

ORDINANCE NO. 2012-03 OF THE BOARD
OF COUNTY COMMISSIONERS OF LAPORTE COUNTY, INDIANA

ETHICS ORDINANCE FOR LAPORTE COUNTY GOVERNMENT

WHEREAS, the proper operation of county government requires that all county elected officials, board appointees and department heads be effective, independent, objective and accountable to the citizens that are served by county government, and

WHEREAS, the public's trust and confidence in county government and the services we provide is essential and promoting the highest levels of ethical conduct is important for us to maintain the trust and confidence of the public, and

WHEREAS, the county's personnel policy largely governs the ethical conduct expected of county employees while there is little or no guidance in the personnel policy for county elected officials, board appointees or department heads, and

WHEREAS, the appointment of an ethics officer, guidance on ethics matters, identification of an investigatory body and substantive sections that address issues such as conflicts of interest, disclosure, and standards to encourage ethical conduct.

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of LaPorte County, Indiana that the following is hereby adopted:

Section 1. Purpose and Intent.

The Board of Commissioners of LaPorte County, Indiana finds that the proper operation of representative government requires that elected officials, board appointees and department heads be independent, impartial, and responsible to the people; that government decisions and policies should be made through the proper channels of governmental structure, and that public office should not be used for personal gain. Accordingly, it is the purpose and intent of this ordinance to maintain a high level of professionalism; to establish legal and ethical standards of conduct for all county officials, those officials who are elected or employed by the County but not those individuals who volunteer their services, unless the voluntary service impacts with interest they have which are pecuniary in nature; to set forth those acts that are incompatible with such standards; to require disclosure by such officials of private, financial, or other interests in matters that may affect the county; and to provide for effective ethics training and education and a means of enforcement of this ordinance.

Section 2. General Provisions.

- a. All county elected officials, board appointees and department heads shall receive from the County Auditor's a copy of this ordinance within sixty (60) days after its adoption.

b. An electronic copy of this ordinance shall be available for review by all county officials. Any individual being considered for appointment as a county department head or appointment to a county board or commission shall be provided with a copy of this ordinance prior to his/her appointment or employment and all such individuals shall be advised that their appointment/employment will be subject to the terms and conditions of this ordinance and that they shall be bound by this ordinance, whether appointed or employed. All county elected officials are to be provided a copy of this ordinance upon being sworn into county office. In addition, all vendors and contractors doing business with the county shall be given notice of this ordinance and direction as to where they may obtain a copy thereof.

c. Any county official shall address any inquiries or questions regarding interpretation of this Ordinance to the Ethics Officer described herein who may provide guidance and/or an advisory opinion letter or forward such inquiry to the Ethics Board for further interpretation of a rule, regulation or section of this ordinance. The county official who seeks an advisory opinion may rely on that opinion and may not be subsequently charged if their actions are consistent with that opinion.

d. In the event that any section of this ordinance is or comes into conflict with any federal or state law or ruling of a federal or state agency, such law, rule, and/or ruling of the federal or state agency shall supersede the terms of that section of this ordinance. All remaining sections not found to be in conflict with any federal or state law or ruling of a federal or state agency shall remain in full force and effect.

e. This ordinance shall not prohibit a county official from being reimbursed for expenses, receiving money as a campaign contribution, participating in collective bargaining, or being paid for service as a public official except as may be prohibited by applicable state law or state rules or regulations, or any ruling of a state agency of the State of Indiana.

f. Any county official may appear before any agency on their own behalf regarding any matter in which they have a personal financial interest provided that full disclosure is made in advance to the affected agency and such activity is not otherwise prohibited by law or by this ordinance.

g. This ordinance shall not be construed so as to impair the ability of county officials to participate in ceremonial, representational, or informational functions in pursuit of their official duties.

i. This ordinance is enacted to ensure public confidence in the integrity of county government, and shall be liberally construed in favor of protecting the public interests by fully disclosing conflicts of interest and promoting the highest ethical standards of conduct for all county officials.

k. Violations of this ordinance may result in disciplinary actions up to and including termination of employment for county department heads, termination of an appointment for appointed officials and public censure for county elected officials.

Section 3. Definitions

For purposes of this ordinance, the words and phrases defined in this section shall have the following meanings:

- a. *Agency* means any authority, board, commission, committee, department, division, office or other instrumentality of the executive, legislative and fiscal branches of county government of LaPorte County, Indiana.
- b. *Appointed Official* means a department head subject to appointment by the Board of County Commissioners or to any appointee selected to serve on a county board, commission, or committee, whether paid or unpaid, if such unpaid service affects a pecuniary interest.
- c. *Business Entity* means a sole proprietorship, partnership, limited partnership, unincorporated association, trust, firm, corporation, or limited liability corporation.
- d. *(the) County* means the County of LaPorte County, Indiana.
- e. *Compensation* means any money, thing of value, service or financial benefit conferred upon or received by any person in return for services rendered or to be rendered, whether by that person or another.
- f. *Conflict of Interest* means a situation in which the private financial interest of an Elected Official, Appointed Official or department head, or the relative of that person may influence or impair that person's judgment in the performance of a public duty.
- g. *Doing Business* means engaging in an activity: (1) for profit or gain or (2) that requires a license, permit, authorization or consent from an agency of county government.
- h. *Employee* means any individual, other than an elected or appointed official, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material detail details of how the work is to be performed, and who receives compensation for services performed for the County of LaPorte, but does not include an independent contractor.
- i. *Employer* means the County of LaPorte, Indiana.
- j. *Ethics Board* means the Board established by Section 9 of the ordinance, and is also an agency under the jurisdiction of this ordinance.
- k. *Financial Interest* means an interest:
 - (1) In a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or
 - (2) Involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of an official or employee in the common stock of a corporation unless the combined holdings in the corporation of the official or employee, or that individual's relative, are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any county official or employee.

l. *Gifts or Honoraria* means money or other property which is transferred to an Elected or Appointed official without reasonable value being provided in return by said Official, but does not include the following:

- (1) Food or Drink consumed by an official or a relative, during the conduct of official public business or attendance at public ceremonies as a public official with a total value of no more than \$75.00 received on a single instance or occasion.
- (2) Mementos or souvenirs of no more than \$75.00 in value received at public ceremonies or commemorating official business;
- (3) Invitations or tickets to political fund raising dinners or public charitable benefits of no more than \$75.00 in value when used by an official or relative.
- (4) Food or Drink consumed by an Official during attendance in connection with official duties at a convention or conference of public officials, if consumed at a reception or gathering with other public officials with a value of no more than \$75.00 per individual instance or occasion.
- (5) Travel or other expenses paid or reimbursed as a result of speaking engagements, educational training or personal appearances made as a result or by virtue of an Official's position or duties.

m. *Handbook* means an employee handbook, personnel manual, or similar document of any agency of county government.

n. *Information of a Confidential Nature* means information:

- (1) Obtained by reason of the position or office held; and
- (2) Which:
 - (a) A public agency is prohibited from disclosing under I.C. 5-14-3-4(a)
 - (b) A public agency has the discretion not to disclose under I.C. 5-13-3-4(b); and that the agency has not disclosed; or
 - (c) The information is not in public record, but if it were, would be confidential.

o. *Interest* means any direct or indirect monetary or material benefit accruing to a county official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county (except for such transactions which would confer similar benefits to all other persons and/or property similarly situated.)

p. *Material Interest in a Business* means ownership of five (5) percent or more of a business entity.

q. *Nepotism* means the appointment or hiring of a relative by an official.

r. *Official* means any individual elected or appointed to a board or commission of the county, that receives compensation. This definition shall include all elected officials of the county, members of all commissions, committees and boards established by state statute or county ordinance, resolution or motion, and all individuals appointed by the County Commission or County Council as department heads.

s. *Open Door Law* means I.C. 5-14-1.5 et seq., Public Meetings

t. *Pecuniary Interest* means an interest that will result or is intended to result in an ascertainable increase in the income or net worth of the official or his/her relative.

u. *Person* means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

v. *Relative* means spouse, child, parent, sibling or grandchild. Relatives also include persons related by marriage (including in-laws); those related by law (including adoption); and other persons who reside in the official's residence or who are financially dependent upon the official.

w. *Resident* means a person who makes their home within the territorial boundaries of the County of LaPorte, Indiana.

Section 4. Application of policy.

This ordinance shall apply to all county elected officials, department heads and appointed members of any county board, committee or commission, as defined in Section 3 of this ordinance. The written acceptance of this policy shall be a condition for initial and continuing service with the county by an Appointed Official and a department head.

Section 5. Adoption of State Law

The state law governing Ethics and Conflicts of Interest (I.C. 4-2-6), Campaign Contributions (I.C. 3-9-2), Public Meetings (Open Door Law, I.C. 5-14-1.5), Access to Public Documents (I.C. 5-14-

3), Disclosure of Economic Interests by Consultants in Public Projects (I.C. 5-16-11) and statutory Conflict of Interest (I.C. 35-44-1-3) as amended and supplemented, are hereby incorporated herein by reference so as to make it clear that such Acts and all amendments thereto are effective and operative as to the County of LaPorte.

Section 6. Standards of Ethical Conduct

Any potential or existing conflicts of interest shall be fully disclosed in a Uniform Conflict of Interest Disclosure Statement, which shall be kept on file and available for public inspection in the office of the County Clerk. A copy of the form shall be made available in the Human Resources Department of LaPorte County. The Human Resources Director, who shall also serve as Ethics Officer for LaPorte County, shall also keep file-marked copies of the completed forms on file in the Human Resources office. Any Appointed or Elected Official shall file a Disclosure Statement with the County Clerk's office by May 1 of each year and shall update such statements as warranted and required herein.

a. Disqualification from acting on county business. Any county official shall disqualify himself or herself and refuse to act on any matter in which such official or a relative, or the private employer of the official, has a pecuniary interest or might derive a profit and upon which the official would be required to act in the discharge of official duties.

b. Duty to act to disclose potential conflict of interest. It is the duty of each Elected official, appointed official and every department head to determine if a potential conflict of interest exists and if so to disqualify himself or herself from acting on county business on which the conflict arises or pertains, as set forth in paragraph A above. A county official (elected, appointed or department head) may seek an advisory opinion from the Ethics Officer who may refer such matter for consideration to the Ethics Board.

c. Moonlighting. A department head of county government shall not engage in outside employment or other outside activity not compatible with agency rules or the full and proper discharge of public duties and responsibilities. This outside employment or other outside activity must not impair independence of judgment as to official responsibilities, pose a likelihood of conflict of interest, or require or create an incentive for the department to disclose confidential information acquired as a result of official duties. The Ethics Board may be requested to pass on or approve of certain outside employment that is not incompatible with that department head's official functions.

d. Political Activity. Neither elected Officials, Appointed officials nor department heads shall engage in political activity - including solicitation of political contributions from employees or any other person - when on county property, operating a county vehicle, or acting in an official capacity. This section does not prohibit an elected official, appointed official or department head from engaging in political activity when not on county property, not in a county vehicle or when not acting in an official capacity.

e. Gifts or Loans prohibited. No official shall solicit or receive any thing of monetary value from any person when it has been solicited, received or given or would appear to have been

solicited, received or given with the intent to give or obtain special consideration or influence as to any action by such official in his/her official capacity; provided that nothing in this section shall prohibit political contributions which are reported in accordance with applicable law or donations/contributions which are accepted on behalf of an agency.

f. **Disclosure of privileged information.** No official shall disclose or use any information gained through his/her official position for the immediate or anticipated personal gain or benefit of the official or that of any other person; provided that nothing in this section shall prohibit the disclosure of information which is already a matter of public record or which is disclosed as a result of a request made pursuant to the State's Access to Public Records Law.

g. **Nepotism.**

(1) No official shall hire, promote, or transfer a relative to any position that:

(a) Places the official in the same agency or department; or

(b) Places the official in direct or indirect supervisory or managerial capacity over a relative; or

(c) Allows the official to directly or indirectly influence salary adjustments, career progress, or discipline, or other managerial activities involving a relative; or

(d) Requires the official to audit or review the work of another relative.

(2) This section shall not be construed to prevent relatives of an official from being elected to county office, nor shall it prevent such an occurrence due to change in marital status. This section shall not abrogate hiring rights county officials possess by State Statute. Furthermore, nothing in this section shall be interpreted to prevent the hiring of a relative in a given department where the Ethics Board has made a determination that the special skills and experience of the individual in question make that individual uniquely qualified to serve or hold such position, notwithstanding the personal relationship in question. Finally, this section shall not be deemed to retroactively apply to situations in existence at the time of adoption of this ordinance but only to hirings, promotions or transfers made from the date of adoption of this ordinance going forward.

(3) For the purpose of this Section, the LaPorte County Commissioners shall be considered to have supervisory, day to day, direct or indirect, of only the County Attorney and the Commission secretary.

h. **Improper Use of County property and personnel.** No county official shall make use of county materials, funds, property, personnel, facilities, or equipment for any purpose other than for official county business.

Section 7. Appointment/Functions of Ethics Officer and Ethics Board

a. The county's Human Resources Director shall serve as the Ethics Officer for the county. The

Ethics Officer shall be the first contact for officials seeking advice and assistance in complying with this ordinance including, but not limited to, providing written advisory opinions to a requesting official regarding potential compliance with this ordinance. There is also hereby created a County Ethics Board, composed of five (5) volunteer members appointed by the Board of Commissioners, LaPorte County Council and County Judiciary to serve staggered terms of one, two or three years' duration. The Board of Commissioners shall have two (2) appointments with one appointment serving a one year term and another appointment a two year term: the LaPorte County Council shall have two (2) appointments with one appointment serving a one year term and another appointment a two year term and all the County's elected officials and department heads shall have an appointment that serves for three years.

b. No more than three (3) Ethics Board members shall be of the same political party. No appointees shall be a county elected official, department head or appointee serving on any other county board or commission. Members will be selected from the general public based on their interest in good government, their willingness to serve impartially and fairly and to regularly attend and participate in meetings of the Ethics Board.

c. The Ethics Board may do any of the following:

- (1) Upon a vote of three (3) members, initiate and conduct an investigation.
- (2) Receive and hear any complaint which alleges a violation of this ordinance or a rule adopted as a result of this ordinance.
- (3) Obtain information and upon a vote of three (3) members, compel the attendance and testimony of witnesses and the production of pertinent books and papers by a subpoena enforceable by either the Circuit or Superior Courts of LaPorte County.
- (4) Prescribe and provide a uniform conflict of interest statement required to be filed under this ordinance.
- (5) Inspect financial disclosure forms required to be filed under this ordinance and notify those who failed to file or have improperly or incompletely failed to file disclosure forms.

d. The Ethics Board shall do the following:

- (1) Act as an advisory body by issuing advisory opinions to interpret this ordinance upon the request of the Ethics Officer, an Elected or Appointed Official or Department Head, or person who has or proposes to have a business relationship with an agency. The Board shall also act as a fact-finding body upon complaints that are filed with it by any person. The Board shall call on the assistance of the County Attorney's office for any legal assistance and advice it might require in the conduct of its activities.
- (2) Conduct its proceedings in the following manner:

- (a) When a complaint is filed with the Board, the Ethics Officer will redact the name of the Complaining Party, Respondent and any witnesses and will simply refer to the Complaining Party as "CP", the Respondent as "R" and witnesses as "W1", "W2" and the like so that the Board may take up the issues without having knowledge of the name of the Complaining Party, the Respondent or any witnesses. Upon such a complaint being brought to its attention, the Board may: (1) reject, without further proceedings, a complaint that the Board considers frivolous or inconsequential; (2) reject, without further proceedings, a complaint that the Board is satisfied has been dealt with appropriately by an agency; (3) upon the vote of three members, determine that the complaint does not allege facts sufficient to constitute a violation of this ordinance and dismiss the complaint; (4) forward a copy of the complaint to the Prosecutor or the State Board of Accounts for action and stay the Board's proceedings pending the other action or (5) may choose to proceed on its own motion to promptly investigate the alleged violation.
- (b) If after a preliminary investigation, the Board finds by majority vote that probable cause exists to support an alleged violation of this Ordinance, it shall convene a Public hearing on the matter within sixty (60) days of making the determination. The respondent shall be notified within fifteen (15) days of the Board's determination. Ethics Board members are subject to dismissal or public censure should there be any unauthorized disclosure of facts regarding an investigation or even providing confirmation that an investigation is ensuing or ongoing.
- (c) If a hearing is to be held, the respondent may examine and make copies of all evidence in the board's possession related to the charges. At the hearing, the charged party shall be afforded appropriate due process protection, including the right to retain (at his/her own expense) counsel, the right to compel production of documents, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross examine opposing witnesses. At all times the respondent retains his/her 5th Amendment rights and failure to testify shall not be a basis for a decision.
- (d) After the hearing, the Board shall state its findings of fact and conclusions of law. If the board, based on a preponderance of the evidence, finds by a majority vote that the respondent has violated this ordinance, it shall state its findings in writing in a report, which shall be supported, signed and dated by a majority of the board members and shall be made public. The report may make a recommendation for the sanctions to be imposed by an appointing authority for either an Appointed official or Dept Head including: Letter of counseling, a reprimand, a suspension with or without pay, or dismissal of an Appointed Official or the Termination of a Dept Head's employment. In the case of an Elected Official, the Board may recommend Public Warning or Reprimand or in the most severe cases, Public Censure.
- (e) The Ethics Board may also forward its report to any of the following including The Prosecutor, the State Board of Accounts, the Human Resources Department, or any

other appropriate person.

- (f) If the Ethics Board finds the respondent has not violated a provision of the Ordinance, it shall dismiss the charges.

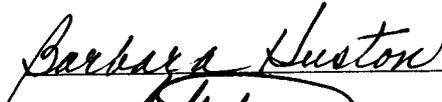
Section 8. Retaliation prohibited.

An Elected Official or Appointed Official shall not retaliate or threaten to retaliate against an Employee or a former Employee or any other person because such individual or individuals did any of the following: (1) filed a complaint with the Ethics Board; (2) provided information to the Ethics Board or (3) testified before the Ethics Board. Notwithstanding such non-retaliation provision described in this section, an Elected Official, Appointed official, or Dept head may seek to have appropriate discipline taken against a charging party who filed a complaint, provided information or testified but did not act in good faith or who knowingly or recklessly provided false information or testimony to the Ethics Board.

This Ordinance shall be in full force and effect upon passage, approval and publication.

BOARD OF COMMISSIONERS OF
LAPORTE COUNTY, INDIANA







Attest:

