Code, and shall also include all City of Lake Mills Department Heads, but shall exclude election officials and board, commission and committee members.

2. "Candidate for elective office of the City of Lake Mills" means any person who files nomination papers and a declaration under § 8.10, Wis. Stats., for the purpose of appearing on the ballot for election to an office of the City of Lake Mills or any person nominated for a City office in an election through the write-in process and who files a declaration pursuant to § 8.10, Wis. Stats.

3. "Elected official" means all officers of the City of Lake Mills established pursuant to the provisions of § 64.04, Wis. Stats., or its authority, who are elected by the voters.

4. "Immediate family" has the same meaning as defined in section 1-13-3-E.

5. "Statement of interests" means the factual statement filed pursuant to the provisions of this subsection and which contains the information set forth in section .
- B. Disclosure of Interests: By Whom Required. The following shall file a Statement of Interests as provided in this section:
1. Elected and appointed officials, except for board, commission and committee members and election officials;
 2. Candidates for elective office of the City of Lake Mills;
- C. Statement of Interests, When To File.
1. All persons who file nomination papers for an elective office of the City of Lake Mills shall at the time of filing of such nomination papers also file a Statement of Interests with the City Clerk.
 2. The Clerk shall omit the name of any candidate from an election ballot who fails to disclose her or his interests in accordance with the requirement of this subsection.
 3. The Clerk shall notify by certified mail any candidate whose name is to be omitted from a ballot as soon as practicable after the decision is made to omit the name.
 4. Employees who are appointed to their positions subject to confirmation by the City Council shall file the Statement with the City Clerk at least 10 business days before their appointments are submitted to the City Council for confirmation.
 5. All other appointed officials who are required to file the Statement shall file the Statement with the City Clerk within 10 business days after they begin work as City appointed officials.
- D. Annual Filing. Each person required to file the Statement shall annually file an updated Statement with the Clerk no later than the first Tuesday in January of each year, except that this provision shall not apply to candidates for elected office who have filed the Statement with their nomination papers pursuant to paragraph C of this section.
- E. Amending the Statement of Interests.
1. If, after filing the Statement, the filer becomes aware of errors or omissions in the original Statement, she or he, as soon as possible, shall attach an Amendment to her or his original Statement to reflect accurately the required disclosures.
 2. If, after filing the annual Statement, any elected official or department or division head or other person required to annually file a statement, becomes aware of any change in the information contained in her or his current Statement, she or he shall amend, as soon as possible, her or his Statement to reflect accurately the change.
- F. Any amendment to the Statement which is filed after the filing of a complaint against the person required to file shall not be a defense to the complaint, but the Ethics Board may, in its discretion, consider the amendment as mitigating circumstances.
- G. Form of Statement. The person filing any Statement of Interests required under this section shall file such Statement on the form approved by the Ethics Board and provided by the City Clerk, and shall supply the following information:

1. The name and address of the filer and the City office held or sought or the position of City employment.

2. The name and address of all employers and positions of employment held as of the date the statement is filed.

3. The identity of all real estate within the City of Lake Mills, or within 1.5 miles of the boundary of the City, in which the person filing or any member of her or his immediate family has a direct or indirect interest, and the identity of any person or entity owning or controlling any real estate within the City of Lake Mills, or within 1.5 miles of the boundary of the City, in which the person filing or any member of her or his immediate family has a direct or indirect interest.

H. The Clerk-Treasurer shall send Statement of Interests forms to known filers at least 45 days before the filing deadline and a filing reminder to all City department heads at least 15 days before the filing deadline. The Clerk-Treasurer shall notify any person who fails to timely file the required Statement of Interests. The Clerk-Treasurer shall note the name of any person who has not filed the Statement within 10 days of the mailing of the Clerk-Treasurer's notice. The Clerk-Treasurer shall withhold the compensation of any such person until the Statement is filed.

1-13-6: **DISCLOSURE AND DISQUALIFICATION DUE TO CONFLICT OF INTEREST:**

1. Any incumbent who has or whose immediate family member has a financial or personal interest in a matter coming before the City Council or City Officer, or any board, committee, commission, sub-committee or ad hoc committee, and who participates in discussion or recommendation, or who gives an official opinion to such body, shall disclose on the records of such body the nature and extent of such interest. This provision requiring disclosure of interests shall not apply if the incumbent disqualifies herself or himself from participating in discussion of the matter and from otherwise taking action on the matter.

2. Any incumbent shall disqualify herself or himself from discussing and voting, or from taking any official action in a matter under consideration by the City if such matter involves the incumbent's or the incumbent's immediate family member's financial or personal interests to the extent that such interests conflict or appear to conflict with the incumbent's official duties or would impair or reasonably be expected to impair the incumbent's independence of judgment or actions.

3. In the event that an incumbent is required to disqualify him or herself from participating on a matter that comes for official action before the City, or in the event that the incumbent voluntarily disqualifies himself or herself, the incumbent shall perform the following duties of disqualification:

a. If the incumbent is a member of the City Council, the incumbent is not required to disclose in writing the reasons for disqualification, but the incumbent shall not participate in formal or informal discussion of the item from which he or she has disqualified himself or herself from action. Such disqualification from acting applies equally to discussions both before and at the meeting at which the item is to be considered. At such meeting, the incumbent shall remove himself or herself temporarily from his or her seat on the Council when the item comes before such body, and shall take a seat in the audience or exit the meeting. The minutes of the meeting shall reflect this temporary disqualification of the incumbent from the Council, but no reason needs to be given directly to the Council or the public for such temporary disqualification, unless the incumbent chooses to voluntarily state his or her reasons for disqualifying him or herself from participating in an item before the Council.

b. If the incumbent is a member of the City Council, and if the incumbent is absent from the meeting at which the incumbent would have otherwise disqualified himself or herself, the incumbent shall notify the City Clerk in advance of the meeting of such absence and such disqualification, and the notice of disqualification shall then be made a part of the minutes of the Council meeting. Failure to so notify the Clerk shall be considered a violation of this section.

c. If the incumbent is the City Manager, the incumbent shall disclose in writing the reasons for his or her disqualification to the City Attorney and Council President, who will then decide whether they will act jointly in the City Manager's stead in discharging any duties from which the City Manager has disqualified himself or herself, or whether they will bring the matter to the Council in closed session, if appropriate, for the purpose of substituting the Council's action in the City Manager's stead in discharging the duties from which the City Manager has disqualified himself or herself under this section.

d. If the incumbent is a Department Director, the incumbent shall disclose in writing the reasons for disqualification to the City Manager and the City Attorney. The City Manager shall then act in the Director's stead in discharging duties for which the Director has disqualified himself or herself under this section, and the City Manager may delegate the actual decision or action to a subordinate of that Director, if warranted, in the case of disqualification by the Police Chief or Fire Chief.

e. If the incumbent is an employee under the supervision of a Department Director, the incumbent shall disclose in writing the reasons for disqualification to the Department Director and the City Attorney. The Department Director shall then act in the employee's stead in discharging duties for which the employee has disqualified himself or herself under this section.

f. If the incumbent is the City Attorney, the incumbent shall follow the requirements of the Supreme Court Rules that pertain to conflicts of interest, disclosure and disqualification, and if the incumbent requires guidance with regard to options to pursue under these rules, the incumbent may seek an ethics opinion of the standing ethics board of the Wisconsin State Bar.

1) In addition, if the procedures would not otherwise conflict with the Supreme Court Rules or Ethics Opinion, the City Attorney shall develop standardized procedures for obtaining outside counsel or prosecutors to act in the City Attorney's stead and such persons shall be funded from the City Attorney's budget out of monies allocated for professional services.

2) Notwithstanding the foregoing, the City Attorney is authorized to seek outside legal opinions or consultation, when in the City Attorney's professional opinion, such opinions or consultations are warranted, and the fees for such services shall likewise be funded from the City Attorney's budget out of monies allocated for professional services.

3) Finally, if outside legal assistance is required due to the specialized area of law or long-term assistance necessary to meet the needs of the City, the City Attorney is authorized to seek an appointment by the Council of a special counsel to represent the City in the limited matter to which the appointment specifically pertains. Funding sources for such special counsel shall be determined by the Council at the time of any appointment.

g. If the incumbent is a member of a City board, committee, commission, subcommittee or ad hoc committee, the incumbent is not required to disclose in writing the reasons for

disqualification, but the incumbent shall not participate either prior to or at the meeting in formal or informal discussion of the item from which he or she has disqualified himself or herself from action, and the incumbent shall remove himself or herself temporarily from his or her seat on the board, committee, commission, subcommittee or ad hoc committee when the item comes before such body. The incumbent shall take a seat in the audience or exit the meeting room during discussion of the item from which the incumbent has disqualified himself or herself. The minutes of that meeting shall reflect this temporary disqualification of the incumbent from the body, but no reason needs to be given directly to the body or the public for such temporary disqualification.

h. If the incumbent is a member of a City board, committee, commission, subcommittee or ad hoc committee, and if the incumbent is absent during the meeting at which he or she would have otherwise been required to temporarily disqualify himself or herself from action on an item, the Chair or President or presiding officer of the body shall be notified in writing prior to the meeting that the incumbent, although absent from the meeting, is disqualifying himself or herself from all discussion and action on the particular item. This notification shall be made part of the minutes of that meeting. Failure to so notify the appropriate person of the disqualification, despite the member's absence, shall be considered a violation of this section.

1-13-7

EFFECT OF DISQUALIFICATION ON VOTING REQUIREMENTS:

a. If an incumbent may not cast a vote due to a conflict of interest, and if the incumbent has disqualified himself or herself from the vote, the lack of vote by the incumbent shall be recorded as an abstention, and such vote shall not be counted for determining (1) the number of "members present" if passage of that measure requires a favorable vote by a majority or other fractional vote (i.e., 2/3 or 3/4) of the members "present," or (2) the presence of a quorum for purposes of that particular vote.

b. If the vote requires that all members of the body be counted for purposes of determining whether a majority of all the members voted, as opposed to whether a majority of the members "present" voted, the disqualified member's disqualification shall not be counted as a portion of the total number of members for purposes of determining (1) whether a majority were present for quorum reasons for that vote, or (2) whether a favorable vote was cast by a majority of the members or other required fractional number of the total members.

c. By way of example, under paragraph a, if a body has five members and a two-thirds vote of the members present is required, and one member is absent and one member is disqualified and the vote is 2 in favor and 1 against a measure, the disqualified person's lack of vote will not be counted among the number of members "present," so the resulting vote will be recorded as 2-1 and the measure will pass because a two-thirds vote of the members present had voted in favor of the measure.

d. By way of example, under paragraph b, if a body has five members, but one vacancy exists and only four members may then be present to vote on any measure before the body until the vacancy is filled, the total number of all members is still considered to be five. If one member is disqualified and a simple majority vote is required for the measure to pass, the majority of all members required for the vote to pass would be three votes in favor. The three voting members at the meeting cast a vote of 2-1. Under this scenario, only two members voted in favor of the measure, but since three were needed, the measure fails. If, under paragraph b, a body has five members, but one member is disqualified from voting due to a conflict of interest, and a 2/3 or 3/4 vote is required of all members, that disqualified member is not counted for the purpose of determining if the required number of votes were cast for the measure to pass.

5. Notwithstanding the foregoing paragraphs, if the effect of the disqualification on the official duties is so pervasive and so permanent in nature that a reasonable person would believe that a de facto vacancy exists in the office or position, the incumbent is encouraged to remove the source of the on-going disqualification or resign.

1-13-8: **ETHICS BOARD:**

1. The Ethics Board of the City of Lake Mills is hereby abolished and recreated. The newly created Ethics Board shall consist of five members who shall serve without compensation from the City.

2. All members of the Ethics Board shall be at least 18 years of age, be residents of the City, and during their terms on the Ethics Board, no member may hold any elective office in, be employed by, or be a contracted, appointed official with the City of Lake Mills.

3. Each member of the Ethics Board shall have experience with the types of situations presented when applying an ethics code to specific facts. To satisfy the need for specialized experience, each applicant for consideration for appointment to the Ethics Board shall meet one or more of the following qualifications:

a. Currently serving, or have in the past served, in an elective or appointive office in a governmental entity; or

b. Currently are or have been employed by a governmental entity and have been subject to similar ethics codes in such employment; or

c. Currently are licensed to practice law in the State of Wisconsin; or

d. Possesses qualifications and experience similar to those listed in this paragraph.

4. The members of the Ethics Board shall be appointed by the Council President to three-year terms, commencing on May 1 in the year of appointment, subject to confirmation by the Council, except that of those first appointed, two of the members shall be appointed for one year, two members shall be appointed for two years, and the remaining member shall be appointed for three years.

5. The members of the Ethics Board shall take and file an oath of office prior to entering into their duties.

6. The Ethics Board shall elect its own chair, vice-chair and secretary and shall develop written rules of procedure to be submitted to the Council for approval.

7. The Ethics Board shall have the powers and duties as set forth in § 19.59(5)(a) and (b), Wis. Stats., and its duties also include making recommendations to the City Council for further action as appropriate.

8. The Ethics Board shall meet when it has business to conduct and it may adjourn its meetings from time to time.

9. The Ethics Board may make recommendations with respect to amendments to the Code of Ethics of the Lake Mills Municipal Code.

10. The City Attorney shall furnish the Board whatever legal assistance is necessary in the carrying out of its functions.

11. The reasonable and necessary expenses incurred by the board may be compensated if such expenses are approved by the City Council through either a previously adopted budget or special action of the Council.

1-13-9: **ADVISORY OPINIONS:**

1. When an incumbent has doubts as to the applicability of a provision of this section to a particular situation in which he or she is or may become involved, or definitions of terms used in the code, the incumbent should apply in writing to the Ethics Board for an advisory opinion and be guided by that opinion when given. The requester of an ethics opinion shall include in such a request all pertinent information regarding his or her interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory opinion may be issued. It is prima facie evidence of intent to comply with this section 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.

2. When a request for an advisory opinion is made, the name of the requester and the nature of the request may, at the requester's option, be kept confidential. When confidentiality is requested, the Board shall hear and determine the request in closed session. The agenda for the meeting shall identify the session as a closed session to hear a request for a confidential opinion pursuant to this section and § 19.59, Wis. Stats.

3. When confidentiality is requested, the report of the board shall also be kept confidential, but the Board shall prepare a redacted summary of the report as a public document; however, if the requester requests in writing that the full report be made public, the entire opinion or report shall become a part of the public record.

4. If the requester makes public any portion of the opinion or report, all confidentiality is waived by the requester and the Board shall release the full report with the redacted portions restored.

5. If the Ethics Board cannot meet in a timely manner, and a request for an ethics advisory opinion has been submitted, the City Attorney may act to provide such advisory opinion as if the City Attorney has the powers and duties of the Ethics Board in this section. In addition, the City Attorney shall provide a report in writing to the Ethics Board of the fact that such request was made and if the requester has requested that the request for the advisory opinion remain confidential, the City Attorney shall nonetheless provide all information contained in the request and the advisory opinion to the Board so that the Board may have such information for the Board's records and use in accordance with this section, as if the Board had actually met and provided the advisory opinion.

1-13-10: **COMPLAINTS:**

1. Any resident of the City may complain to the Ethics Board about the activity of any person or entity covered by the Code of Ethics in the Lake Mills Municipal Code, pursuant to the rules and procedures of the Ethics Board, which have been approved by the City Council. If a complaint is brought under this section against any member of the Ethics Board, the City Council shall hear the complaint, acting as the Ethics Board, and following the same rules, procedures and precedents of the Ethics Board.

2. The Ethics Board will charge the total costs of its proceedings to the person bringing a complaint, if the Ethics Board determines that the complaint was without merit, was frivolous in nature, or was brought for the purpose of harassing the subject of the complaint.

3. The Ethics Board, or City Council when acting as the Ethics Board, may issue subpoenas and administer oaths.

4. No action may be taken on any complaint which is filed later than 12 months after a violation of this Ethics Code is alleged to have occurred.

5. If the Ethics Board cannot act due to a lack of quorum or any reason other than when a complaint is brought against a member of the Ethics Board and the City Council is acting in its place, then complaints may be submitted to the City Attorney, and if upon investigation, the City Attorney finds probable cause to believe that the conduct that is the subject of the complaint is in violation of the this Chapter, the City Attorney shall forward said complaint and any investigative materials to the District Attorney for prosecution under Wis. Stats. § 19.59(8). If the District Attorney fails to commence an action under §19.59(8)(c) within 30 days after receiving a verified complaint forwarded under this section from the City Attorney, or if the District Attorney refuses to commence such action, the person who originally submitted the complaint to the City Attorney under this paragraph may petition the attorney general to act upon the complaint in accordance with § 19.59(8)(c).

1-13-11: **SANCTIONS:**

1. Violation of any provision of this Ethics Code should raise conscientious questions for the incumbent concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the City of Lake Mills. If the Ethics Board determines that any person or entity has violated any provision of this code, the Board may, as part of its report to the Council, make any of the following recommendations:

a. In the case of an elected official, that the City Council consider sanctioning, censuring or expelling the elected official;

b. In the case of a member of a board, committee or commission, that the City Manager, City Council President, or other appointing authority consider removing the member from the board, committee or commission;

c. In the case of an employee, that the employee's appointing authority consider disciplining or discharging the employee;

d. In addition to the sanctions imposed herein, that any person or entity violating paragraph E(2) of this Ethics Code not be awarded any City contract, grant, loan or any other thing of values for a period of 12 months from the date of the finding of a violation or that any such contract, grant, loan or things of value be terminated, repaid, forfeited or called in.

e. As an alternative, or in addition to the sanctions imposed herein, that any person violating the provisions of this section shall be subject to a nonreimbursable forfeiture of not more than \$500 per violation in an action brought by the City.

1-13-12.: **OTHER RESPONSIBILITIES OF PUBLIC OFFICE:** Nothing in this ordinance supersedes or limits the responsibilities of public officials and employees to be aware of and

to abide by the other laws affecting their conduct as public officials or employees. These other laws, include, but are not limited to, §§ 19.59 and 946.10 through 946.18, Wis. Stats., which apply to various violations for conflict of interest, bribery, misconduct in public office, corrupt means to influence official actions, and private interests in public contracts.