



Legislation Text

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Title

ORDINANCE AMENDING TITLE 1 CHAPTER 8 OF THE ORLAND PARK VILLAGE CODE (ETHICAL STANDARDS OF CONDUCT)

Body

WHEREAS, the Corporate Authorities of the Village of Orland Park, an Illinois home rule municipality (the “Village”) deem it to be in the best interests of the Village and its residents to establish a high standard of ethical service to the Village by its Board of Trustees and all members of the Village’s Boards, Committees and Commissions.

NOW, THEREFORE, Be It Ordained by the Village President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

Title 1, Chapter 8, of the Orland Park Village Code is hereby amended by adding thereto the following Section 1-8-6:

“1-8-6: ETHICAL STANDARDS OF CONDUCT:

A. SEVERABILITY

If any provision or section of this Section may later be amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provisions or applications.

B. PUBLIC POLICY DECLARATION

It is hereby declared to be the standard of ethical service to the Village of Orland Park that all Village Officials avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and to assure the integrity and impartiality of all Village Officials of the Village, it is necessary that adequate guidelines be provided for separating their roles as private citizens from their roles as public servants. Being a Public Official of the Village is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. The ethical standards established herein are intended to eliminate, to the fullest extent possible, violations of ethical conduct and to ensure that such are investigated and punished where applicable.

C. DEFINITIONS

As used in this Section, the following words and phrases shall have the following meanings:

Agreement - an understanding between two or more persons or entities; a contract.

Appointed - selected and installed in an office or position.

Associated - the condition of being an owner, partner, member, part owner, employee, limited partner, stockholder, director, lender, borrower, or having a financial interest in.

Beneficiary - a person or entity receiving a benefit.

Board of Trustees - The President and Village Board of Trustees of the Village.

Business - commercial or industrial enterprise or establishment, store, etc.; work, employment, profession of an individual or group; commerce.

Compensation - money, property, thing of value or benefit conferred upon or received by any person or sought for any person in return for services rendered for or to be rendered to himself/herself or another.

Conflict of Interest - an interest that competes with or is adverse to a legitimate interest of the Village.

Consideration - something given or promised in exchange for something else, tangible or intangible, including promises.

Contracts - agreements or mutual understandings supported by present or future consideration

Contribution - money or aid given another.

Decision making - exercising public power to adopt laws, regulations or standards, render decisions, establish policy, determine questions of discretion.

During the course of Village business - while planning, working on, reporting on, or carrying out the affairs of the Village whether for compensation or not.

Duty of due care - exercising power, trust, authority or decision making as any prudent person would exercise; not acting on a direct conflict of interest or a potential conflict of interest to self-benefit or the benefit of another.

Exchange - to give in return.

Expectation - looking forward to something; a looking forward as due.

Favor - an unfair partiality; an obliging act; to be partial to, to support; advocate; to help.

Financial gain - increase in monetary or material wealth or earnings.

Gain - an increase in power, advantage, wealth, possessions, earnings.

Gift - something given without recompense.

Immediate family - spouse, child or step child, mother, father, step-parents, grandparents, step grandparents, brothers, sisters, step-brothers or sisters, or in-laws of any kind.

Influence - the power of persons or things to influence others.

Interfere - to come between for some purpose; meddle; attempt to determine course or outcome without authority or legitimate purpose.

Member - any of the persons constituting an organization or group.

Moral turpitude - an act of baseness; vileness or depravity; conduct contrary to honesty, justice or good morals.

Official conduct - action or inaction by an official or employee acting on behalf of the Village. Official duty/Official action - a decision, action, recommendation, approval, disapproval or other action or failure to action which involves the use of power, trust, decision making, or authority, or with moral turpitude.

Other persons/anyone else - member of one's immediate family or individual persons, or businesses, entities, associations, or groups.

Personal gain - advantage or increase in wealth, possessions, power or other benefits for an individual or on behalf of another individual.

Potential conflict of interest - a situation whereby the interests of the Village and the interests of someone else will, may, or might become in conflict in the ordinary course of events.

Promise - an agreement to do or not do something.

Reward - something given for something done.

Rules of ethical conduct - the provisions of this Section.

Solicit - to ask or seek; often earnestly; to entice another to do something.

Village - Village of Orland Park

Village Employee - an employee of the Village of Orland Park whether members of an employee group or not.

Village Funds- any funds, money, or monetary rights owned by the Village, or under Village control in a fiduciary or representative capacity.

Village Official - a person who holds, by election or appointment, the officer of a member of the Village Board of Trustees or a member of a Village Board, Committee or Commission, regardless of whether the official is compensated for service in his or her official capacity.

Village Personnel - individuals working for the Village of Orland Park as employees for wages, salary or other agreed benefits.

Village Property - anything tangible or intangible including rights, owned by the Village or under the control of the Village in fiduciary or representative capacity.

D. STANDARDS OF CONDUCT

The Village's integrity rests solidly on the foundation of several general rules of ethical behavior. These rules form fundamental values to be understood and honored by all.

1. Principles

The Village expects its Village Officials to be honest, and to treat the position that they hold with dignity and respect. Each office of the Village carries responsibilities and obligations which must be met in order to continue to maintain the public's confidence. The public's safety, wellbeing and confidence are of paramount importance while serving as public officials.

2. Honesty

The Village expects its Village Officials to not steal from the Village, nor falsify records, or misuse Village property, equipment, supplies or assets for personal gain, or for the gain or benefit of others.

3. Fairness

The Village expects its Village Officials to treat each other and those we serve with integrity, professionalism, and fairness.

4. Direction and Suggestion

The Village expects its Village Officials to understand that no improper action is made proper because a higher Village Official might have directed or suggested such action.

Recognizing that there are times when Village Officials confront situations where there are two or more legitimate points of view, where there is no clear right or wrong answer, and the past practices have given way to new practices; it is in these situations the Village expects its Village Officials to discuss such actions with the Village Manager and/or the Village Attorney and attempt to resolve such situations of conflict before taking action or making such decisions.

E. PROHIBITED ACTS

The following acts, actions, inactions, and attempted acts constitute a violation of the ethical standards of conduct for Village Officials. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this Section.

1. Gratuities

Except as provided in Subsection F.1. of the Section, no Village Official of the Village shall solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him or her in the performance of their official duty/duties or is intended as a reward for any official action on their part.

2. Preferential treatment

No Village Official of the Village shall use or attempt to use his/her official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for themselves or others.

3. Use of Information

a. No Village Official of the Village who acquires information in the course of their official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private interests of themselves or anyone else.

b. No Village Official of the Village shall obtain or use Village records, documents, communications, or other written or electronic records of the Village or those under the control of the Village to further the private interests of themselves or anyone else.

c. No Village Official shall knowingly furnish false information on any public matter, when giving requested information to members of the public

4. Full Disclosure

No Village Official of the Village shall participate, as an agent or representative of the Village, in recommending or otherwise acting upon any matter in which he or she has a direct or indirect interest without disclosing the full nature and extent of their interest. Such a disclosure must be made before the time to perform their duty or concurrently with that performance. If the Official is a member of a decision making or advisory body, the disclosure must be made to the Chairman and other members of the body on the official record. Otherwise, a disclosure would be appropriately addressed by an appointed Village Official to the supervisory head of the organization, or by an elected official to the general public.

5. Disclosure of Confidential Information

It shall be unlawful for any Village Official to use or disclose, other than in the performance of his or her official responsibilities or duties, or as may be required by law, confidential information (including information revealed during a closed meeting of the Village Board of Trustees) concerning the property, government, or affairs of the Village, gained in the course of or by reason of his or her position. It shall be unlawful for any Village Official to use or disclose confidential information gained in the course of or by reason of his or her official position for the purpose of advancing:

(A) His or her financial or personal interests;

(B) A business entity of which he or she is an owner (in part or whole), an officer or director; or the financial or personal interests of his or her spouse or minor children.

6. Disclosure by Candidates for Public Office.

a. Any candidate for public office shall file with the Village Clerk, within 28 days after the last date for filing the necessary legal documents to have his or her name placed upon the ballot pursuant to the Illinois Election Code, the disclosure forms required to be filed pursuant to paragraph 6 through 10 of this Subsection E.

b. The Village Clerk shall notify all candidates for public office of the necessity of such disclosure filing at the time the candidate or candidate's representative files the requisite legal documents pursuant to the Illinois Election Code. The Village Clerk shall also deliver all necessary disclosure forms with the notice form and a copy of this Section to enable the candidates to comply with the terms of this Section. The notice shall also include the last date for filing of such disclosure forms with the Village Clerk. All said disclosure forms must be filed with the Village Clerk at the Village Hall. The Village Clerk shall deliver a receipt for said disclosure forms listing the disclosure forms that were filed with the Village Clerk.

7. Disclosure of Real Estate Interests.

a. Each Village Official subject to the terms of this Section shall annually submit to the Village Clerk a signed statement disclosing direct or indirect ownership by the Village Official, his or her spouse and/or minor children of any real property either located within the corporate limits of the Village or within unincorporated areas located within one and one-half miles of the Village borders and included in the official Long Range Plan of the Village. Such statements shall include the legal description, permanent real estate index number, and common address of the real estate and shall indicate the ownership interest held in such real estate.

b. For the purpose of this Section, the ownership of a beneficial interest in real estate held in a land trust, real property being purchased by contract or real property held by a corporation, investment group or partnership in which the person filing, or the spouse of such person has any financial or economic interest, shall be considered real property owned by the Village Official and subject to the disclosure requirements herein stated.

c. The property in which the Village Official resides is exempt from this provision, unless such property contains more than three residential units.

8. Disclosure of Economic Interests.

Each person subject to the provisions of this section shall annually submit to the Village Clerk, a signed statement providing information on any financial or economic interests which said person, or his or her spouse or his or her minor children has with the Village or any business entity partially or totally within the corporate limits of the Village or doing business with the Village.

9. Disclosure of Business Interests.

Each person subject to the terms of this Section shall annually submit to the Village Clerk, a signed statement disclosing any direct or indirect ownership interest which said person, or his or her spouse or his or her minor children has in any business entity. Provided, however, if such ownership interest is less than 1%, no such disclosure is required.

10. Filing and Disclosure.

a. All disclosure statements as herein required shall be filed with the Village Clerk at the Village Hall on or

before May 1 of each calendar year. Any Village Official who is appointed after May 1 of any given year shall file any required disclosure statements within 30 days after being appointed. The Village Clerk shall notify all such appointed Village Officials of the necessity of such disclosure filing at the time of such person's appointment and deliver all necessary disclosure forms with the notice, together with a copy of this Section. The notice from the Village Clerk shall also include the last date for filing of such disclosure forms with the Village Clerk. In addition to the annual disclosure statements, disclosure statements will be required to be filed with the Village Clerk on a quarterly basis if a Village Official, or his or her spouse or his or her minor child(ren) shall acquire any additional interests which would be required to be disclosed on the next annual disclosure statement.

b. The disclosure statements as described herein shall be kept for five years from the date of filing, by the Village Clerk. Said records shall be considered public records and accessible for the purpose of viewing and copying by any citizen of the Village. A request to review records shall be made in writing, with a copy of said request given to the individual whose records are to be viewed. The Village Board may establish reasonable rules and regulations governing when the records may be viewed. The Village Board may require a reasonable charge for copying any of said records. The Village Attorney is authorized to prepare the necessary disclosure forms, the Statement Regarding Ethics, as well as the complaint form and the candidate notice form for approval by the Village Board and for use under the terms of this Section.

11. Use of Village Property

No Village Official of the Village shall, directly or indirectly, make use of or permit others to make use of Village property, equipment, vehicles, or supplies of any kind for purely personal gain.

12. Nepotism

The Village shall avoid hiring individuals who have a close relation to members of the Village Board of Trustees, Village Manager, and/or other supervisory personnel. Exceptions can be made if it can be shown that it is in the best interest of the Village to hire such individual. The individual would not be hired until supervision, performance appraisals, and other areas of potential conflicts of interest were sufficiently resolved.

13. Other Prohibited Conduct

No Village Official of the Village shall engage in any of the practices described below in list form. The following acts, actions, inactions, and attempted acts and actions constitute a violation of the ethical standards of conduct for Village Officials. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this Section and labor agreements. They include:

- a. Affecting adversely the confidence of the public in the integrity of the Village.
- b. Misusing Village personnel resources, property, funds or assets for personal gain or the gain of others.
- c. Representing his or her individual opinion as that of the Village.

- d. Violating labor agreements between the Village and its employees.
- e. Violating policies adopted by the Village Board of Trustees.
- f. Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties.
- g. Offering a Village Official or Employee of the Village a gift, loan, contribution, reward or promise based on agreement, or expectation that the vote, decision making or action of the Village Official or Employee of the Village would be influenced thereby.
- h. Engaging in an act, actions or other conduct contrary to honesty, justice or good morals; or an act or actions of moral turpitude.
- i. Acting on behalf of the Village or on the behalf of the Village Board of Trustees when authority has not been specifically given.
- j. Making a Village decision outside of the official channels.
- k. Participating in decision making affecting the interest of one's business or immediate family. The decision making may include monetary decisions, labor agreements, or other family.

F. EXCLUSIONS

This Section is not intended to cover the following.

1. This Section shall not prohibit a Village Official from accepting minor gifts in accordance with the Illinois Gift Ban Act when the gift is extended during the course of Village business and no return promise is made by the recipient.
2. This Section shall not prevent any Official from accepting his or her regular compensation.
3. This Section does not prohibit the expression of views and opinions or communications of plans for future action, nor does it prohibit contributions to political parties or candidates as permitted by law.
4. This Section shall not apply to a Village Official, who in the course of decision making, discloses a direct or indirect conflict of interest or potential conflict of interest in any matter before the Village Board of Trustees, advisory board or commission and is permitted to continue participating in the decision making.
5. This Section shall not be enforced to cause any person to be favored or discriminated against because of race, gender, age, and handicap, and religion, country of origin or political affiliation.

G. INTEGRITY, REPUTATION AND THE ABILITY TO ENFORCE STANDARDS

Preserving the integrity of the Village of Orland Park is important to all Village Officials. Fairness, honesty, evenhandedness, and sincerity, that transcend both the law and the values of individuals, are achieved by observing an overriding set of ethical standards. Complaints of questionable actions of Village Officials need to be handled with the same fairness, honesty, evenhandedness and sincerity to preserve the integrity of the

Village of Orland Park. A Village's reputation and its overall success are securely linked. The Village of Orland Park's reputation is obviously based on more than the collective reputations of its Employees and Officials. The Village's reputation depends on how people perceive that the Village, whatever the issue or set of circumstances, will act with integrity, preserving the integrity of the Village may result in official action to enforce and punish violations of the Ethical Standards of Conduct.

H. INVESTIGATION AND DETERMINATION OF VIOLATIONS OF THIS SECTION.

The Board of Trustees shall have the responsibility to investigate allegations of violations of this Section by other Village Officials. The Official under investigation shall not be permitted to be a part of any investigations or deliberations regarding his or her alleged conduct.

I. DISCIPLINE OF OFFICIALS

(A) Any person who is a citizen residing within the corporate limits of the Village, or has any interest in land within the Village or its planning area or has any interest in any business entity doing business in Orland Park or with the Village may sign a formal complaint against any Village Official alleging a violation of any provision of this Section. Such complaint must be filed within 45 days after the complainant knew of such alleged violation or should have known of such alleged violation. The President and Board of Trustees shall then submit the complaint to independent legal counsel other than the Village Attorney and chosen from a list of attorneys provided by the Village Attorney. The independent counsel shall be automatically selected on a rotational basis in the order listed on the list from the Village Attorney. If the independent counsel determines that the complaint is unfounded, such decision shall be final and non-reviewable. If the independent counsel determines that the complaint is founded, a complaint will be then filed as a Village Code violation with the Circuit Court.

(B) The independent counsel shall complete his or her investigation and make his or her determination within 30 days after filing of the complaint unless the independent counsel determines that up to an additional 30 days is needed to conclude the investigation and make the determination. In no event shall the investigation and initial determination by the independent counsel exceed a period of 60 days from the date of filing of the complaint.

J. COMPLAINT PROCEDURE.

1. Each complaint must be typewritten and filed in triplicate with the Village Manager with a copy also served on the alleged violator; provided, however, in order to prevent an abuse of this procedure during any municipal election, no such complaint may be filed within 30 days before any municipal election at which the Village President, Clerk or any member of the Board of Trustees is to be elected. If an incident arises immediately before or during such 30-day period which may be the subject of a complaint hereunder and no complaint has been filed by the start of the 30-day period, the complaint shall not be filed (nor accepted for filing) until after the election, at which time it may be filed and processed in accordance with the provisions of this Section at any time within 30 days after the election.

2. Upon notice of his or her appointment as the independent counsel on a particular complaint, the person so selected shall disclose any circumstances which he or she believes might disqualify him or her as an impartial independent counsel. If such notice shall be served upon the parties, the parties may either waive the disqualification or the next person on the list shall serve as independent counsel. If any independent counsel

shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties of his or her position, the next person on the list shall serve as independent counsel and the entire matter shall be investigated by the new independent counsel.

3. All communications to the parties from the independent counsel other than at oral interviews shall be in writing and copies sent to the opposing party. However, where circumstances necessitate, the independent counsel may make other appropriate arrangements, including but not limited to, conference telephone calls.

4. The filing of the complaint shall include a written bill of particulars. The complaint and written bill of particulars shall include, but not be limited to, naming of the individual(s) involved, a description of the alleged violation and when it occurred, a list of all witnesses to the alleged violation, and such other and further information as may be necessary to apprise the defendant of the nature of the offense, to give the defendant an opportunity to prepare a defense, and to enable the independent counsel to conduct a thorough investigation. Such complaint and bill of particulars shall likewise be served by the complainant upon the person accused of a violation of this Section.

5. Service of the complaint shall be made by personal delivery or by mailing with the United States Postal Service by certified or registered mail, return receipt requested, to the last known address of the alleged violator as it is shown on the official Village records. The person charged with the violation of this Section shall be entitled to representation as such person so chooses, with the cost of such defense being paid for by the individual involved unless reimbursed under the provisions of this Section.

K. COMPLIANCE WITH STATE LAWS

Nothing in this Section shall be deemed to in any way restrict the application of any state statute or any common law provision with respect to conflict of interest, malfeasance, misfeasance, or nonfeasance in office which would otherwise be applicable to any person subject to the provisions of this Section. The provisions of this Section shall be deemed additional requirements and shall in no way be construed as a derogation of present statutory penalties and other local remedies for acts prohibited in this Section.

The regulations of Sections 5-15 and Article 10 of the State Officials and Employees Ethics Act, (5 ILCS 430/1-1 et. seq.) and Public Official Prohibited Activities Act (50 ILCS 105/1 et seq). ("Act") are hereby adopted by reference and made applicable to the Village Officials to the extent required by 5 Illinois Compiled Statutes 430/70-5.

The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act by any Village Officials is hereby prohibited.

The offering or making of gifts prohibited to be offered or made to a Village Official under the Act is hereby prohibited.

The participation in political activities prohibited under the Act by any Village Official is hereby prohibited. For purposes of this Subsection K, the term "Official" shall be defined as set forth in 5 Illinois Compiled Statutes 430/70-5(c).

The penalties for violations of this Subsection K shall be the same as those penalties set forth in 5 Illinois Compiled Statutes 430/50-5 for similar violations of the Act to the extent allowed by law.

This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village Officials. To the extent that any such existing codes, ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 Illinois Compiled Statutes 430/70-5(a).

Any amendment to the Act that becomes effective after the effective date of this Subsection K shall be incorporated into this by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities except that any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Subsection K by reference without formal action by the Orland Park Village Board.

In the event that the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Subsection K 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 at which time this Subsection K shall be deemed repealed without further action by the Orland Park Village Board.

In the event that 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 K shall remain in full force and effect; however, that part of this Subsection K relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Orland Park Village Board.

L. PENALTY

Any person found guilty by the Circuit Court of violating the provisions of this Section shall be fined an amount of at least \$1,001 and up to \$5,000. In the event that the Village Official is found not guilty of the alleged violation, the Village Board will authorize reimbursement of reasonable attorney fees to that person not to exceed the sum of \$1,500. The Village Board may also, in its sole discretion, authorize reimbursement of reasonable attorney fees in excess of \$1,500. The Village Attorney will advise the Board on the reasonableness of any attorney fees which are sought to be reimbursed hereunder.

SECTION 2

This Ordinance shall be in full force and effect from and after its passage as required by law.