

ENROLLED ORDINANCE 173-010

REPEAL AND RECREATE PARTS OF SECTIONS 2-2 AND 2-11 OF THE WAUKESHA COUNTY CODE OF ORDINANCES TO MODIFY THOSE SECTIONS IN THE ETHICS CODE RELATING TO CONFLICTS OF INTEREST

WHEREAS, the Waukesha County Ethics Code was originally enacted in 1993 and can be found in Chapter 2 of the Waukesha County Code of Ordinances; and

WHEREAS, the Ethics Code broadly applies to all public officials of Waukesha County, including any person holding an elected or appointed county office, all department heads, all employees, all citizens appointed to advisory boards or commissions, committees and panels; and

WHEREAS, since the enactment of the Ethics Code, the Waukesha County Ethics Board has served to interpret the language of the Ethics Code and render confidential advisory opinions as to whether specific activity violates the general terms of the Ethics Code; and

WHEREAS, the Ethics Board, based on its history of rendering confidential advisory opinions, now makes recommendations for amendments to Section 2-11 of the Ethics Code regarding specific conflicts of interest and two related definitions in Section 2-2; and

WHEREAS, the Ethics Board recommends modifying the definition of Anything of Value to add the concept of "discount" to the list of things considered to have value because there is value in receiving a discount off a purchase price of an item or service and usually a discount can be quantified into a monetary value; and

WHEREAS, the Ethics Board further recommends modifying the definition of Anything of Value to clarify things that are excluded from the definition by stating that anything of value does not include a thing available to a public official independent and unrelated to his or her position as a public official or a thing that is available to all public officials of Waukesha County or otherwise available to a member of the public based on other conditions, such as being a member of a profession, membership in a group, having past or present military service, and the like; and

WHEREAS, the Ethics Board further recommends modifying the definition of Nominal Value to increase the dollar amount from \$10 to \$35 because this value has not been adjusted since the code was created 25 years ago and the change brings the value to a more current level; and

WHEREAS, the Ethics Board further recommends modifying the conflict of interest provisions regarding gifts to clarify that it is not a conflict of interest to receive a gift that is unsolicited and of nominal value, to clarify that gifts based upon a social relationship are not prohibited, and add a restriction that limits the overall frequency of gifts based upon a test of reasonableness; and

WHEREAS, the Ethics Board further recommends modifying the conflict of interest provisions regarding influence peddling to add a reasonableness standard and to add language to clarify what is excluded from influence peddling in a manner that is very similar to the language

proposed regarding anything of value, specifically excluding things that are available to the general public based on other conditions, such as qualifying because of military service; and

WHEREAS, the Ethics Board further recommends modifying the conflict of interest provisions regarding campaign contributions to retain the prohibition against a public official actively soliciting monetary campaign contributions from others, but introduce language to allow a public official (including county employees) to make a voluntary monetary contribution to any campaign as this would be consistent with current law; and

WHEREAS, the Ethics Board further recommends modifying the conflict of interest provisions regarding political activity, in light of the fact that the Ethics Code defines public official to include all county employees, to add the concept that public officials may extend an invitation to other public officials for a political function or campaign event.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the definition of Anything of Value in Section 2-2 of the Waukesha County Code of Ordinances shall be repealed and recreated as follows:

Anything of value means any money or property, favor, gift, service, payment, discount, advance, forbearance, loan, or promise of future employment, including, without restriction by enumeration, tickets, passes, lodging, travel, recreational expenses, and admission offered and provided by persons doing business, or interested in doing business, with the county. "Anything of value" does not include compensation and expenses paid by the county; political contributions which are reported under Chapter 11, Wisconsin Statutes; occasional meals and beverages, unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value; or hospitality of nominal value, or extended for a purpose unrelated to county business; or business related seminars, trade shows or other training related activities. "Anything of value" does not include a thing available to a public official independent and unrelated to his or her position as a public official or a thing that is available to all public officials of Waukesha County or otherwise available to a member of the public based on other conditions, such as being a member of a profession, membership in a group, having past or present military service, and the like.

BE IT FURTHER ORDAINED that the definition of Nominal Value in Section 2-2 of the Waukesha County Code of Ordinances shall be repealed and recreated as follows:

Nominal value means a value of thirty-five dollars (\$ 35.00) or less received by a public official from any one (1) person within one (1) calendar month.

BE IT FURTHER ORDAINED that Section 2-11(b) of the Waukesha County Code of Ordinances regarding Gifts shall be repealed and recreated as follows:

Gifts. It shall be a breach of ethical standards for any public official to solicit, demand, accept or agree to accept anything of value if it is in relation to a particular contract, solicitation, or proposal, or if it could reasonably be expected to influence his or her independence of judgment, action or inaction in the performance of his or her official duties. In addition, the acceptance of a gift offered in relation to any proceedings such as decision, approval, disapproval,

recommendation, rendering of advice, investigation, auditing or any other advisory capacity is also prohibited.

(1) It is not a conflict of interest for a public official to accept a gift that is:

(a) an unsolicited gift of nominal value, or

(b) a gift based upon a personal relationship and given by a person under circumstances that make it clear that the gift is motivated by a personal friendship or family relationship rather than the position of the public official. Relevant factors in making such a determination include the nature and duration of the relationship.

(2) Notwithstanding subsection (1) above, a public official may not accept gifts from a person so frequently that a reasonable person would believe that the public official is using one's office for private gain or that the gifts are designed to influence the public official's independence of judgment, action or inaction in the performance of his or her official duties.

BE IT FURTHER ORDAINED that Section 2-11(c) of the Waukesha County Code of Ordinances regarding Campaign Contributions shall be repealed and recreated as follows:

Campaign contributions. No public official who is an elected county office holder or candidate for an elected public office shall solicit monetary campaign contributions from public officials, however, this section does not prohibit public officials from voluntarily making monetary campaign contributions, as allowed by law. This section does not prohibit a public official from contributing monetarily to his or her own campaign.

BE IT FURTHER ORDAINED that Section 2-11(d) of the Waukesha County Code of Ordinances regarding Political Activity shall be repealed and recreated as follows:

Political activity.

Public officials will refrain from participation in any political activity if such activity could reasonably be expected to create a conflict of interest with the full discharge of his or her official county duties.

No public official may bring any type of political campaign materials into county buildings. This section does not prohibit items that may be displayed by a public official such as campaign buttons on overcoats or purses if such items are not within full view during official hours of said building.

This section does not prohibit a public official from extending to other public officials an invitation to a political function or campaign event, provided it is not done using county resources or in county buildings.

Further, this section does not prohibit a public official from accepting employment or being involved with any political campaign which in no way interferes or could reasonably be expected to interfere with the full discharge of his or her official duties. This section may not fully apply to law enforcement officers employed by the Waukesha County Sheriff's Department and who

are covered by the law enforcement officers' bill of rights contained in Chapter 164 of the Wisconsin Statutes.

BE IT FURTHER ORDAINED that Section 2-11(i) of the Waukesha County Code of Ordinances regarding Influence Peddling shall be repealed and recreated as follows:

Influence peddling. No public official shall use or attempt to use his or her public position in a way that could reasonably be expected to influence or gain unlawful benefits or in a way that could reasonably be expected to influence or gain advantage or privileges for himself or herself or others. The term "public position" refers to being a Waukesha County public official, as defined by this code. Use of the term is not meant to prohibit a public official from accepting lawful benefits or privileges that are otherwise available to a member of the public based on other conditions, such as being a member of a profession, membership in a group, having past or present military service, and the like.

BE IT FURTHER ORDAINED that the provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered by the editor to conform to the numbering system contained therein.

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Presented by:
Executive Committee



Paul L. Decker, Chair



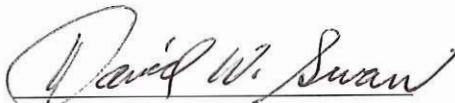
James A. Heinrich



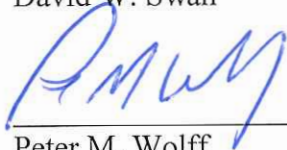
Christine M. Howard



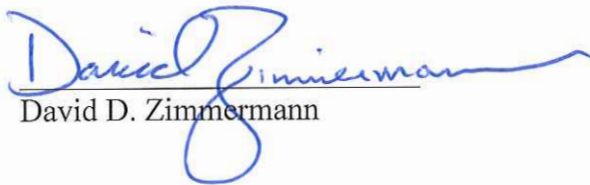
Larry Nelson



David W. Swan



Peter M. Wolff



David D. Zimmermann

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 5/22/18, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 5-29-18, 
Paul Farrow, County Executive

D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	Absent
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	Absent
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	(M) AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	(2) AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

173-0-008

Passed (23 Y - 0 N - 2 Absent)

Majority Vote

