

FILE NO. 2019-14

A RESOLUTION / ORDINANCE TO ABOLISH THE ETHICS COMMISSION AND REFER ETHICS COMPLAINTS TO THE DISTRICT ATTORNEY

1 WHEREAS, the Village established a Code of Ethics pursuant to Section 19.59(1m), Wis.
2 Stats.; and

3
4 WHEREAS, the establishment of a Code of Ethics pursuant to Section 19.59(1m), Wis.
5 Stats., is not required of any village; and

6
7 WHEREAS, the Village is concerned that adopted policies do not provide an adequate
8 mechanism for the avoidance of extraordinary effort and expenditures, as supplied by the
9 taxpayers, in the event of repetitive, frivolous, or otherwise potentially unnecessary claims filed
10 with the Village, which may in themselves create their own conflicts of interest; and

11
12 WHEREAS, the Village Board has determined that it is no longer in the best interests of
13 the Village to maintain its own Code of Ethics, and that all future enforcement shall be by the
14 District Attorney or Attorney General pursuant to Section 19.59(8), Wis. Stats., or in the case of
15 an employer to employee relationship, by the employer; now, therefore;

16
17 BE IT RESOLVED, The Village of Newburg hereby repeals §30.04(G) and §30.06, in their
18 entirety and as demonstrated by the following amendments:

19
20 §30.04 BOARDS AND COMMISSIONS

21 ~~(G) Ethics Committee.~~

22 ~~— (1) Membership. The Ethics Committee shall consist of five citizen members, none~~
23 ~~of whom shall be an officer or employee of the village. The members of the Committee~~
24 ~~shall be appointed by the President, subject to confirmation by the Board, for staggered~~
25 ~~two year terms.~~

26 ~~— (2) Powers and duties.~~

27 ~~— (a) All hearings held by the Committee shall be either recorded mechanically or by~~
28 ~~a court reporter and the original transcript or recording of said hearings shall be filed~~
29 ~~with the Village Clerk. At all proceedings under this paragraph, except as provided in~~
30 ~~division (b), the Village Attorney shall serve as legal counsel to the Committee.~~

31 ~~— (b) Upon a complaint by the Village Board, the Village Attorney may represent~~
32 ~~either the Board or the Committee and special counsel may be retained to represent the~~
33 ~~other as appropriate. Compensation for such special counsel shall be established by the~~
34 ~~Board and paid by the village.~~

35 ~~—(3) The Ethics Committee may make recommendations with respect to~~
36 ~~amendments to the Code of Ethics.~~

37 ~~—(4) The Ethics Committee shall serve as the ethics board pursuant to Wis. Stats. §~~
38 ~~19.59.~~

39 and;

40 BE IT FURTHER RESOLVED, the Ordinances of the Village of Newburg, Chapter 30, shall
41 be further amended as follows:

42

43 ~~§30.06 CODE OF ETHICS~~

44 ~~—(A) Declaration of policy. The proper operation of democratic government requires~~
45 ~~that public officials and employees be independent, impartial and responsible to the~~
46 ~~people; that government decisions and policy be made in proper channels of the~~
47 ~~government structure; that public office not be used for personal gain; and that the~~
48 ~~public have confidence in the integrity of its government. In recognition of these goals,~~
49 ~~there is hereby established a Code of Ethics for all village officials and employees,~~
50 ~~whether elected or appointed, paid or unpaid, including members of Village Clerk's~~
51 ~~Offices, committees and commissions of the village. The purpose of this code is to~~
52 ~~establish guidelines for ethical standards of conduct for all such employees and officials~~
53 ~~by setting forth those acts or actions that are incompatible with the best interests of the~~
54 ~~village and by directing disclosure by such officials and employees of private financial or~~
55 ~~other interests in matters affecting the village.~~

56 ~~—(B) Responsibility of public office. Public officials and employees are agents of public~~
57 ~~purpose and hold office for the benefit of the public. They are bound to uphold the~~
58 ~~Constitution of the United States and the Constitution of this state and carry out~~
59 ~~impartially the laws of the nation, state and the village and to observe in their official~~
60 ~~acts the highest standards of morality and to discharge faithfully the duties of their~~
61 ~~office regardless of personal considerations, recognizing that the public interest must be~~
62 ~~their prime concern. Their conduct in both their official and private affairs should be~~
63 ~~above reproach so as to foster respect for all government.~~

64 ~~—(C) Dedicated service. All officials and employees of the village should be loyal to the~~
65 ~~objectives expressed by the electorate and the programs developed to attain these~~
66 ~~objectives. Appointive officials and employees should adhere to the rules of work and~~
67 ~~performance established as the standard for their positions by the appropriate~~
68 ~~authority. Officials and employees should not exceed their authority or breach the law~~
69 ~~or ask others to do so, and they should work in full cooperation with other public~~
70 ~~officials and employees unless prohibited from so doing by law or by the officially~~
71 ~~recognized confidentiality of their work.~~

72 ~~—(D) Fair and equal treatment.~~

73 — ~~(1) Use of public property.~~ No official or employee shall request or permit the
74 unauthorized use of village-owned vehicles, equipment, materials or property for
75 personal convenience or profit.

76 — ~~(2) Obligations to citizens.~~ No village official or employee shall grant any special
77 consideration, treatment or advantage to any citizen beyond that which is available to
78 every other citizen.

79 — ~~(E) Conflict of interest.~~

80 — ~~(1) Financial and personal interest prohibited.~~ No village official or employee,
81 whether paid or unpaid, shall engage in any business or transaction or shall act in regard
82 to financial or other personal interest, direct or indirect, which is incompatible with the
83 proper discharge of his or her official duties in the public interest contrary to the
84 provisions of this subchapter or would tend to impair his or her independence of
85 judgment or action in the performance of his or her official duties.

86 — ~~(2) Definitions.~~ As used in this subchapter, the following words shall be defined as
87 indicated:-

88 — ~~**FINANCIAL INTEREST.**~~ Any interest which shall yield, directly or indirectly, a
89 monetary or other material benefit to the officer or employee or to any person
90 employing or retaining the services of the officer or employee.

91 — ~~**PERSON.**~~ Natural person, corporation, partnership, joint venture, association,
92 company, firm, enterprise, trust or other legal entity.

93 — ~~**PERSONAL INTEREST.**~~ Any interest arising from blood or marriage relationships or
94 from close business or political associations, whether or not any financial interest is
95 involved.

96 — ~~(3) Specific conflicts enumerated.~~

97 — ~~(a) Incompatible employment.~~ No village official or employee shall engage in or
98 accept private employment or render service for private interest when such
99 employment or service is incompatible with the proper discharge of his or her official
100 duties or would tend to impair his or her independence of judgment or action in the
101 performance of his or her official duties unless otherwise permitted by law and unless
102 disclosure is made as hereafter provided.

103 — ~~(b) Disclosure of confidential information.~~ No official or employee shall, without
104 proper legal authorization, disclose confidential information concerning the property,
105 government or affairs of the village, nor shall he use such information to advance the
106 financial or other private interest of himself or herself or others.

107 — ~~(c) Gifts and favors.~~

108 — ~~1.~~ No official or employee shall accept any gift with a value of more than \$25,
109 whether in the form of service, loan, thing or promise, from any person if such person:

110 — ~~a.~~ Has or is seeking to obtain a contractual or other business or financial
111 relationship with the Village or the Board; or

112 ~~_____ b. Conducts operations or activities which are regulated by the village or the~~
113 ~~Board; or~~

114 ~~_____ c. Has interests which may be substantially affected by the village or the~~
115 ~~Board.~~

116 ~~_____ 2. No official or employee shall accept such gifts having an aggregate value of~~
117 ~~more than \$50 in any calendar year from any person if such person:~~

118 ~~_____ a. Has or is seeking to obtain a contractual or other business or financial~~
119 ~~relationship with the village or the Board; or~~

120 ~~_____ b. Conducts operations or activities which are regulated by the village or the~~
121 ~~Board; or~~

122 ~~_____ c. Has interests which may be substantially affected by the village or the~~
123 ~~Board.~~

124 ~~_____ 3. No official or employee shall accept any gift, favor or thing of value that may~~
125 ~~tend to influence him or her in the discharge of his or her duties, or grant in the~~
126 ~~discharge of his or her duties any improper favor, service or thing of value.~~

127 ~~_____ (d) *Representing private interests before village agencies or courts.* No official or~~
128 ~~employee shall appear on behalf of any private person, other than themselves, their~~
129 ~~spouse or minor children, before any village agency or municipal court. However, a~~
130 ~~member of the Board may appear before village agencies on behalf of their constituents~~
131 ~~in the course of their duties as a representative of the electorate or in the performance~~
132 ~~of public or civic obligations.~~

133 ~~_____ (4) *Contracts with the village.* No village official or employee who, in his or her~~
134 ~~capacity as such official or employee, participates in the making of a contract in which~~
135 ~~he or she has a private pecuniary interest, direct or indirect, or performs in regard to~~
136 ~~that contract some function requiring the exercise of discretion on his or her part, shall~~
137 ~~enter into any contract with the village unless, within the confines of Wis. Stats. §~~
138 ~~946.13, the contract is awarded through a process of public notice and competitive~~
139 ~~bidding.~~

140 ~~_____ (5) *Disclosure of interest in legislation.* Any member of the Board who has a~~
141 ~~financial interest or personal interest in any proposed legislation before the Board shall~~
142 ~~disclose, on the records of the Board, the nature and extent of such interest. Any other~~
143 ~~official or employee who has a financial or personal interest in any proposed legislative~~
144 ~~action of the Board and who participates in discussion with or gives an official opinion or~~
145 ~~recommendation to the Board shall disclose on the records of the Board the nature of~~
146 ~~such interest.~~

147 ~~_____ (F) *Hearings; determination.* Upon the sworn complaint of any person alleging facts~~
148 ~~which, if true, would constitute improper conduct under the provisions of this section,~~
149 ~~the Ethics Committee shall conduct a public hearing in accordance with all village law~~
150 ~~requirements of due process and, in written findings of fact and conclusions based~~

151 thereon, make a determination concerning the propriety of the conduct of the subject
152 official or employee.

153 ~~—(G) Ethics Committee.~~

154 ~~—(1) Membership. The Ethics Committee shall consist of five citizen members, none~~
155 ~~of whom shall be an officer or employee of the village. The members of the Committee~~
156 ~~shall be appointed by the President, subject to confirmation by the Board, for staggered~~
157 ~~two year terms.~~

158 ~~—(2) Powers and duties.~~

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164 ~~either the Board or the Committee and special counsel may be retained to represent the~~
165 ~~other as appropriate. Compensation for such special counsel shall be established by the~~
166 ~~Board and paid by the village.~~

167 ~~—(c) The Ethics Committee may make recommendations with respect to~~
168 ~~amendments to the Code of Ethics.~~

169 ~~—(d) The Ethics Committee shall serve as the ethics board pursuant to Wis. Stats. §~~
170 ~~19.59.~~

171 ~~—(H) Penalty and sanctions. Violation of any provision of this subchapter may~~
172 ~~constitute a cause for suspension, removal from office or employment, or other~~
173 ~~disciplinary action.~~

174

175 Passed and adopted by the Village Board of the Village of Newburg, Washington and
176 Ozaukee Counties, Wisconsin, this ____ day of _____, _____.

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178

179 _____

180 Rena Chesak, Village President

181 ATTEST:

182

183 _____

184 Deanna Alexander, Village Administrator / Clerk