



## TITLE III ADMINISTRATION – GOVERNMENT

### CHAPTER 36: GIFT BAN AND PROHIBITED POLITICAL ACTIVITIES

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#### § 36.01 DEFINITIONS

Whenever the following words or terms are used in this Ordinance, they shall have the meanings ascribed to them below:

**CAMPAIGN FOR ELECTIVE OFFICE:** Any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action,<sup>1</sup> (ii) relating to collective bargaining,<sup>2</sup> or (iii) that are otherwise in furtherance of the person's official duties.

**CANDIDATE:** Any person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

**COMPENSATED TIME:** With respect to an employee, any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of his or her employment but, for purposes of this Ordinance, does not include any designated holidays, vacation periods, personal time, compensatory time off, or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, compensated time includes any period of time when the officer or employee is on the premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

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<sup>1</sup> As those terms are defined in Section 2 of the Lobbyist Registration Act, 25 ILCS 170/2.

<sup>2</sup> As defined in Section 3 of the Illinois Public Labor Relations Act, 5 ILCS 315/3.

**COMPENSATORY TIME OFF:** Any authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of her or his employment.

**EMPLOYEE:** All full-time, part-time, and contractual employees of the Village.

**GIFT:** Any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

**INTRA-OFFICE GIFT:** Any gift given to an officer or employee of the Village from another officer or employee of the Village.

**INTER-OFFICE GIFT:** Any gift given to an officer or employee of the Village from a member of the Illinois General Assembly; or from the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Controller, the Treasurer or the Auditor General of the State of Illinois; or from a member, officer, appointee, or employee of any State Agency as defined in the State Officials and Employees Ethics Act,<sup>3</sup> or of any federal agency, or of any unit of local government or school district.

**LEAVE OF ABSENCE:** Any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the Village.

**OFFICER:** All appointed and elected officials of the Village, regardless of whether the official is compensated.

**POLITICAL ACTIVITY:** Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

**POLITICAL ORGANIZATION:** A party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code,<sup>4</sup> but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

**PROHIBITED POLITICAL ACTIVITY:**

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

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<sup>3</sup> 5 ILCS 430/1-1 *et seq.*

<sup>4</sup> 10 ILCS 5/9-3.

2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

**PROHIBITED SOURCE:** Any person or entity who:

1. is seeking official action by the Village or by an officer or employee of the Village;
2. does business or seeks to do business with the Village or with an officer or employee of the Village;
3. conducts activities regulated by the Village or by an officer or employee of the Village;
4. has interests that may be substantially affected by the performance or non-performance of the official duties of the Village or an officer or employee of the Village; or
5. is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act., except that an entity does not become a

prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

**RELATIVE:** Those people related to the officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the officer's or employee's spouse and the officer's or employee's fiancé or fiancée.

## § 36.02 GIFTS:

1. Gifts Prohibited: Except as otherwise provided in Subsection (b)2 below, no officer or employee, spouse of an officer or employee, or immediate family member living with an officer or employee, shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or state statute, rule, or regulation. No prohibited source shall intentionally offer or make a gift that violates this Subsection.
2. Exceptions: The restrictions set forth in Subsection (b)1 above shall not apply to the following:
  - A. Opportunities, benefits, and services that are available on the same conditions as for the general public.
  - B. Anything for which the officer or employee pays the market value or anything not used and promptly disposed of as provided in Subsection (b)3 below.
  - C. A contribution, as defined in Article 9 of the Illinois Election Code,<sup>5</sup> that is lawfully made under that Code or under the State Officials and Employees Ethics Act, or activities associated with a fundraising event in support of a political organization or candidate.
  - D. Educational materials and missions.
  - E. Travel expenses for a meeting to discuss Village business.
  - F. A gift from a relative of an officer or employee.
  - G. Anything provided by an individual on the basis of a personal friendship unless the officer or employee has reason to believe that, under the circumstances, the gift was provided because of the

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<sup>5</sup> 10 ILCS 5/9-1 *et seq.*

official position or employment of the officer or employee and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the officer or employee shall consider the circumstances under which the gift was offered, such as:

- (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
  - (ii) whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
  - (iii) whether to the actual knowledge of the officer or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.
- H. Food or refreshments not exceeding \$75.00 per person in value on a single calendar day; provided that the food or refreshments are:
- (i) Consumed on the premises from which they were purchased or prepared; or
  - (ii) Purchased ready to eat and delivered by any means.
- I. Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee and are customarily provided to others in similar circumstances.
- J. Intra-office and inter-office gifts.
- K. Bequests, inheritances, and other transfers at death.
- L. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.00.
3. Disposition of Gifts: An officer or employee that is a recipient of a gift that is given in violation of this Ordinance may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)3 of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

### § 36.03 PROHIBITED POLITICAL ACTIVITIES

1. No officer or employee shall intentionally perform any prohibited political activity during any compensated time. No officer or employee shall intentionally use any property or resources of the Village in connection with any prohibited political activity.
2. At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off.
3. No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for the officer's or employee's participation in any prohibited political activity.
4. Nothing in this Section (c) prohibits activities that are otherwise permissible an officer or employee to engage in as a part of his or her official or employment duties or activities that are undertaken by an officer or employee on a voluntary basis as permitted by law.
6. No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

### § 36.04 ETHICS OFFICER

The Village Manager or her or his designee, shall be designated the Ethics Officer for the Village. The Ethics Officer shall provide guidance to the officers and employees of the Village concerning the interpretation of and compliance with the provisions of this chapter and state ethics laws, and shall perform such other duties as may be delegated by the Village Board. The Ethics Officer shall have no authority to conduct any investigation of a complaint of an alleged Ordinance violation by an appointed officer, or elected officer of the Village

### § 36.05 ETHICS COMMISSION

1. Establishment. There is hereby established in the Village an Ethics Commission, consisting of the Village Board of Trustees. Commission

members shall be non-salaried, except that they may be reimbursed for their reasonable expenses incurred in the performance of their duties. The Ethics Commission may contract for services that cannot be satisfactorily performed by the Village staff.

2. Powers And Duties. The Ethics Commission shall have the following powers and duties:
  - a. To promulgate such procedures and rules governing the performance of its duties and the exercise of its powers as deemed necessary or appropriate.
  - b. Upon receipt of a signed, notarized, written complaint, to investigate, conduct research, conduct closed hearings and deliberations, issue findings, decisions, and recommendations, and impose a fine when warranted.
  - c. To act only upon the receipt of a written complaint alleging a violation of this Ordinance, and not upon its own prerogative.
  - d. To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated this Ordinance as the Commission deems appropriate.
  - e. When necessary, to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Ordinance.
  - f. When necessary, to request that the State's Attorney provide legal advice without charge to the Commission.
  - g. To prepare and publish such manuals and guides as the Commission deems appropriate explaining the duties of individuals covered by this Ordinance.
  - h. To prepare such public information materials as the Commission deems appropriate to facilitate compliance, implementation, and enforcement of this Ordinance.
  - i. To periodically prepare a statistical report consisting of (i) the number of complaints filed, (ii) the number of complaints deemed to sufficiently allege a violation of this Ordinance, (iii) the recommendation, fine, or decision issued for each complaint, (iv) the number of complaints resolved, and (v) the status of pending complaints.

- j. The Commission may delegate to a subcommittee the Commission its authority to conduct investigations pursuant to this Subsection (e)2, and require a report of the subcommittee's findings to the full Commission for final action.
- k. In the event that a member of the Commission is the subject of a claimed violation of this Ordinance, such Commissioner shall immediately recuse himself or herself from the investigation of such claimed violation, and shall take no part in the final action of the Commission regarding such claimed violation.

The powers and duties of the Commission are limited to matters clearly within the purview of this Ordinance.

3. Complaint Procedure.

- a. Complaints alleging the violation of this Ordinance shall be filed as follows: If the complaint alleges a violation by an employee, , then the complaint shall be filed with the Ethics Officer. In the event that the subject of the complaint is the Ethics Officer, such complaint shall be filed with the Village President. If the complaint alleges a violation by an appointed officer, or elected officer of the Village, then the complaint shall be filed with the Village President. Any complaint received by, or incident reported to, an employee alleging the violation of this Ordinance, shall be forwarded to the Ethics Officer or Village President as provided above. Upon receipt of any such complaint, the Ethics Officer, or the Village President, as the case may be, shall forward the complaint to each member of the Ethics Commission.
- b. Within three (3) business days after the filing of an ethics complaint, the Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within three (3) business days after the submittal to the Commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting on the sufficiency of the complaint and probable cause, which meeting shall be held within fourteen (14) business days after receiving the complaint.
- c. Upon at least 48 hours' public notice of the session, the Commission shall meet in a closed session to review the sufficiency of the complaint and, if the complaint is deemed to sufficiently allege a violation of this Ordinance, to determine if there is



probable cause, based on evidence presented by the complainant, to proceed. The Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint, and, if necessary, on probable cause. If the complaint is deemed to sufficiently allege a violation of this Ordinance and there is a determination of probable cause, then the Commission's notice to the parties shall include a hearing date scheduled within four (4) weeks after the issuance of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed not to sufficiently allege a violation or if there is no determination of probable cause, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint and that notice shall be made public.

- d. On the scheduled date and upon at least 48 hours' public notice of the hearing, the Commission shall conduct a closed meeting on the complaint and allow both parties the opportunity to present testimony and evidence.
- e. Within two (2) weeks after the conclusion of the hearing on the complaint, the Commission shall (i) dismiss the complaint or (ii) issue a preliminary recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both. The particular findings in the instant case, the preliminary recommendation, and any fine shall be made public.
- f. Within seven (7) business days after the issuance of the preliminary recommendation or imposition of a fine, or both, the respondent may file a written demand for a public hearing on the complaint. The filing of the demand shall stay the enforcement of the preliminary recommendation or fine. Within two (2) weeks after receiving the demand, the commission shall conduct a public hearing on the complaint after at least 48 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within five (5) business days after such public hearing, the Commission shall publicly issue a final recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both.
- g. If the complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision as required under subsection (e) within seven (7) days after the complaint is filed, and during the

seven (7) days preceding that election, the Commission shall tender such decision before the date of that election, if possible.

- h. The Commission may levy a fine of up to \$750.00 against any person who knowingly files a frivolous complaint alleging a violation of this Ordinance.
- i. A complaint alleging the violation of this Ordinance must be filed within one year after the alleged violation.

#### 4. Enforcement

- a. The Commission may recommend to a person's ultimate jurisdictional authority disciplinary action against the person it determines to be in violation of this Ordinance. The recommendation may prescribe the following courses of action:
  - (1) A reprimand.
  - (2) An order to cease and desist the offensive action.
  - (3) An return or refund of money or other items, or an amount of restitution for services received in violation of this Ordinance.
  - (4) Dismissal, removal from office, or expulsion.
  - (5) Donation to a charity of an amount equal to the gift.
- b. The Ethics Commission may impose a fine of up to \$750.00 per violation to be deposited into the general fund of the Village.
- c. The Village, through the ultimate jurisdictional authority of an officer or employee, may take disciplinary action against any such officer or employee (i) who the Ethics Commission finds is in violation of this Ordinance, (ii) who is the subject of a recommendation by the Ethics Commission, or (iii) described by both items (i) and (ii).

The Village may take disciplinary action as recommended by the Ethics Commission, if any, or as it deems appropriate, to the extent it has constitutional and statutory authority to take that action.

The Village shall make its action, or determination to take no action, available to the public.

- d. If after a hearing, the Commission finds no violation of this Ordinance, the Commission shall dismiss the complaint.
5. Penalty. An individual who knowingly violates this Ordinance is guilty of a business offense and subject to a fine of up to \$750.00.
6. Review. The Ethics Commission's decision to dismiss a complaint or its recommendation is not a final administrative decision, but its imposition of a fine is a final administrative decision subject to judicial review under the Administrative Review Law of the Code of Civil Procedure.
7. Exemption. The proceedings conducted and documents generated under this Ordinance are exempt from the provisions of the Open Meetings Act and the Freedom of Information Act, except as expressly provided.

## **§ 36.06 INTERPRETATION**

Interpretation: It is the intent of the Village that the provisions of this Ordinance shall be substantially in accordance with the requirements of Section 5-15 and Article 10 of the State Officials and Employees Ethics Act. To the extent that Section 5-15 or Article 10 of the State Officials and Employees Ethics Act may be more restrictive than the requirements of this Ordinance, the provisions of Section 5-15 and Article 10 of the State Officials and Employees Ethics Act shall apply and control. Except as expressly provided in this Ordinance, this Ordinance does not repeal other relevant personnel rules or regulations adopted by the Village ("Existing Regulations"). To the extent that the Existing Regulations are less restrictive than Section 5-15 or Article 10 of the State Officials and Employees Ethics Act and this Ordinance, the provisions of Section 5-15 and Article 10 of the State Officials and Employees Ethics Act and this Ordinance shall apply and control.