

ORDINANCE NO. 3-90

ORDINANCE CREATING A CODE OF ETHICS FOR THE CITY OF WAUPACA

The Common Council of the City of Waupaca do ordain as follows:

Section 1. Section 2.21 of the Municipal Code of the City of Waupaca is hereby created to read as follows:

2.21 CODE OF ETHICS. (1) Declaration of Policy. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for all City of Waupaca officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees, and commissions of the City as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Waupaca and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interest of the City of Waupaca.

(2) Standards of Conduct. There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics.

Accordingly, the provisions of the following sections of the Wisconsin Statutes are made a part of this Code of Ethics and shall apply to public officials and employees whenever applicable, to-wit:

- Section 946.10 – Bribery of Public Officers and Employees
- Section 946.11 – Special privileges from Public Utilities
- Section 946.12 – Misconduct in Public Office
- Section 946.13 – Private Interest in Public Contract Prohibited.

(3) Responsibility of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this state and carry out 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.

(4) Dedicated Service. All officials and employees of the City of Waupaca should be loyal to the objectives expressed by the electorate and the programs developed to attain these objectives. Appointive officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(5) Fair and Equal Treatment. (a) Use of Public Property. No official or employee shall request or permit the unauthorized use of city-owned vehicles, equipment, materials or property for personal convenience or profit.

(b) Obligations to Citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(6) Conflict of Interest. (a) Financial and Personal Interest Prohibited. No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this ordinance or which would tend to impair independence of judgment or action in the performance of official duties.

(b) Definitions. (1) Financial Interest. Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

(2) Personal Interest. Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

(3) Person. Any person, corporation, partnership, or joint venture.

(c) Specific Conflicts Enumerated. (1) Incompatible 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.

(2) Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, nor shall such information be used to advance the financial or other private interest of the official or employee or others.

(3) Gifts and Favors. No official or employee shall accept any gift, whether in the form of service, loan, thing or promise, from any person which may tend to impair his or her independence of judgment or action in the performance of his or her duties or grant in the discharge of his or her duties any improper favor, service or thing of value.

Any official who receives, directly or indirectly, any gift or gifts having an aggregate value of more than \$50 within any calendar year from any person who is known by said official or employee to be interested directly or indirectly in any manner whatsoever in business dealings with the City upon which the official or employee has any influence or input or over which the official or employee has any jurisdiction, discretion or control, shall disclose the nature and value of such gifts to the Ethics Committee by January 20 next following the year in which the gift or gifts are received.

No official or employee may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could reasonably be expected to influence the

employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.

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 a City official or employee. Participation in celebrations, grand openings, open houses, information meetings, and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

Gifts received by an official or employee under unusual circumstances should be referred to the ethics Committee within 10 days of receipt for recommended disposition.

(4) Representing Private Interests before City Agencies. No officer or employee shall appear on behalf of any private person (other than him or herself, his or her spouse or minor children) before any city agency. However, members of the Common Council may appear before City agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations.

(5) Conflicts of Interest Prohibited. No official or employee shall take any official action substantially affecting a matter in which the official or employee, a member of his or her immediate family, or an organization with which the official or employee is associated, has a substantial financial interest.

No official or employee shall use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official or employee, one or more members of the official or employee's immediate family, either separately or together, or an organization with which the official or employee is associated.

(d) Contracts with the City. No City officer or employee who in his/her capacity as such officer or employee participates in the making of a contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his part, shall enter into any contract with the City unless, within the confines of Section 946.13, Wisconsin Statutes:

(1) The contract is awarded through a process of public notice and competitive bidding,
or

(2) The Common Council waives the requirement of this section after determining that it is in the best interest of the City to do so.

(3) The provisions of the Section shall not apply to the designation of a public depository of public funds.

(e) Disclosure of Interest in Legislation. Any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council, or the Ethics Committee created by this ordinance, the nature and extent of such interest.

Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the Common Council or 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 legislative action, shall disclose on the records of the Common Council or the appropriate board, commission or committee the nature and extent of such interest.

(7) Advisory Opinion. Any questions as to the interpretation of any provisions of this Code of ethics shall be referred to the Ethics Committee, which, if it deems it necessary or appropriate, may request an advisory opinion from the City Attorney.

(8) Jurisdiction and Application. The Judiciary Committee shall have administrative jurisdiction over this Code of Ethics and shall be deemed the Ethics Committee for that purpose.

(a) The Committee may make recommendations with respect to amendments to this Code of Ethics Ordinance.

(b) Upon the sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this ordinance, the committee shall conduct an investigation of the facts of the complaint, if the investigation indicates there may be a reasonable basis for the complaint justifying further investigation, the committee shall conduct a public hearing in accordance with the common law requirements of the due process including notice, an opportunity to be heard, an opportunity to cross-examine witnesses and to present testimony and other evidence in support of the accused's position and an opportunity to be represented by counsel or other representative at the expense of the accused. The committee shall make written findings of fact and issue a written decision concerning the propriety of the conduct of the subject official or employee and shall refer the matter to the common council for final disposition.

(c) In the event a member of the Ethics Committee is allegedly involved in the ethics code violation, the Mayor, subject to the confirmation of the Common Council, shall appoint another alderperson to temporarily replace the member of the committee who is under investigation.

(d) In the event an employee, covered under a collective bargaining agreement, is allegedly involved in an ethics code violation, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of this ethics code.

(9) Sanctions. A determination that an official's or employee's actions constitute improper conduct under the provisions of this ordinance may constitute a cause for suspension, removal from office or employment, or other disciplinary action. Pursuant to Section 19.59, Wisconsin Statutes, other disciplinary action may include a forfeiture in an amount not exceeding \$1,000.00 for each offense.

(10) Distribution of Code of Ethics. The City Clerk-Treasurer shall cause a copy of this Code of Ethics to be distributed to every public official and employee of the City of Waupaca within thirty (30) days after enactment of this Code. Each public official and employee elected, appointed, or engaged thereafter shall be furnished a copy before entering upon his or her duties.

Each public official, the Mayor, the Chairman of each Board, Commission or Committee and, the head of each Department, shall between May 1st and May 31st, each year, review the provisions of

this Code with his or her fellow Council, Board, Commission, Committee members or subordinates as the case may be, and certify to the City Clerk-Treasurer by June 15th that such annual review had been undertaken. A copy of this Code shall be continuously posted on each department bulletin board wherever situated.

Section 2. All ordinance or part of ordinances contravening the terms and provisions of this ordinance are hereby to that extent repealed.

Section 3. This Ordinance shall take effect on and upon passage and publication according to law.

Approved: _____

/s/ James W. Boyer, Mayor
James W. Boyer, Mayor

Adopted: January 16 _____, 1990

Approved: January 18 _____, 1990

Published: January 25 _____, 1990

ATTEST:

/s/ Beverly R. Sather
Beverly R. Sather, Clerk-Treasurer