

Article II – Village Administration

Chapter 232 – Ethics

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232.01 PURPOSE

In an effort to maintain the public trust and instill confidence in local government in the residents and property owners within the Village of Lake Isabella, the Lake Isabella Village Council hereby declares that all public officials and employees of the Village of Lake Isabella shall avoid any conflict of interest as defined herein and conflict or incompatibility between their private interests and those of the general public that they serve.

232.03 CONFLICTS OF INTEREST

No Village official or employee, on his or her own behalf or on behalf of another person, shall have any financial or other direct personal interest in any contractual or non-contractual business transaction with the Village which is clearly separate from that of the general public. A conflict of interest does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome no greater than that of other persons generally affected by the decision, such as adopting the annual budget, capital improvement plan, or setting the millage rate for the Village of Lake Isabella.

Conduct of Village officials and employees shall comply with Public Act 317 of 1968. This Chapter shall not in any manner vary or change the requirements of Public Act 317 of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws which governs the solicitation by and participation in government contracts by officers and employees of the Village and preempts all local regulation of such conduct.

It is the obligation of each Village official to comply with this ordinance, the Village Charter, and state law in avoiding conflicts of interest. A Village official who has reason to

believe that he or she may have a conflict of interest shall disclose the matter to the body on which he or she serves prior to discussion of the underlying matter

It is also the obligation of each employee of the Village of Lake Isabella to comply with this ordinance, the Village Charter, and state law in avoiding conflicts of interest. An employee that may have a conflict of interest on a matter before any board of the Village of Lake Isabella and who is authorized to participate in discussion, or issue an opinion or recommendation on the matter, shall disclose the matter to the presiding officer of the body prior to discussion of the underlying matter.

A Village official or employee who has disclosed that he or she may have a conflict of interest shall comply with the requirements of the Village Charter and this ordinance. To the extent that the Village Charter or this ordinance is preempted by state law (such as 1968 PA 317), the Village official or employee shall comply with state law. The Council may, but is not obligated to, refer a matter involving a potential conflict of interest to the Board of Ethics for a binding advisory opinion.

232.05 DUAL EMPLOYMENT

No Village official or employee shall engage in employment with, or render services for, any person or entity engaged in any business transaction with the Village unless the Village official or employee shall first make a full public disclosure of the nature and extent of the interest prior to the approval of such transaction.

232.07 NEPOTISM

Unless the Village Council determines, by a two-thirds vote of all Village Council members, that the best interest of the Village will be served by their employment or appointment, the following relatives of any elected Village official are disqualified from holding any Village office or position of employment with the Village during the term for which the elected official was elected or appointed to serve: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the respective spouse of any of the above. This section shall in no way disqualify such relatives or their spouses already employed by the Village at the time of the election of any of the above-listed relatives.

232.09 PROHIBITED CONDUCT

A Village official or employee shall not engage in any of the following activities or conduct:

- Divulge privileged or confidential information to any person not authorized to obtain such information.
- Engage in a conflict of interest situation unless disclosed and approved pursuant to this Chapter or by law.
- Benefit financially from the use or disclosure of any confidential or privileged information.
- Represent his or her own personal opinion as that of the Village of Lake Isabella.

- Misuse Village personnel, resources, computers, cell phones, property, or assets for personal use or financial gain.
- Solicit or accept a gift or loan of money, goods, services or other things of value that would tend to influence the manner in which the official or employee performs his or her official duties for or on behalf of the Village.
- Engage in employment or render services that are incompatible with the discharge of his or her official duties for or on behalf of the Village or that would tend to impair his or her independent judgment regarding Village matters.
- Appear before any board or commission of the Village on behalf of a private interest, excluding zoning related matters where the property of the individual Village official or employee may be impacted by the zoning action.
- Use a Village position to secure special privileges or exemptions not authorized by law for himself, herself, or others.
- Act as an agent or attorney for another in any matter before the Village Council or any other Village body or commission.
- Dispose of Village property in a fashion that violates a Village ordinance or state law.
- Vote contrary to a binding opinion issued by the Board of Ethics.
- Vote on question concerning his or her own conduct.

232.11 PURCHASING

When a purchase or contract recommendation is presented for adoption, the Village Council shall limit their review of the recommendation to ensuring that proper procedures were followed, and to ensuring that the purchase or contract advances the general best interest of the Village of Lake Isabella. Except in extraordinary circumstances, the Village Council should limit their actions to accepting the recommendation placed before it, or rejecting it with a statement of reasons.

232.13 NON-DISCRIMINATION

The Village of Lake Isabella shall refrain from discrimination in human resource decisions based on race, religion, national origin, color, sex, gender, marital status, age, handicap, or sexual orientation.

232.15 VILLAGE REPRESENTATION

The Village Manager [and his/her designee(s)] shall be the sole representative(s) of the Village of the Lake Isabella to engage in discussions on behalf of the Village of Lake Isabella with respect to contracts and intergovernmental agreements, as well as business with the Lake Isabella Property Owners Association.

232.17 ADDITIONAL REQUIREMENTS

Nothing in this Chapter shall negate or lessen any other standard, prohibition, or ethics requirement imposed on any Village officer, official, or employee by any other law, ordinance, or legal requirement.

232.19 ANNUAL DISCLOSURE STATEMENT

1. As required by Section 18.03 of the Village Council shall adopt by resolution an annual financial disclosure form by resolution, and require the following officials to annually file such with the Village Clerk:
 - Members of the Village Council
 - Members of the Board of Ethics
 - Planning Commission
 - Zoning Board of Appeals
 - The Village Manager
 - Department Heads

2. The annual disclosure statement shall disclose the financial interest of the officer or employee or his or her immediate family in any company, business, or entity that has contracted with the Village of Lake Isabella or which has sought licensure or approvals from the Village of Lake Isabella in the previous calendar year prior to the filing of the statement.

232.21 BOARD OF ETHICS

1. As required by section 18.03b of the Village Charter, there is hereby created a board to be known as the Board of Ethics of the Village of Lake Isabella. The Board of Ethics shall be comprised of three members who are electors in the Village of Lake Isabella that are appointed by the Village President with the advice and consent of the Village Council. No person shall be appointed as a member of the Board who is related, either by blood or by marriage up to the degree of first cousin, to any elected officer of the Village of Lake Isabella, or employee of the Village of Lake Isabella. Members of the Board of Ethics are also prohibited from holding any elective or appointed government office, political party office, or board of director position on any homeowner or property owner association within the Village of Lake Isabella. Members shall serve without compensation. The Village Council shall by resolution adopt a standard complaint form to be followed and submitted for complaints made and referred to the Board of Ethics.

2. At the first meeting of the Board of Ethics, the initial appointees shall draw lots to determine their initial terms of 3, 2, and 1 year(s), respectively. Thereafter, all board members shall be appointed to 3-year terms by the Village President with the advice and consent of the Village Council. Board members may be reappointed to serve subsequent terms. At the first meeting of the Board and thereafter at the discretion of the Board, the board members shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any 2 board members. A quorum shall consist of two Board

members, and official action by the Board shall require the affirmative vote of two Board members. The business of the Board, including its hearings, shall be conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 et seq.

3. By a majority vote of the Village Council, the Village may remove a member of the Board of Ethics who no longer satisfies the requirements of 232.21(1) of the Codified Ordinances which governs requirements and prohibitions of serving on the Board of Ethics. By a majority vote of the Village Council, the Village may remove a member of the Board of Ethics in case of incompetency, neglect of duty or malfeasance in office after service on the Board of Ethics member by certified mail, return receipt requested, of a copy of the written charges against the Board of Ethics member and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Said member shall be afforded a public hearing before the Village Council prior to being removed from the Board of Ethics. Mid-term vacancies shall be filled for the balance of the term in the same manner as original appointments.
4. The Board shall have the following powers and duties:
 - (A) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.
 - (B) Upon its own initiative, or upon the receipt of a signed, notarized, written complaint against an officer or employee, to investigate, conduct hearings and deliberations, issue referrals for disciplinary hearings and refer violations of this Ordinance, Village Charter, or state or federal criminal statutes to the attention of the appropriate prosecuting attorney with a request for the filing of the appropriate criminal prosecution enforcement.
 - (C) To receive information from the public pertaining to its investigations and to seek additional information and documents from officers and employees of the Village of Lake Isabella.
 - (D) To request the attendance of witnesses and the production of documents pertinent to an investigation. It is the obligation of all officers and employees of the Village of Lake Isabella to cooperate with the Board of Ethics during the course of its investigations. Failure or refusal to cooperate with requests by the Board shall constitute grounds for discipline or discharge of appointed officers and employees.
 - (E) The powers and duties of the Board are limited to matters clearly within the purview of this ordinance and the Village Charter.
 - (F) Hire independent legal counsel. Independent legal counsel shall only be hired through the solicitation of competitive proposals requested by, and submitted to the Board of Ethics for its review and approval. The Village Council shall appropriate sufficient funds to the Board of Ethics to enable it to hire independent legal counsel hired by the Board of Ethics via a competitive proposal

process.

- (G) Issue binding opinions on matters and conduct prohibited by this Chapter of the Codified Ordinances or the Village Charter of the Village of Lake Isabella.

5. The procedure for submitting complaints shall be as follows:

- (A) Complaints alleging a violation of this ordinance or Village Charter shall be filed with the Village Clerk. The Clerk or member of the Clerk's staff shall attend the Board meetings and act as secretary for the Board.
- (B) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the Board of Ethics hearing to determine the sufficiency of the complaint and to establish whether there is a reasonable basis to believe that the respondent has violated this ordinance or Village Charter. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the Board.
- (C) The Board of Ethics shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this ordinance or Village Charter, to determine whether there is a reasonable basis to believe that the respondent has violated this ordinance or Village Charter based on the evidence presented by the complainant and any additional evidence provided to the Board at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the Board, the Board shall issue notice to the complainant and the respondent of the Board's ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated this ordinance or Village Charter.

If the complaint is deemed sufficient to allege a violation of this ordinance or the Village Charter and the Board of Ethics finds that there is a reasonable basis to believe that the respondent has violated such, then the Clerk shall notify in writing the attorney designated by the Village Council and shall transmit to the attorney the complaint and all additional documents in the custody of the Board concerning the alleged violation, with the Board's request for the filing of appropriate criminal or civil proceedings. The Clerk shall also provide these documents to the respondent's appointing authority within the Village of Lake Isabella with the Board's request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining

agreement, civil service commission rules or employment regulations of the Village of Lake Isabella.

- (D) Sections 2b - 2e of the State Ethics Act, MCL 15.341 et seq, set forth protections for officers and employees who act as whistleblowers regarding the conduct of the Village of Lake Isabella officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq.
 - (E) Any person who files a complaint alleging a violation of this ordinance knowing that material information provided therein is not true, or that information provided therein was made in reckless disregard for the truth, may be subject to punishment as a misdemeanor with a fine of up to \$500 and/or 90 days in jail; as well as the reasonable costs incurred by the Village of Lake Isabella in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint.
 - (F) Complaints are limited to the following time frame. For non-elected Village officials and staff, complaints are limited to conduct during the previous four years. For elected officials complaints are limited to the previous four years, or current term of office, whichever is longer.
6. All persons alleged to have violated this Chapter shall be afforded due process of law, including notice, the opportunity to be heard, and the right to representation of their choice. Members of the Board of Ethics or any public servant who has access to any confidential information that is related to the functions or activities of the Board of Ethics are prohibited from divulging such information to any person not authorized to possess such information.
7. Any Village official or employee who witnesses or becomes personally aware of a violation of this Chapter, the Village Charter, or other applicable law shall report that violation within 30 days of discovery of the violation.

232.23 VIOLATIONS AND SANCTIONS

A violation of this Chapter by any elected official shall be deemed malfeasance of office as defined by section 5.11 of the Village Charter. In addition to any sanctions recommended by the Board of Ethics, as is authorized in the Village Charter the Village Council may remove any member of the Village Council from office after conducting a public hearing on the matter.

An employee found guilty of or responsible for violating this Chapter shall be disciplined and may also be terminated as outlined in the adopted Employee Handbook of the Village of Lake Isabella, as amended. Sanctions shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, nor the Village of Lake Isabella's obligation to comply with such collective bargaining agreements.

A violation of this Chapter may be punished as a misdemeanor by a fine of up to \$500 and/or 90 days in jail.