

**ORDINANCE NO. 16-2004**

**AN ORDINANCE ESTABLISHING AN ETHICS  
POLICY FOR REPRESENTATIVES OF THE CITY OF LA PORTE**

**WHEREAS**, all elected and appointed City officials are obligated to perform their duties for the general benefit of the citizens of La Porte; and,

**WHEREAS**, City officials must conduct the business of the government of the City with loyalty, integrity and impartiality and without prejudice or favoritism and without the opportunity for personal gain; and,

**WHEREAS**, the common council deems it as necessary to establish legal and ethical standards of conduct for all City officials and agents of the City and to require disclosures by all City officials and agents of matters involving financial or personal interest.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LA PORTE, INDIANA**, as follows:

That it establishes the following policy of legal and ethical conduct among its Common Council members, Clerk-Treasurer, Boards, Commissions, Committees and Officers, known as the Ethics Policy (the "Policy"):

Section 1. Purpose of Policy

It is the policy of the City of La Porte (the "City") that in all cases its elected and appointed officials shall perform their duties for the benefit of the citizens of the City. They shall conduct the government of the City with loyalty, integrity and impartiality and without prejudice or favoritism and without the opportunity of personal gain to influence their decisions or actions or to interfere with serving the public interest. The purpose of this Policy is to establish legal and ethical standards of conduct for all elected and appointed officials of the City and to require disclosures by all elected and appointed officials of private, financial or other interests in matters that may affect the City.

Section 2. Application of Policy

This Policy shall apply to the following: all elected officials of the City; members of all Commissions, Committees and Boards established by state statute or local ordinance, resolution or motion; individuals appointed by the Mayor or the Common Council (collectively "Officials"), all Department Heads and all other employees of the City (collectively "employees").

The written acceptance of this Policy shall be condition for initial and continuing service with the City by an appointed official.

### Section 3. Non-Partiality and Non-Discrimination

While performing official duties, no official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which is the City policy to grant or make available to the public at large, without prior Common Council approval. No official or employee shall discriminate against any person in violation of federal law, state law or the ordinances of the City.

### Section 4. Representation

Except in the performance of his or her official duties no City elected official or employee except an attorney or authorized union representative shall represent any individual petitioner other than the City or himself/herself before the Common Council, a Commission, Board or Committee of the City.

### Section 5. Financial or Personal Interest Disclosure

- A. No official or employee, either on that person's behalf or on behalf of any other person, shall have any financial or personal interest in any contract or purchase with the Common Council, Board, Commission, Committee or public body of the City unless that official makes a full public disclosure of the nature and extent of such interest, and, except as provided in the succeeding sentence, disqualifies himself or herself from participating in and acting upon the resolution of the business or transaction; provided, however, at any such hearing the presiding officer of the Common Council, Board, Commission, Committee or other public body of the City, unless otherwise prohibited by law, may direct questions to the official who has an interest in the matter to clarify the evidence upon which the public body will make its decision. In the event the personal interest in a contract or purchase under consideration is ethical and not a violation of state law and the Common Council, Board, Commission, Committee or other public body requires the individual to cast a vote in order to carry out required official business of the city, the individual shall fully disclose the matter of conflict before casting a vote.
- B. If an official has a potential financial or personal interest in a purchase or contract, that person shall file a written Public Disclosure Form with the Clerk-Treasurer prior to final approval of

the contract or purchase and/or prior to consideration by the Common council, a Board, Commission or Committee of the issue. The Public Disclosure Form shall then be scheduled for review at the next public meeting of the Common Council, Board, Commission or Committee of which that individual is a member. The official making said disclosure shall swear or affirm to the written disclosures with an appropriate statement that the disclosure is a true, accurate and complete statement of his/her interests.

- C. If a potential personal or financial interest in a contract or purchase interest that otherwise was not anticipated, involving an elected official, or a Board, Commission or Committee member arises while a meeting is underway, that member shall declare that a conflict may or does exist and shall immediately disqualify himself or herself from participating and acting on that matter; provided, however, at any such hearing or meeting the presiding officer of the Common Council, a Board, Commission or Committee, unless otherwise prohibited by law, may direct questions to the official who has an interest in the matter to clarify the evidence upon which the public body will make its decision.
- D. If an individual covered by this Policy is unsure as to the existence or non-existence of a personal or financial interest in a contract or purchase, that individual may seek an advisory opinion. Requests originating from members of the Common Council or appointed Boards, Commissions or Committees shall be forwarded through the presiding officer of that body to the City Attorney. Requests from the Clerk-Treasurer shall be submitted to the City Attorney. Requests from the City Attorney shall be submitted to the Mayor. Requests for such advisory opinions shall be initiated on a timely basis. The opinions rendered shall be advisory only, and shall not serve to exempt or excuse any official from fully conforming to this Policy, or applicable penal or civil statutes, ordinances and regulations. The City Attorney shall give prompt notice of his receipt of any such request to the Mayor.

## Section 6. Gifts

- A. No official or employee shall directly or indirectly solicit, accept or receive any gift or consideration whether in the form of money, services, loan, travel entertainment or thing of promise which is

intended to influence him or herself to act other than impartially in the performance of his or her official duties or which is intended as a reward for any such action on his part.

B. The following shall not constitute gifts or consideration for purposes of this section:

- (1) A gift of nominal value, so long as such gift has not been solicited. For purposes of this section “nominal value” shall mean having a value not exceeding One Hundred Dollars (\$100.00), from one person or entity in the aggregate during a twelve (12) month calendar period. Any person covered by this Policy who has been offered and is considering the acceptance of a gift having a value exceeding One Hundred Dollars (\$100.00) shall make written disclosure of the offer on a Public Disclosure Form. The gift shall not be accepted until the appropriate Board, Committee or Commission grants approval. Such disclosure should be made before acceptance of the gift when possible. For elected officials, the disclosure shall be made to the Clerk-Treasurer. For persons appointed to Boards, Commissions, or Committees, the disclosure shall be made to the appointing authority and the Clerk-Treasurer. For the city Attorney, disclosure shall be made to the Mayor, with a copy to the Clerk-Treasurer.
- (2) Trade discounts offered to all City employees or all members of one or more City departments.
- (3) Trade discounts offered to the general public or to private groups such as professional, religious or service organizations.
- (4) Food consumed in public, professional or community reception.
- (5) Acceptance of a professional or public award, reflecting positive performance or community service.
- (6) Campaign contributions reported in full compliance with federal, state and local statutes and ordinances as they may apply.

## Section 7. Confidential Information

No person to whom this Policy applies shall use or permit the use of any confidential information regarding municipal affairs to advance the financial or personal interest of said person or any other person.

## Section 8. Electoral Activities

All persons to whom this Policy applies and who are engaged in any activities to gain public office or to assist another person or group to gain public office shall comply with any and all local, state and federal laws.

## Section 9. Notice of Alleged Ethics Non-Compliance

If any person has reason to believe that there has been non-compliance with this Policy, he or she shall file a written claim with the Clerk-Treasurer, and the Clerk-Treasurer shall provide a copy of the claim to the appropriate appointing authority and the Ethics Officer who shall refer the matter to the Ethics Commission for hearing and determination.

The Ethics Commission will complete its hearing and make its determination on the alleged non-compliance as promptly as circumstances permit, following the procedures outlined in Section 10B below.

## Section 10. Ethics Commission and Hearing Procedure

A. The Ethics Commission shall consist of the following three (3) members:

(1) The Ethics Officer who shall be a resident of the City of La Porte appointed by majority vote of the Common Council and who shall be subject to removal by majority vote of the Common Council. In the event the Ethics Officer is determined to have engaged in unethical conduct and is removed from that position, he or she may request a due process review by the Common Council. The duties of the Ethics Officer include, but are not limited to the following:

- i. Investigate reports of possible unethical activity
- ii. Review case dispositions of possible unethical activity

- iii. Create ethics and compliance training programs
- iv. Encourage city officials, appointees and employees to comply with applicable laws and regulations and adhere to the highest standards of ethical behavior

The Ethics Officer shall serve with or without compensation as determined by the Common Council. Persons who have been City employees or Officials or an independent contractor hired by the City during the preceding twelve month period shall be ineligible to serve as the Ethics Officer.

- (2) The Mayor.
- (3) The Chair or President of the Board, Commission or Committee of the alleged non-compliant person or other member of the Board, Commission or Committee if the alleged non-compliant person is the Chair or President. In situations involving a city employee (other than a department head) the employee's department head may serve. If the situation involves a department head or a member of the City Council, the Director of Human Resources may serve.

B. The Ethics Committee shall conduct the hearing using the following procedure:

- (1) The Ethics Commission shall have the power to pass rules of procedure as necessary and proper to carry out its duties.
- (2) The affected party may request the presence of an attorney or other person during the hearing provided written notice to that effect is given at least seven calendar days in advance of the hearing
- (3) A complaint alleging a violation of this Ordinance shall be in writing and notarized. Complaints should be submitted to the Mayor and the Ethics Commission Chairman shall distribute to all members of the Ethics Commission, a copy of the complaint. The Ethics Officer, who shall serve as Chairman of the Ethics Commission, shall notify the affected party that a complaint has been filed against him or her.

- (4) If the Ethics Commission determines that there has been a violation of a state statute, the Ethics Commission may immediately refer the complaint to the appropriate law enforcement agency and the La Porte County Prosecutor.
- (5) In the event the Ethics Commission finds there is reason to believe there was non-compliance with this Ordinance, the clerk-Treasurer shall notify the affected Public Official or employee within two (2) business days after said determination has been made that a preliminary hearing will take place no later than ten (10) days from the date of said notice. The affected person may request a continuance of said hearing and, if approved by the Commission, a date will be scheduled no later than thirty (30) days after the original preliminary hearing date. The person accused of the violation shall have the right to be represented by counsel and shall be allowed to examine evidence presented to the Commission. The only evidence to be considered must be given under oath or affirmation. If an employee is involved, the Director of Human Resources for the City of La Porte will be present to help assure personnel policies are adhered to. Any applicable provisions in labor agreements regarding employee hearings will be complied with.
- (6) If the commission does not find that a violation of this Ordinance has occurred, the complaint will be dismissed and a written dismissal shall be submitted to the affected Public Official. If the Commission has determined a violation of this Ordinance, it may recommend discipline and/or sanctions up to and including dismissal from employment to the appropriate office or Board of the City. A sanction may include a requirement that a gift or loan be returned, or that the appointing authority consider removing the person in violation from the appointed position for just cause consistent with state law.

#### Section 11. General Provisions

- A. All Public Officials and employees shall receive a copy of this Ordinance from the Office of the Clerk-Treasurer within fifteen (15) days after its adoption. Any candidate for public office or any individual being considered for appointment as a Public Official shall be provided with a copy of this Ordinance prior to their appointment and such individuals shall be advised that their appointment will be

subject to the terms and conditions of this Ordinance and they shall be bound by this Ordinance if appointed or elected.

- B. Any Public Official should address any inquiries as to the provisions or references made herein to the Ethics commission in writing. The Ethics Commission shall respond in writing to any request from a Public Official for an Interpretation of a rule, regulation, or this Ordinance.
- C. In the event that the terms of this Ordinance are in conflict with any federal or state law or ruling of a federal or state agency, such law, rule, regulation, and/or ruling of the federal or state agency shall supersede the terms of this Ordinance.
- D. This Ordinance shall not prohibit a public official or employee from being reimbursed for expenses, receiving money as a campaign contribution, participating in collective bargaining, or being paid for a service as a public official or any other except that may be provided by applicable state law or state rules and regulations, or any ruling of a state agency of the State of Indiana.

A Public Official may appear before any public body on his or her own behalf as to any matter in which he or she has a personal financial interest if full disclosure is made in advance and such activity is not otherwise prohibited by law.

- E. Any employment, appointed position, or contractual relationship that exists prior to adoption of this ordinance shall not be a violation of this ordinance.
- F. No Public Official shall represent a person, entity, or petitioner in any matter before the City of La Porte, Indiana for a period of ninety (90) days following termination of their duties or responsibilities with the City.
- G. The City Council shall review this Ordinance and act on any recommended changes at least once every four (4) years, and may do so more frequently as needed.

BE IT FURTHER ORDAINED that all existing ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal affect, and are specifically repealed.

BE IT FURTHER ORDAINED that if any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance.

BE IT FURTHER ORDAINED THAT THIS ordinance shall take effect and be in full force and effect, from and after its passage by the City Council of the City of La Porte, Indiana, pursuant to law.

Passed and adopted by the Common Council of the City of La Porte, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Leigh E. Morris, Mayor

Attest:

Teresa L. Ludlow, Clerk-Treasurer

Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Leigh E. Morris, Mayor

Attest:

Teresa L. Ludlow, Clerk-Treasurer