

Article 25

CONFLICT OF INTEREST AND ETHICS

2-25-1: STATEMENT OF POLICY:

It is the policy of the Village that its employees and elected and appointed officers should, in all cases, exercise their judgment and perform their duties for the sole benefit of the citizens of the Village. To this end all such persons should avoid accepting or retaining any economic benefits or opportunities which could impair or present an actual threat to the exercise of independent judgment. It is further the policy of the Village that all appearances of impropriety shall be avoided. The Board of Trustees hereby determines that a policy setting forth ethical principles and regulations applicable to public officials and employees is in the best interests of the Village and will contribute to the public confidence in the integrity, ability and performance of said persons. (Ord. 1993-0-24, 4-7-1993)

2-25-2: ETHICS COMMITTEE OF THE VILLAGE BOARD:

- A. Creation; Terms: There shall be created an Ethics Committee of the Village Board which shall have the duties and powers, unless otherwise provided, to hear complaints and rule upon the appropriate disposition of the ethics ordinance. The Committee shall consist of the Village President and all of the Village's Trustees then holding office. The Village President shall serve as Chairperson and shall preside over all Committee meetings and may call special Committee meetings as needed, but otherwise shall have power equal to that of other Committee members. In the event that the Committee is considering ethical issues involving one or more Trustees or the Village President, the officers involved shall recuse themselves from participation on the Ethics Committee with regard to such issues and the remaining Trustees or President and Trustees shall comprise the entire Ethics Committee with regard to the consideration of such issues. In the event that the President must recuse him or herself, the remaining Committee members shall appoint a new, temporary Chairperson for this purpose.
- B. Duties: The Ethics Committee shall enforce the provisions of this article, including prosecuting and hearing complaints on violations of this article by elected or appointed officers and employees. The Committee shall also, upon request, advise the Village Attorney or other elected or appointed officers and employees on ethical questions. This includes rendering advisory opinions as described in section 2-25-12 of this article. (Ord. 1993-0-24, 4-7-1993)

2-25-3: PERSONS AFFECTED:

- A. All of the provisions of this article, except as otherwise indicated, shall apply to all elected Village officials, to the Village Manager, Deputy Village Manager, Village Attorney and department and division heads. Other employees shall be governed by the personnel manual and the provisions of this article which specifically state that they are applicable to all employees. (Ord. 2012-0-64, 11-5-2012)
- B. Sections 2-25-8 through 2-25-12 of this article shall apply to all elected and appointed officers of the Village and to all employees of the Village.
- C. In addition to the provisions of this article, but consistent therewith, the Village Manager is hereby directed and authorized to promulgate such rules and regulations relating to outside employment, conflict of interest, or other ethical matters as he may deem necessary, which rules and regulations shall be applicable to all Village employees. The Village Manager shall prepare all forms for statements required by this Article, which forms shall be distributed to persons subject to this Article not later than thirty (30) days prior to the date set for filing. (Ord. 1993-0-24, 4-7-93)

2-25-4: DISCLOSURE OF REAL ESTATE:

Each person subject to the provisions of this Article shall file, with the Village Clerk, a statement disclosing direct or indirect ownership for any real property located within the corporate limits of the Village, owned by the person required to file or by the spouse or minor children of such person. Such statement shall include the legal description and common address of the real estate and shall indicate the ownership interest held in such real estate.

For the purpose of this Section, the ownership of a beneficial interest in real estate held in land trust, real property being purchased by contract or real property held by a corporation, an investment group or partnership in which the person filing, or the spouse or minor children of such person, shall own more than a five percent (5%) interest, shall be considered real property.

The property in which the person resides shall be exempt from the provisions of this Section, unless said property contains more than three (3) residential units. (Ord. 1993-0-24, 4-7-93)

2-25-5: DISCLOSURE OF BUSINESS INTERESTS:

Each person subject to the provisions of this Article shall file, with the Village Clerk, a statement disclosing employment of the person required to file, or of the spouse or minor child of such person by a business, firm or corporation doing business with the Village when compensation for such employment shall exceed five hundred dollars (\$500.00) per calendar year or an ownership of greater than five percent (5%), either direct or indirect by the person required to file, or by the spouse or minor child of such person, of a business, firm or corporation doing business with the Village. (Ord. 1993-0-24, 4-7-93)

2-25-6: DISCLOSURE OF OTHER EMPLOYMENT:

Each person subject to the provisions of this Article shall file, with the Village Clerk, a statement indicating all employment, for the previous calendar year, of the person filing the statement, and of the spouse and minor children of such person. Said statement shall include the name of the employing entity and the nature of the service rendered in the course of such employment.

The statement shall further disclose whether the person, spouse or minor child of such person performed any service for compensation for the Village other than that performed in the person's official capacity with the Village or was associated with or employed by a business, corporation or partnership which received compensation from the Village for services performed for the Village. (Ord. 1993-0-24, 4-7-93)

2-25-7: FILING AND DISCLOSURE:

All disclosure statements described in Sections 2-25-4 through 2-25-6 of this Article shall be filed with the Village Clerk on or before May 1 of each calendar year, except as hereinafter set forth.

Persons already obligated to file disclosure statements pursuant to the laws of the State may file copies of said statements with the Village Clerk in satisfaction of the requirements of this Article, except that any information required by this Article and not contained on other filed statements, must be separately filed herein.

The disclosure statements described herein shall be kept for five (5) years, from the date of filing, by the Village Clerk. Except for employment information with regard to the spouses and minor children of persons required to file, said records shall be considered public records and accessible to citizens of Oak Park for the purpose of viewing and copying. Records containing employment information with regard to the spouse and minor children of persons required to file disclosure statements shall not be available for public inspection. A request to view records shall be made in writing, with a copy of said request given to the individual whose records are to be viewed. Nothing herein shall prevent the Village Clerk

from establishing reasonable rules and regulations governing when the records may be viewed and from requiring a reasonable charge for copying any of said records. (Ord. 1993-0-24, 4-7-93)

2-25-8: NEW OWNERSHIP OF REAL PROPERTY:

- A. Policy Statement: The Village government licenses and regulates multiple-family dwellings in Oak Park so as to insure proper maintenance and also regulates in connection with the enforcement of fair housing regulations. The Village government is also involved as the mortgagee in loans to owners of real property and purchases single-family and multiple-family residences for rehabilitation and repair. Therefore, a potential conflict of interest exists where a person is in a decision making or regulatory position with the Village and owns or has an interest in local real estate, or is employed by someone who owns or has an interest in local real estate.
- B. Restrictions on Ownership of Real Property: The Village Manager, any attorney employed on a permanent basis by the Village, department heads and other Village employees as designated by the Village Manager as being involved in regulation of housing and building on behalf of the Village, including the spouses of such persons, shall not be employed by or otherwise receive a direct benefit from an association with the owner of any licensed multiple-family dwelling within the Village and shall not purchase or contribute financially to the purchase of real property within the corporate limits of the Village, unless said person shall use the property as his place of residence and the property contains no more than three (3) residential units, or shall use it as a residence for the employee's parents, parents-in-law or children and the property contains no more than one family unit. It is further the policy of the Village to encourage said persons to divest themselves of presently owned real property within the corporate limits of the Village except insofar as it is used as said person's or family's place of residence. Persons seeking employment in any position to which this restriction applies must be in compliance with this restriction prior to employment in said position. Exceptions may be made to the restrictions of this Section by the Board of Trustees where the Board finds that the purchase of real property or an interest therein will not involve the purchaser in any possibility of a substantial conflict of interest. (Ord. 1993-0-24, 4-7-93)

2-25-9: CONFLICTS OF INTEREST AND STANDARDS OF CONDUCT:

- A. Impartiality: Every elected and appointed officer and employee shall perform his or her duties with impartiality and without prejudice or bias for the benefit of all citizens of the Village. No officer or employee shall grant or make available to any citizen, including

other officers or employees of the Village, any consideration, treatment, advantage or favor beyond that which is available to every other citizen.

B. Prohibition Against Interests in Village Contracts and Business:

1. No elected officer of the Village, whether paid or unpaid, shall have any interest directly or indirectly in any contract, work or business of the Village, except as permitted by 65 Illinois Compiled Statutes 5/3-14-4 of the Illinois Municipal Code.
2. No employee of the Village shall have any interest directly or indirectly in any contract, work or business of the Village, except that any employee who is otherwise eligible under applicable Federal, State and/or local laws and program guidelines may participate in the Village's rehabilitation and diversity programs, including but not limited to the multiple-family and single-family residential rehabilitation programs, the Diversity Assurance Program, the Retail Rehabilitation Grant Program and the First Time Home Buyer Mortgage Assistance Program.
3. Any financial or other personal interest, direct or indirect, which tend to affect the independence of judgment of said officer or employee shall be publicly disclosed.

C. Prohibition Against Interests Which Are Incompatible With Official Duties: No elected or appointed officer or employee shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or which may tend to impair his independence of judgment or action in the performance of his official duties. For purposes of this Section, personal interest shall include the financial interest of the spouse or minor children of the elected or appointed officer or employee.

D. Interest in Contract, Legislative or Administrative Action, Transaction, Zoning Decision, Permit or Licensing Decision, or Other Matter: No elected or appointed officer or employee having the power or duty to perform an official act or action, related to a contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter which is, may be or has been the subject of an official act or action of the Village during the prior twelve (12) months shall:

1. Have or thereafter acquire an interest in such contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter, except as otherwise stated in this Section; or
2. Have an interest in any business entity representing, advising or appearing on behalf of, whether paid or unpaid, any person involved in such contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter, except as otherwise stated in this Section; or

3. Have solicited or accepted present or future employment with a person or business entity involved in such contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter for a period of twelve (12) months following the Village's action on such matter; or
 4. Have solicited, accepted or granted a present or future gift, favor, service or thing of value from or to a person involved in such contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter, or from a person who would receive a material benefit, direct or indirect, from same except:
 - a. An occasional consumable gift or an occasional nonpecuniary gift, with a value of less than fifty dollars (\$50.00);
 - b. A nonpecuniary award publicly presented in recognition of public service; or
 - c. Gifts from family members. No family member, however, may be used as a conduit for a gift which would not otherwise be permitted.
 5. Have encouraged, made or accepted any ex parte or unilateral application or communication where a determination is to be made after a public hearing and such person fails to make the contents of the communication a part of the record.
- E. Preacquisition of Interest: No elected or appointed officer or employee shall acquire an interest in, or an interest affected by, any contract, transaction, zoning decision, or other matter at a time when such officer or employee knew, or reasonably should have known, the interest will be directly or indirectly affected by an official act or action of such elected or appointed officer or employee.
- F. Appearances: No elected or appointed officer or employee shall appear on behalf of or against any private person, other than himself or herself, his or her spouse, or minor children, before any Village agency or municipal court, except for members of the Village Board, who may appear before Village agencies on behalf of Board member's constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations and in accordance with applicable provisions of Robert's Rules of Order. Such Board members shall not receive compensation for such appearances, other than compensation from the Village.
- G. Disclosure of Interest in Legislative Action:
1. Any member of the Village Board who has a financial interest or personal interest in any proposed legislation before the Village Board shall disclose on the record of the Village Board the nature and extent of such interest. For purposes of this Section, personal interest shall include an interest arising from blood or marriage relationships, or close business or political association.

2. Any other officer or employee who has a financial or personal interest in any proposed legislative action of the Village Board and who participates in discussion with or gives an official opinion or recommendation to the Village Board shall disclose on the record of the Village Board the nature and extent of such interest.

H. Disclosure and/or Use of Confidential Information: No elected or appointed officer or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Village or use such information to advance the financial or other private interest of the officer or employee or others.

I. Public Property: No elected or appointed officer or employee shall request, permit or engage in the unauthorized use of Village-owned funds, vehicles, equipment, materials or property for personal convenience or profit.

J. Future Employment of Village Officers and Employees:

1. No elected or appointed officer or employee of the Village shall, directly or indirectly knowingly or wilfully negotiate the possibility of future employment with any person who has any matter pending before that officer or employee or before any body of which that officer or employee is a member.
2. No person who has a matter pending before an officer or employee of the Village, or before a body of which such officer or employee is a member, shall, directly or indirectly, knowingly or wilfully, negotiate the possibility of future employment of that officer or employee.
3. No officer or employee of the Village shall knowingly make, participate in making or attempt to use his or her official position to influence a decision involving the interests of a person with whom he or she has an agreement regarding future employment.

K. Attorney Restriction On Representation: No attorney representing the Village in any legal capacity may represent any interest against the Village.

L. Employee Purchase Of Village Owned Residential Property: Policemen, firemen and other employees shall be permitted to bid for and purchase residential property of three (3) units or less being sold by the Village, provided said property is to be used as the principal residence of said employees.

- M. Employee Participation In Single-Family Rehab Loan Program: Police officers, firefighters and other employees, as defined in section 2-1-7 of this chapter, with the exception of the rehab supervisor, will be permitted to participate in the Village Single-Family Rehab Loan Program, fully funded by Community Development Block Grant funds and regulated, generally, by Federal regulations set forth in 24 CFR part 570 and, specifically, by loan policy guidelines approved by the Housing Programs Advisory Committee of the Village Board. (Ord. 1993-0-24, 4-7-93)
- N. Adoption Of The State Officials And Employees Ethics Act: The regulations of section 5-15¹ and article 10² of the State Officials and Employees Ethics Act (hereinafter "the Act") is hereby adopted as required by reference and made applicable to the officers and employees of the Village to the extent required by 5 Illinois Compiled Statutes 430/70-5.
1. Solicitation Or Acceptance Of Gifts Prohibited: The solicitation or the acceptance of gifts prohibited to be solicited or accepted under the Act, by an elected or appointed official or any employee of the Village, is hereby prohibited.
 2. Gift Ban: The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village under the Act, is hereby prohibited.
 3. Political Activities Prohibited: The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.
 4. Definitions: For purposes of this subsection 2-25-9N, the terms "officer" and "employee" shall be defined as set forth in 5 Illinois Compiled Statutes 430/70-5(c).
 5. More Restrictive Provisions Prevail: This subsection 2-25-9N does not repeal or otherwise amend or modify any other provision of this article. To the extent that any other provision of this article relating to the solicitation and acceptance of gifts is less restrictive than any provision contained in section 5-15 and article 10 of the Act, as adopted in this subsection 2-25-9N, then the provisions of section 5-15 and article 10 of the Act, as adopted in this subsection 2-25-9N, shall prevail in accordance with the provision of 5 Illinois Compiled Statutes 430/70-5(a). The penalty provisions set forth in 5 Illinois Compiled Statutes 430/50-5 shall prevail over other penalty provisions set forth in this article only with regard to the enforcement of this subsection 2-25-9N.
 6. Future Amendments: Any amendment to the Act that becomes effective after the effective date of this subsection 2-25-9N shall be incorporated into this subsection 2-25-9N by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activity. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this subsection 2-25-9N by reference without formal action by the corporate authorities of the Village.
 7. Future Declaration Of Unconstitutionality:
 - a. If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this subsection 2-25-9N shall be repealed as of the date that the Illinois Supreme Court's

decision becomes final and not subject to any further appeals or rehearings. This subsection 2-25-9N shall be deemed repealed without further action by the corporate authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

- b. If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this subsection 2-25-9N shall remain in full force and effect; however, that part of this subsection 2-25-9N relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Village. (Ord. 2004-0-31, 6-21-04)

2-25-10: PROTECTION OF EMPLOYEES AGAINST RETALIATION FOR REPORTING FRAUD, WASTE OR MISUSE OF OFFICE:

- A. No elected or appointed officer or employee of the Village shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to carry out the person's official duties, to exercise the person's clearly defined rights or to report or otherwise bring to the attention of the Village any information which, if true, would constitute a work related violation by a Village elected or appointed officer or employee of any law or regulation, gross waste of Village funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Village officer or employee, use of a Village office or position or of Village resources for personal gain, or a conflict of interest of a Village officer or employee.
- B. No elected or appointed officer or employee of the Village shall use or threaten to use any official authority or influence to effect any action as a reprisal against an elected or appointed officer or employee who reports or otherwise brings to the attention of the Village any information regarding the subjects described in subsection 2-25-10A of this section. (Ord. 1993-0-24, 4-7-93)

2-25-11: CONTRACTS WITH OTHER GOVERNMENTAL AND QUASI-GOVERNMENTAL ENTITIES:

The Village shall, by agreement, require that all governmental and quasi-governmental entities which receive funding from the Village adhere to the provisions of this article and that all such entities agree to be subject to the enforcement and penalty provisions contained herein as administered by the Village's Ethics Committee.

For purposes of this section, the phrase "elected and appointed officers and employees" shall include the elected and appointed officers and employees of those governmental and quasi-governmental entities which receive funding from the Village and which agree to adhere to the provisions of this article. (Ord. 1993-0-24, 4-7-93)

2-25-12: ADVISORY OPINIONS:

- A. Where an elected or appointed officer or employee of the Village has a doubt as to the applicability of any provision of this article to a particular situation or as to the definition of terms used herein, the elected or appointed officer or employee may apply to the Village Attorney for an advisory opinion. The elected or appointed officer or employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of the article before such advisory opinion is made. The Village Attorney may seek the advice and assistance of the Ethics Committee of the Village Board (hereinafter known as the "Ethics Committee"), if necessary.
- B. Such opinion, until amended or revoked, shall be binding on the Village, the Village Board and the Village Attorney in any subsequent actions concerning the elected or appointed officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.
- C. Any advisory opinion prepared by the Village Attorney shall be made public. However, the name of the person requesting the opinion and the names of all persons or business entities mentioned in the opinion shall be deemed confidential information and shall not be disclosed by the Village Attorney unless the elected or appointed officer or employee waives such confidentiality or where the Village Attorney deems the elected or appointed officer or employee to have failed to act in good faith in requesting the opinion or in conforming with the opinion or to have failed to act in conformance with the opinion. In seeking advice from the Ethics Committee, the Village Attorney shall not disclose the name of the person seeking the opinion nor the names of persons or entities mentioned in the opinion. (Ord. 1993-0-24, 4-7-93)

2-25-13: ENFORCEMENT:

- A. The Ethics Committee shall have the primary responsibility for the enforcement of this article. It shall have the power to investigate any complaint, to initiate any suit, and to prosecute any criminal or civil action on behalf of the Village where it believes such action is appropriate.

- B. The Ethics Committee may investigate or prosecute any apparent violation of this article or may employ or appoint any qualified attorney to investigate or prosecute any violation or series of violations of this article by one or more persons.

- C. Any person who believes that a violation of any portion of this article has occurred may file a complaint with the Ethics Committee. However, nothing in this article shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority. (Ord. 1993-0-24, 4-7-93)

2-25-14: PENALTIES; FORFEITED POSITION; EXEMPTIONS; INJUNCTION:

- A. Any elected or appointed officer or employee who wilfully and knowingly violates any of the provisions of this article shall be guilty of a misdemeanor, punishable by a monetary fine not to exceed one thousand dollars (\$1,000.00) or incarceration for a period of time not to exceed one year.

- B. Upon conviction for any violation of this article of any elected or appointed officer or employee, such officer or employee shall immediately forfeit his or her office or position.

- C. The Ethics Committee, with the consent of the Village Board, may exempt from the provisions of this article any conduct found to constitute a violation by an elected or appointed officer or employee if the Committee finds that the enforcement of this article with respect to such conduct is not in the public interest.

- D. Any contract, transaction, zoning decision or other matter which was the subject of an official act or action of the Village in which there is an interest prohibited by this article, or which involves the violation of a provision of this article, shall be voidable at the option of the Village.

E. The Ethics Committee shall have the power, where a violation of the provisions of this article is threatened or has occurred, to bring civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of this article or requiring the relinquishment of any prohibited interest or the voiding of any such contract, transaction, zoning decision or other matter, taking into account the interests of the Village and any third persons who may be injured thereby. Where the Committee determines that the public interest may best be served by not voiding a contract, transaction, zoning decision or other matter entered into in violation of this article, such contract, transaction, zoning decision or other matter may be enforced and an action or proceeding may be brought against any elected or appointed officer or employee found in violation of provisions of this article for damages not to exceed twice the damages suffered by the Village or twice the profit or gain realized by the elected or appointed officer or employee, whichever is greater. (Ord. 1993-0-24, 4-7-93)