

CHAPTER 33: STATE OFFICIALS AND EMPLOYEES ETHICS ACT

Section

§33.01 Adoption of Act

§33.02 Ethics Committee

§33.01 ADOPTION OF ACT.

- (A) The regulations of Sections 5-15 (5 ILCS 430/5-15) and Article 10 (5/ILCS 430/10-10 through 10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., (hereinafter referred to as the "Act" in this Section) are hereby adopted by reference and made applicable to the officers and employees of the Village of Deer Park to the extent required by 5 ILCS 430/70-5.
- (B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee is hereby prohibited.
- (C) The offering or making of gifts prohibited to be offered or made to an officer or employee is hereby prohibited.
- (D) The participation in political activities prohibited under the Act, by any officer or employee is hereby prohibited.
- (E) For purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5(c).
- (F) The penalties for violations of this Section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.
- (G) This Section does not repeal or otherwise amend or modify any existing enactment which regulates the conduct of officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).
- (H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption shall not be incorporated into this Section by reference without formal action by this governmental entity.
- (I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action if the Act is found unconstitutional by the Illinois Supreme Court.
- (J) 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 Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by this governmental entity.

(Am. Ord. 06-15, passed 10-16-06)

§33.02 ETHICS COMMISSION

- (A) Commission Created. There is hereby created a commission to be known as the Ethics Commission of the Village of Deer Park (“the Village”). The Commission shall be comprised of five (5) members appointed by the Village President with the advice and consent of the Board of Trustees. No person shall be appointed as a member of the Commission who is related, either by blood or by marriage up to the degree of first cousin, to any elected officer of the Village. No more than three (3) members of the Commission shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed.
- (B) First Meeting of Commission. At the first meeting of the Commission, the initial appointees shall draw lots to determine their initial terms. Two (2) commissioners serve 4-year terms and three (3) commissioners shall serve 5-year terms. Thereafter, all commissioners shall be appointed to 5-year terms. Commissioners may be reappointed to serve subsequent terms.

At the first meeting of the Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any three (3) commissioners. A quorum shall consist of three (3) commissioners, and official action by the commission shall require the affirmative vote of three (3) members.

- (C) Removal of Commissioner. The Village President, with the advice and consent of the Board of Trustees, may remove a commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than 10 days’ notice. Vacancies shall be filled in the same manner as original appointments.
- (D) Commission Powers and Duties of Commission: The Commission shall have the following powers and duties:
- (1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.
 - (2) Upon receipt of signed, notarized, written complaints to investigate and issue recommendations for disciplinary actions, and refer violations of this Chapter to the appropriate attorney for prosecution. The Commission shall, however, act only upon the receipt of a written complaint alleging a violation of this Chapter and not upon its own prerogative.
 - (3) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Chapter.
 - (4) To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the Village to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Commission shall constitute grounds for discipline or discharge.
 - (5) To develop and recommend to the Corporate Authorities an ethics code and/or amendments to such a code, which code shall be applicable to all officers and employees of the Village as addition(s) to and/or amendment(s) to this Chapter, if approved by the Corporate Authorities.
 - (6) The powers and duties of the Commission are limited to matters clearly within the purview of this Chapter.

(E) Complaints.

- (1) Complaints alleging a violation of this Chapter shall be filed with the Ethics Commission.
- (2) Within five (5) business days after the receipt of a complaint, the Commission shall send by certified mail, return receipt requested, a notice to the Village officer or employee who is the subject of such complaint (“the respondent”) that a complaint has been filed against him or her and a copy of the complaint. The Commission shall also send by certified mail, return receipt requested, a confirmation of the receipt of such complaint to the complainant within five (5) business days after receipt by the Commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the hearing which shall be held by the Commission to determine the sufficiency of such complaint and to establish whether probable cause exists to proceed with the prosecution for any violation(s) of this Chapter. The Commission shall utilize the assistance of Special Counsel approved by the Board of Trustees to assist the Commission in reviewing and investigating such complaint(s) and the Commission’s hearing relative thereto.
- (3) Upon public notice consistent with the Illinois Open Meetings Act, and after not less than ten (10) business days’ notice to the complainant and the respondent, the Commission shall meet to review the sufficiency of a complaint and, if a complaint is deemed sufficient to allege a violation of this Chapter, to determine whether there is probable cause, based on the evidence presented, to recommend further action on such complaint. The hearing may be closed to the public, but only to the extent authorized by the Open Meetings Act. The Commission shall issue the Commission’s ruling(s) on the sufficiency of any complaint and on probable cause to proceed, within twenty (20) business days after close of the Commission’s hearing on the complaint.

If a complaint is deemed by the Commission sufficient to allege a violation of this Chapter and there is a determination by the Commission of probable cause, then the Commission shall notify in writing the attorney designated by the Corporate Authorities of the Village to prosecute such actions and recommend to such attorney that the complaint be prosecuted and adjudicated judicially. If a complaint is deemed by the Commission not sufficient to 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 such complaint, and that notice shall be made public.

If a complaint is deemed by the Commission sufficient to allege a violation of this Chapter, then the Commission shall notify in writing the attorney designated by the corporate authorities to prosecute such actions and shall transmit to the attorney the complaint and its recommendation relative thereto and all additional documents in the custody of the Commission concerning the alleged violation, provided, however, such recommendations shall not be binding on such attorney.
- (4) The Commission may also recommend any appropriate discipline up to and including discharge, if a person is found by a court of competent jurisdiction guilty of a violation of this Chapter.
- (5) Any complaint alleging any violation of this Chapter shall be filed with the Commission not later than one (1) year after the alleged violation.

(Ord. 2010-02, Passed 1/18/10)