

VILLAGE OF LAKE ORION

ORDINANCE NO. _____

AN ORDINANCE TO ADD TITLE III, CHAPTER 30, OF THE VILLAGE CODE, ADMINISTRATION, § 30.60

THE VILLAGE OF LAKE ORION ORDAINS:

The Village TITLE III- Administration, §30.61 et seq. – Ethics, shall be added to read as follows:

ETHICS

§ 30.61. Public policy.

Public office and employment are public trusts. For government to operate properly, each Village official, appointee employee or advisor must earn and honor the public trust by integrity and conduct.

The Village hereby declares that all Village officials, appointees and employees must avoid conflicts between their private interests and the public interest. Public officials, appointees and employees must:

- (1) Be independent, impartial and responsible to the people;
- (2) Make governmental decisions and policy in the proper governmental channels;
- (3) Not use public office for personal gain.

To enhance public trust, The Village must provide its officials, appointees and employees with adequate guidelines for separating their roles as private citizens from their roles as public servants.

This Code sets minimum standards of ethical conduct for all Village officials, appointees and employees, elected or appointed, paid or unpaid. It proscribes actions incompatible with the public interest and directs disclosure of private financial or other interests in matters affecting The Village.

§ 30.62. Responsibilities of public office.

Village officials, appointees and employees are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out impartially and comply with the laws of the nation, state, and The Village. Village officials, appointees and employees must not exceed their authority or breach the law or ask others to do so. Village officials, appointees and employees are bound to observe in their official acts the highest standards of ethical conduct and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their official conduct should be *above reproach*.

All Village officials, appointees and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non-partisanship in all official acts, and by avoiding official conduct which may tend to undermine respect for Village officials, appointees and employees and for The Village as an institution.

§ 30.63. Definitions.

Village official, appointee or employee means a person elected, appointed or otherwise serving in any capacity with The Village in any position established by The Village Charter or by Village ordinance which involves the exercise of a public power, trust or duty. The term includes all officials, appointees and employees of The Village, whether or not they receive compensation, including consultants and persons who serve on advisory boards and councils. The term does not include election inspectors and student representatives appointed to Village boards or councils.

Consultant means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training.

Compensation means any money, property, thing of value or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.

Financial interest means any interest in money, property or thing of value or benefit.

Immediate family means a Village official, appointee or employee, his or her spouse, parents or children.

Official duties or official action means a decision, recommendation, approval, disapproval or other action or failure to act, which involves the use of discretionary authority.

Personal interest means an interest arising from blood or marriage relationships or any business association.

Private gain means any interest or benefit, in any form, received by a Village employee or official.

Substantial shall mean considerable in quantity or significantly great.

§ 30.64. Intention of code.

It is the intention of this code that Village officials, appointees and employees avoid any action, whether or not specifically prohibited by these sections, which might result in, or create the appearance of:

- (1) Using public employment or office for private gain;
- (2) Giving or accepting preferential treatment, including the use of Village property or information, to or from any organization or person;
- (3) Losing complete independence or impartiality of action;
- (4) Making a Village decision outside official channels; or

- (5) Affecting adversely the confidence of the public or the integrity of The Village government.

The Code of Ethics is intended to be preventative and not punitive. It should not be construed to interfere with or abrogate in any way the provisions of any federal or state statutes, The Village Charter, The Village ordinances, or any rights and/or remedies guaranteed under a collective bargaining agreement.

This declaration of policy is not intended to apply to contributions to political campaigns, which are governed by state law.

§ 30.65. Promulgation.

(a) *Conflict of interest—General.*

- (1) No official, appointee or employee of The Village shall divulge to any unauthorized person, confidential information acquired in the course of employment or service as a Village official in advance of the time prescribed for its authorized release to the public.
- (2) No official, appointee or employee of The Village shall represent his or her personal opinion as that of The Village.
- (3) Every official, appointee or employee of The Village shall use personnel resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.
- (4) No official, appointee or employee of The Village shall directly or indirectly, solicit or accept any gift or loan of money, goods, services or other thing of value for the benefit of any person or organization, other than The Village, which tends to influence the manner in which the official, appointee or employee or any other official, appointee or employee performs his or her official duties.

Gratuities do not include fees for speeches or published works on legislative subjects and, except in connection therewith reimbursement for expenses for actual expenditures for travel, and reasonable subsistence, for which no payment or reimbursement is made by The Village, invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends.

- (5) No official, appointee or employee of The Village shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.
- (6) No official, appointee or employee of The Village shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of his or her official duties.

This section shall not prohibit a part-time elected or appointed Village official from engaging in private employment or business on his or her own time as a private citizen

and where Village business is not involved, subject to his or her disclosing such private employment or business on the public record for any matter on which he or she may be called upon to act in his or her official capacity, in accordance with all sections below. He or she shall refrain from voting upon or otherwise participating in debate on any such matter.

- (7) No official, appointee or employee of The Village shall participate, as an agent or representative of The Village, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest.
- (8) No official, appointee or employee of The Village shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.
- (9) Relatives by blood or marriage of any Councilman, or the Village Manager, within the second degree of consanguinity or affinity, shall be disqualified from holding any appointive office, or from being employed by the village during the term of office of such Councilman or Village Manager, except and unless said relatives are bona fide appointive officers or employees of the village at the time of the election of such officer or appointment of such Village Manager. If the status of relationship between any employee of the village and any officer of the village changes to a relationship prohibited hereby after one (1) year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.
- (10) It is recognized that various boards and councils are part of the plan of government for The Village. As such, it is further recognized that by virtue of the various requirements for membership of the board, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial or personal interests. Therefore, those members of the various boards and council in The Village, as they may be established from time to time, may participate in such decisions provided that they act:
 - a. In furtherance of the public good;
 - b. In compliance with the duties of their respective boards; and,
 - c. In a manner consistent with subsection (8) of this section.
- (11) Determination of conflict of interest. A conflict of interest exists if:
 - a. The Village official, appointee or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that Village official, appointee or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's, appointee's or employee's governmental duties, or;
 - b. The Village official, appointee or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;

- c. The public official has any other prohibited interest as defined by state statutes relating to conflicts of interest.
- (12) Subsequent conflict of interest. No official, appointee or employee of The Village shall acquire any financial interest in or accept any employment concerning any project which has been granted approval by The Village or any council, board, department or employee thereof within one year of the official's, appointee's or employee's participation in any manner in considering or recommending the approval or disapproval of said project.
- (13) No councilmember's spouse or immediate family members may be appointed to any other board, committee, commission or employment with the Village of Lake Orion, except as permitted by Village Charter or ordinance.

(b) *Full disclosure.*

- (1) Responsibility to disclose. It shall be the responsibility of the official, appointee or employee to disclose the full nature and extent of his or her direct or indirect financial or personal interest in a matter before him or her.

No official, appointee or employee of The Village shall participate, as an agent or representative of The Village, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest. The official, appointee or employee shall, in such circumstances, recuse himself or herself from the matter before him or her.

- (2) Disclosure of conflict of interest and disqualification.

a. Any Village official, appointee or employee who has a conflict of interest, as defined herein, in any matter before The Village shall disclose such fact on the appropriate record of The Village prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:

1. A Village Council shall disclose any conflict of interest and the nature and extent of such interest on the record of The Village Council;
2. A member of any Village board, council or committee shall disclose any conflict of interest and the nature and extent of such interest on the records of said board, council or committee;
3. A Village employee who has a financial or other interest in a matter before The Village Council or any Village board, council or committee and who participates in discussion with, or gives an official opinion to The Village Council, or to such other Village board, council or committee relating to such matter, shall disclose on the records of The Village Council or such other Village board, council or committee, as the case may be, any conflict of interest and the nature and extent of such interest.
4. Otherwise, any appointed Village official, appointee or employee shall address such a disclosure to the supervisory head of his or her department, and any elected Village official shall address such a disclosure to the general public.

- b. If a Village official, appointee, council or employee who has a conflict of interest, as defined herein, in any matter before The Village, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, the matter under consideration shall be immediately referred to the Board of Ethics for a final determination as to the conflict in question and whether the official, councilor or employee must refrain from discussion, deliberation, action or voting thereon.
- c. Within 20 days after election, employment, appointment, or the effective date of this ordinance, or any change in the facts set forth in The Village official's, appointee's or employee's previously filed disclosure statement, each Village official, appointee and employee shall file with The Village Clerk an affidavit and disclosure statement. The Village Clerk shall provide each Village official, appointee or employee with the required affidavit and disclosure statement form immediately upon his or her election, employment or appointment.
- d. The effective date for this ordinance shall be ____, 2023.

§ 30.66. Violation, enforcement and Advisory Opinions.

(a) *Board of Ethics.*

- (1) The Village Council, by super majority of those serving as councilmembers shall appoint a Board of Ethics, consisting of three members, as an advisory body for the purpose of interpreting this Code of Ethics. No council member or employee shall be appointed.
- (2) The initial three members of the Board of Ethics shall be appointed for one-, two-, and three-year terms of office respectively, which shall begin on ____, 2023. If appointed prior to July 1st, they shall begin their terms of office immediately and their terms shall include the additional time prior to July 1st. Terms of office shall expire on June 30th of the respective years.

Thereafter, all members shall be appointed to three-year terms, beginning July 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The Village Council shall fill a vacancy by an appointment for the unexpired term only.

- (3) The Village Council may also appoint not more than two alternate members for the same term as regular members of the Ethics Board. The alternate member may be called on a rotating basis to sit as a regular member of the Ethics Board in the absence of a regular member. An alternate member may also be called to service in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Ethics Board.
- (4) The Board of Ethics shall be made up of three (3) persons who may or may not be residents of The Village who have legal, administrative or other desirable qualifications.
 - a. The members of the Board of Ethics shall serve without compensation, and shall not be elected officials, appointee, persons appointed to elective office, full-time

appointed officials, appointee or Village employees, nor shall they be currently serving on any other Village board or council.

- b. The board shall select its own presiding officer from among its members.
 - c. The board shall establish such procedures it deems necessary or appropriate to perform its functions as set forth in this article.
- (b) *Functions of the Board of Ethics.* When there is a question or a complaint as to the applicability of any provision of this code to a particular situation, that question or complaint shall be directed to the Board of Ethics. It shall then be the function of the Board of Ethics to conduct hearings and/or issue an Advisory Opinion, as applicable.
- (1) Hearings. The Board of Ethics shall follow the following hearing procedure:
 - a. The board shall, within seven days after any matter is brought to its attention, set a date certain for hearing said matter.
 - b. The board shall, at least 28 days before the hearing date, send notice of such hearing, accompanied by a concise statement of the alleged breach of this Code of Ethics, to any person requested to appear before them, by certified mail, return receipt requested, to addressee only.
 - c. Any person requested to appear before a Board of Ethics hearing may request one extension for a period not to exceed 28 days. Extensions thereafter will be granted only under extreme circumstances.
 - d. Any person requested to appear before a Board of Ethics hearing may be accompanied by his or her attorney.
 - e. All hearings at which any person shall be requested to appear shall be subject to the Open Meetings Act.
 - f. All findings of board hearings shall be published in permanent form and communicated to The Village Council and the public, subject to the requirements of the Open Meetings Act.
 - (2) Advisory Opinions. All Advisory Opinions so issued shall also be published in permanent form and communicated to The Village Council and the public, subject to the requirements of the Open Meetings Act.
 - (3) After the Board of Ethics' Advisory Opinions and/or hearing findings have been published:
 - a. The Village Council shall be responsible for imposing any sanction for a violation of this Code on one of its members or any person appointed by the Council to any Village board.
 - b. If it becomes necessary to seek the removal of a Village official after the Board of Ethics' Advisory Opinion and/or hearing findings, The Village shall follow the requirements for removal of a public official in accordance with the laws of the state.
 - c. The Village Manager shall be responsible for imposing any discipline for a violation of this Code on any employee of The Village.

§ 30.67. Affidavit and disclosure statement.

Immediately following an election, employment or appointment of a Village official or employee, The Village Clerk shall provide the individual with an affidavit and disclosure statement form. Within 20 days after election, appointment, employment or any change in the facts set forth in The Village official's or employee's previously filed affidavit and disclosure statement, all Village officials, appointees or employees shall file with The Village Clerk an affidavit and disclosure statement including the following:

- A. A disclosure statement responding in detail to the following questions:
 1. Do you promise and attest that if you or any members of your immediate family own any interest in real property located within The Village of Lake Orion, in land contiguous to The Village of Lake Orion, or in any area covered by a 425 Agreement to which The Village of Lake Orion is party and that property becomes subject to an issue before you in your capacity as an employee, board member, committee member, councilmember, etc., that you will disclose such an interest?
 2. If you must disclose such an interest, you promise and attest to state the following information for each such interest owned:
 - (a) The nature of your interest in the real property; and,
 - (b) The location of the real property (for improved property, provide the street address; for unimproved property state its location in relation to existing streets).
 3. Do you promise and attest that if you or any members of your immediate family own five percent (5%) or more of any business entity located in The Village of Lake Orion and that property becomes subject to an issue before you in your capacity as an employee, board member, committee member, councilmember, etc., that you will disclose such an interest?
 4. If you must disclose such an interest, you promise and attest to state the following, to the best of your knowledge:
 - (a) The name of the entity;
 - (b) The address of the entity;
 - (c) The nature of your relationship to the entity, and;
 - (d) The date relationship commenced.
 5. To the best of your knowledge, do you or any members of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of The Village of Lake Orion from which you or they derive direct compensation or financial benefit that is not reported in the prior answers.
 6. To the best of your knowledge, have you or any members of your immediate family given or received any gifts, other than from immediate family members, the value of which exceeds \$50.00, within the last year, or since the effective date of this code, whichever time period is shorter, to or from any person or business or other legal entity doing business with The Village, other than legal campaign

contributions? If so, list the names and addresses of each donor or donee of each such gift and the date upon which it was made and the nature of the gift.

- B. An affidavit in which The Village official, appointee or employee states: "I have read and I understand the Code of Ethics of The Village of Lake Orion and, to the best of my knowledge, I am not in conflict with its provisions."

Dated:

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public

_____ County, Michigan

My Council Expires: _____

Ordained this ____ day of _____, 2023. Effective upon publication.

Jerry Narsh, PRESIDENT

Susan Galeczka, CLERK

I, Susan Galeczka, CLERK, Village Clerk of The Village of Lake Orion, do hereby certify that the foregoing ordinance was passed by the Council of The Village of Lake Orion, Michigan at a regular meeting held _____ and that a summary was published _____, 2023.

Susan Galeczka, Village Clerk