

CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT PREVENTION POLICY

DIVISION I - POLICY

22-1-1 COMPLIANCE WITH FEDERAL LAW. The Village is committed to comply with the Federal Fair and Accurate Credit Transactions Act of 2003, as well as provide customers, particularly customers with utility accounts, the maximum identity theft protection possible. Situations that lead to identity theft would hurt and inconvenience the Village's customers, while at the same time damage the Village's reputation and place the Village at risk for losses. The Village developed this Identity Theft Prevention Policy with the oversight and approval of the Village Board after considering the size and complexity of the Village's operations and account systems and the nature and scope of the Village's activities.

(A) **Examples of Identity Theft.**

- (1) An identity thief uses another person's social security number to open a utility account.
- (2) An identity thief uses a victim's information to obtain unauthorized services from the Village.
- (3) An identity thief opens a utility account using a victim's name and good credit.
- (4) An identity thief files for bankruptcy using a victim's name.
- (5) An identity thief gives a victim's name as his/her own when arrested by police.

22-1-2 RISK ASSESSMENT/IDENTIFYING RELEVANT RED FLAGS. While the overall risk of identity theft involving the Village appears low, the Village will focus on detection and prevention from identity theft on the following covered accounts: accounts to individual customers; all of the Village's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial; any account the Village offers or maintains primarily for personal, family or household purposes that involves multiple payments or transactions; and any other account for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Village from Identity Theft, as well as automatic deposits to the accounts of the Village employees. There will be a periodic review to determine if the covered accounts are still accurate due to any changes such as changes of address or other changes which may occur relating to an account.

Each type of covered account will be examined and reviewed for relevant Red Flags in part by considering:

- (A) The methods provided to open covered accounts;
- (B) The methods provided to access covered accounts; and
- (C) Previous experiences with identity theft.

As part of the process, the Village will consider the relevant Red Flags provided by the regulatory guidance, as well as incidents of identity theft that the village and/or the Village customers have experienced and applicable supervisory guidance.

22-1-3 DETECTED RED FLAGS. The Village is committed to detecting situations in which identity theft might have or may have occurred.

A "Red Flag" is a pattern, practice or specific activity that indicates the possible existence of Identity Theft. In order to identify relevant Red Flags, the Village considered risk factors such as the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts and its previous experiences with Identity Theft.

Identity Theft will be combated by detecting Red Flags in connection with the opening of covered accounts and existing covered accounts, such as by:

- (A) Obtaining identifying information about, and verifying the identity of, a person opening a covered account.
- (B) Authenticating customers' transactions, including photo ID if necessary, plus possible additional verification methods such as a user ID and password.
- (C) Monitoring transactions with emphasis on a change of address closely followed by a new service request or a material change in a customer's credit use.
- (D) Verifying the validity of change of address requests, in the case of existing covered accounts in order to monitor the diversion of statements as a prelude to possible account manipulation.

22-1-4 PREVENTING AND MITIGATING IDENTITY THEFT. In order to prevent and mitigate Identity Theft, the Village will provide appropriate responses to the following Red Flags:

(A) **Alerts, Notifications or Warnings from a Consumer Reporting Agency.**

- (1) A fraud or active duty alert is included with a credit report.
- (2) A credit reporting agency provides a notice of credit freeze in response to a request for a credit report.
- (3) A credit reporting agency provides a notice of address discrepancy.
- (4) Receiving a report of fraud with a credit report.
- (5) Receiving indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

(B) **Suspicious Documents.**

- (1) Documents provided for identification appear to have been altered, forged or unauthentic.
- (2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or person presenting the identification.
- (3) Receiving other documentation with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged).
- (4) Receiving an application for service that appears to have been altered or forged.

(C) **Suspicious Personal Identifying Information.**

- (1) The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

- (2) Personal identifying information provided is not consistent with personal identifying information that is on file with the Village.
- (3) A person's identifying information is the same as shown on other applications found to be fraudulent.
- (4) A person's identifying information is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address).
- (5) A person's social security number is the same as another customer's social security number.
- (6) A person's address or phone number is the same as that of another person.
- (7) A person's identifying information is not consistent with other information the customer provides.

(D) **Account.**

Unusual Use of, or Suspicious Activity Related to, the Covered

- (1) A change of address for a covered account followed by the Village receiving a request for the addition of authorized users on the account or adding other parties.
- (2) A covered account that has been inactive and then becomes active.
- (3) Payments stop on an otherwise consistently up-to-date account.
- (4) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.
- (5) The Village is notified of unauthorized charges or transactions in connection with a customer's covered account.
- (6) A new account is used in a manner consistent with fraud (such as the customer failing to make the first payment, or making the initial payment and no other payments).
- (7) An account being used in a way that is not consistent with prior use (such as late or no payments when the account has been timely in the past).
- (8) The Village receives notice that a customer is not receiving his/her paper statements.

(E) **Notice From Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection with Covered Accounts Held by the Village.**

- (1) The Village is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.
- (2) Should any of the above instances of suspicious activity that could be identity theft occur, the Village will take immediate actions to either prevent or mitigate the situation.
In order to detect any of the Red Flags identified above with the opening of a new account, Village personnel will take the following steps to obtain and verify the identity of the person opening the account:

Steps can include:

- (a) Requiring certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, social security number, driver's license or other identification.
- (b) Verifying the customer's identity, such as by copying and reviewing a driver's license or other identification card.
- (c) Reviewing documentation showing the existence of a business entity.
- (d) Independently contacting the customer.

In order to detect any of the Red Flags identified above for an existing account, Village personnel will take the following steps to monitor transactions with an account:

Steps can include:

- (a) Verifying the identification of customers if they request information (in person, via telephone, via facsimile, via e-mail).
- (b) Verifying the validity of requests to change billing addresses.
- (c) Verifying changes in banking information given for billing and payment purposes.

Responses to these Red Flags are commensurate with the degree of risk posed based on the Village's risk assessment.

Appropriate responses may include the following:

- (a) Complete verification of identification for fraud, active duty, credit freeze or address discrepancy alert for any of these types of alerts found on a consumer credit report when applying for services;
- (b) Monitoring a covered account for evidence of identity theft or suspicious activity by placing on the Village's watch list;
- (c) Contacting the customer;
- (d) Changing any passwords, security codes, or other security devices that permit access to a covered account;
- (e) Reopening a covered account with a new account number;
- (f) Not opening a new covered account;
- (g) Closing an existing covered account;
- (h) Not attempting to collect on a covered account or not sending a covered account to a debt collector;
- (i) Notifying law enforcement; or
- (j) Determining that no response is warranted under the particular circumstances.

22-1-5 DUTIES REGARDING CHANGE OF ADDRESS. If a notice of change of address for an existing account is received and then within **thirty (30) days** a request for a change to the account is made, the Village will assess the validity of the change of address or requested change to the account.

22-1-6 **UPDATING THE PROGRAM.** The Village will periodically review and update this policy (including the Red Flags determined to be relevant) to reflect changes in risks to customers or to the safety and soundness of the Village from identity theft, based on factors such as:

- (A) Experiences with identity theft;
- (B) Changes in methods of identity theft;
- (C) Changes in methods to detect, prevent, and mitigate identity theft;
- (D) Changes in the types of accounts or services that the Village offers or maintains; and
- (E) Changes in our business arrangements, including services provided and service provider arrangements.

After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the Village Board with his or her recommended changes, and the Village Board will make a determination of whether to accept, modify or reject those changes to the Program.

22-1-7 **PROGRAM ADMINISTRATION.**

(A) The ultimate oversight of the program lies with the Village Board. The Village Board has assigned specific responsibility for the Program's implementation to the Program Administrator.

- (B) Until amended, the Program Administrator shall be the Village Clerk.
- (C) The Program Administrator will report to the Village Board, at least annually, on compliance by the Village with all identity theft issues.
- (D) The report will address material matters related to the Program and evaluate issues such as:

- (1) The effectiveness of the policies and procedures of the Village in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
- (2) Service provider arrangements;
- (3) Significant incidents involving identity theft and management's response; and
- (4) Recommendations for material changes to the Program.

The Village Board will take any additional steps necessary to support this program.

22-1-8 **SERVICE PROVIDER ARRANGEMENTS.** The Village will oversee any service provider who performs an activity in connection with one or more covered accounts. The Village will take steps to ensure that the activity of the service provider is conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft and require the service provider to report any Red Flag to the Program Administrator.

22-1-9 TRAINING. The Village staff responsible for implementing the Program will be trained to recognize and detect Red Flags and properly react to unauthorized or fraudulent attempts to obtain customer information. The Village directs the Program Administrator to conduct annual training for all employees regarding identity theft and to supplement that training throughout the year as more schemes are uncovered.

22-1-10 EDUCATION OF CUSTOMERS. Educating consumers about preventing identity theft and identifying potential pretext calls may help reduce their vulnerability to these fraudulent practices. The Village will have brochures available to consumers and an identity theft prevention section on the Village's website that describes preventative measures consumers can take to avoid becoming victims of these types of fraud.

22-1-11 OTHER APPLICABLE LEGAL REQUIREMENTS. As part of the overall Program, the Village will include other legal requirements when needed, such as:

- (A) Filing a Suspicious Activity Report; and
- (B) Implementing any requirements under which accounts may be created, changed or altered when the Village detects a fraud or active duty alert.

22-1-12 ASSISTANCE FOR VICTIMS. In the event one of the Village's customers becomes a victim of identity theft, the following steps will be taken, as appropriate, to assist them:

- (A) Have trained personnel respond to customer calls regarding identity theft or pretext calling.
- (B) Determine if it is necessary to close an account immediately after a customer reports unauthorized use of that account and create a new customer account when appropriate. Where a customer has multiple accounts, an assessment will be made as to whether any other account has been the subject of potential fraud.
- (C) Help educate the customer about appropriate steps to take if they have been victimized.

(Ord. No. 2010-10; 05-03-10)

DIVISION II - USE OF SOCIAL SECURITY NUMBERS

22-1-13 DEFINITIONS.

"Person" means any individual in the employ of the Village.

"Policy" or "Privacy Policy" means this document, as now or hereafter amended.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise intentionally make available to the general public.

"Social Security Number" means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

22-1-14 PROHIBITED ACTIVITIES.

(A) No officer or employee of the Village shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the

Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.

- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C)
circumstances:

The prohibitions in subsection (B) do not apply in the following

- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the Village or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the Village must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the Village to protect an individual's Social Security Number will be achieved.
- (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: Village employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a Village facility.
- (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
- (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the Village for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the Village shall control.

22-1-15 PUBLIC INSPECTION AND COPYING OF DOCUMENTS.

Notwithstanding any other provision of this policy to the contrary, all officers and employees of the Village must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the Village must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-1-16 APPLICABILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-1-17 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the Village shall follow that law.

22-1-18 EMBEDDED SOCIAL SECURITY NUMBERS. Beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-1-19 IDENTITY--PROTECTION REQUIREMENTS.

(A) All officers, employees and agents of the Village identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the Village is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the Village Board within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The Village shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy

available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the Village amends this Privacy Policy, then the Village shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-1-20 **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

22-1-21 **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the Village Board as the Village Board shall deem necessary in its sole discretion in order to maintain the Village's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-1-22 **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE II - EQUAL EMPLOYMENT POLICY

22-2-1 **DEFINITION.** For the purpose of this Article, the term "minority" will refer to American Indians, Asians, Blacks, or Hispanics, or to such protected classes as youth, elderly, women, or persons with disabilities.

22-2-2 **ADOPTION OF CODES.** The Village hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-2-3 NON-DISCRIMINATORY PRACTICES. The Village will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-2-4 CONTRACTING WITH NON-COMPLAINTS. The Village will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The Village will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
 - (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
 - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
 - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental

- disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
- (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
 - (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
 - (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
 - (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-2-5 **OUTREACH TO ALL.** The Village assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-2-6 **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the Village as well as surrounding areas.

22-2-7 **ACCOMMODATIONS FOR DISABLED.** The Village will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-2-8 **COMPLIANCE BY EMPLOYEES.** All Village employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out Village program activities.

22-2-9 **DESIGNATED ENFORCERS.** The Village designates the Mayor and the Village Board to carry out the Equal Employment Opportunity and Affirmative Action ("EEO/AA") plan.

(Ord. No. 2012-19; 11-05-12)

ARTICLE III – PROCUREMENT POLICY

22-3-1 **METHODS OF PROCUREMENT.** Procurement under grants shall be made by one of the following methods, as described herein:

(A) **Small Purchase Procedures.** Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies, or other property, costing in aggregate not more than **One Hundred Thousand Dollars (\$100,000.00)**. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

(B) **Sealed Bids (Formal Advertising).** In sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all of the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, at a minimum, the following:

- (a) A complete, adequate and realistic specification or purchase description is available.
- (b) Two or more responsible bidders are willing and able to compete effectively for the Village’s business; and
- (c) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.

(2) When sealed bids are used for a procurement under a grant, the following requirements apply:

- (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited (publicly advertised) from an adequate number of known suppliers.
- (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids.
- (c) All bids shall be opened publicly at the time and place stated in the invitation for bids.
- (d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the Village indicates that such discounts are generally taken.
- (e) Any or all bids may be rejected if there are sound documented business reasons in the best interest of the program.

(C) **Competitive Proposals.** Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive proposals is generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for a procurement under a grant, the following requirements apply:

- (1) Requests for Proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- (2) Requests for Proposals shall be solicited from an adequate number of qualified sources.
- (3) The Village shall have a method for conducting evaluations of the proposals received and for selecting awardees.
- (4) Awards will be made to the responsible offeror whose proposal will be most advantageous to the procuring party, with price (other than architectural/engineering) and other factors considered. Unsuccessful offerors will be promptly notified in writing.
- (5) The Village may use competitive proposal procedures for qualification-based procurement of architectural/engineering (A/E) professional services whereby competitor's qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in the procurement of A/E professional services. It cannot be used to procure other types of services (e.g., administration professional services) even though A/E firms are a potential source to perform the proposed effort.

(D) **Noncompetitive Proposals.** Noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation from a number of sources, competition is determined inadequate. Noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids (formal advertising), or competitive proposals. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to the following:

- (1) The item is available from only a single source;
- (2) After solicitation of a number of sources, competition is determined inadequate;
- (3) A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; and
- (4) The Department of Commerce and Economic Opportunity (DCEO) authorizes noncompetitive proposals. (Sole source procurement for supplies, equipment, construction, and services valued at \$25,000 or more must have prior approval of DCEO).

(E) The Village will provide, to the greatest extent possible, that contracts be awarded to qualified small and minority firms, women business enterprises, and labor surplus area firms whenever they are potential sources.

(F) Any other method of procurement must have prior approval of the DCEO.

22-3-2 CONTRACT PRICING.

(A) The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

(B) The Village shall perform some form of cost/price analysis for every procurement action, including modifications, amendments or change orders.

22-3-3 PROCUREMENT RECORDS. The Village shall maintain records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(Ord. No. 2012-20; 11-05-12)

ARTICLE IV - FREEDOM OF INFORMATION POLICY

22-4-1 PUBLIC RECORDS AVAILABLE. To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the Village shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

22-4-2 DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.

(A) The Village Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the Village under the Freedom of Information Act, insure that the Village responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the Village receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the Village, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-4-3 PROCEDURES. The Village shall prominently display at the Village Clerk’s office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the Village, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the Village, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-4-4 REQUESTS TO INSPECT OR COPY. All requests to inspect or copy records or documents prepared, maintained or under the control of the Village shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the Village.

(B) The written request shall be submitted to the Village Clerk or to the Mayor. If neither the Village Clerk nor the Mayor is available, the request shall be submitted to any employee of the Village acting under the direction of the Village Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the Village, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the Village may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the Village agree to extend the period for compliance, a failure by the Village to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at Village Hall. If the person making the request asks the Village to mail the documents, he or she shall provide the Village with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the Village shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the Village shall furnish it in the format in which it is maintained by the Village, or in paper format at the option of the person making the request.

22-4-5 REQUEST FOR COMMERCIAL PURPOSES. The Village shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged, which the Village may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the Village shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the Village Code.

22-4-6 FEES. The Village Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-4-7 PUBLIC FILE. The Village Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-4-8 GRANTING OR DENIAL OF REQUESTS. A request for all records within a category shall be granted unless the request constitutes an undue burden upon the Village. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the Village and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the Village. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-4-9 **CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-4-10 **NOTICE OF DENIAL OF REQUEST; APPEALS.**

(A) If the Village denies the request, the Village shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the Village asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the Village;
- (3) a detailed summary of the Village's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the Village to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE V - FAIR HOUSING CODE

22-5-1 DECLARATION OF POLICY.

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the Village may be ensured, it is hereby declared the policy of the Village to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the Village that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the Village, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

22-5-2 DEFINITIONS. Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters"**. "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate"**. The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution"**. The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation"**. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner"**. An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker"**. The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property"**. The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the Village.

22-5-3 PROHIBITED ACTS. It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the Village:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the Village or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

22-5-4 **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the Village to specifically enforce, by any legal means, any of the provisions of this Code.

ARTICLE VI – INVESTMENT POLICY

22-6-1 **INVESTMENT POLICY.** It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Village and conforming to all State and local statutes governing the investment of public funds.

22-6-2 **SCOPE.** This policy includes all public funds of the Village.

22-6-3 **PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

22-6-4 **OBJECTIVE.** The primary objective, in order of priority, shall be:
(A) **Legality.** Conformance with federal, state and other legal requirements.
(B) **Safety.** Preservation of capital and protection of investment principal.
(C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
(D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the Village’s needs for safety, liquidity, rate of return, diversification and its general performance.

22-6-5 **DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

22-6-6 **ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-6-7 **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

22-6-8 **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-6-9 **COLLATERALIZATION.** Funds on deposit (checking accounts, certificates of deposit, etc.) in excess of FDIC limits (as to banks) and NCUA limits (as to credit unions) must be secured by some form of collateral, witnessed by a written agreement and held at an independent – third party institution in the name of the Village. **(Ord. 2021-16; 09-13-21)**

22-6-10 **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the Village, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-6-11 **DIVERSIFICATION.** The Village shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-6-12 **MAXIMUM MATURITIES.** To the extent possible, the Village shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Village will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

22-6-13 **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the Village are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

22-6-14 **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

22-6-15 **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the Village Board and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the Village Board. **(Ord. No. 2020-24; 12-14-20)**

22-6-16 **MARKING TO MARKET.** A statement of the market value of the portfolio shall be issued to the Village Board quarterly. **(Ord. No. 2020-24; 12-14-20)**

22-6-17 **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

(Ord. No. 99-36; 12-06-99)

ARTICLE VII – ETHICS CODE

22-7-1 STATE OFFICIALS AND EMPLOYEES ETHICS 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 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 of the Village, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.

(E) For the 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 ordinances or policies which regulate the conduct of Village 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 by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.

(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 by the Corporate Authorities of the Village 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 the Corporate Authorities of the Village.

(Ord. No. 2004-10; 05-03-04)

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 DEFINITIONS.

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the Village, done by an employee of the Village, or an employee of a contractor or subcontractor performing work for the Village.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the Village as well as an employee of a contractor or subcontractor performing work for the Village.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-8-2 REQUIREMENTS FOR VILLAGE. The Village shall provide a drug free workplace by:

(A) **Publishing a Statement.**

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying employee that, as a condition of employment, the employee will:

(a) abide by the terms of the statement; and

(b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the Village's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the Village receives a grant from the State or Contract for the procurement of any property or services from the State, then the Village shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

ARTICLE IX – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

22-9-1 **DRUG AND ALCOHOL FREE WORKPLACE POLICY.** The Village is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 *et seq.*** It is the policy of the Village that the public has the reasonable right to expect persons employed by the Village to be free from the effects of alcohol and drugs. The Village, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that Village employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the Village. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

22-9-2 **DEFINITIONS.** For purposes of this policy, the following definitions apply:

(A) **“Abuse of alcohol”** or **“being under the influence of alcohol”** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **“Abuse of any drug”** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **“Drug”** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 *et seq.***, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 *et seq.***

22-9-3 **PROHIBITED ACTIONS.** Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee’s workday or anywhere on or in any Village-owned property, including Village buildings and Village-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee’s ability to perform his or her job, or to drive or operate machinery.

- (D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.
- (E) Failure to comply with this policy.
- (F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

22-9-4 APPLICABILITY. This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following four employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

- (A) Any employee who drives a Village vehicle, tractor, tractor mower or similar motor powered equipment that moves under its own power will be tested under the Federal DOT testing standards.
- (B) Testing for employees of the Police Department shall be controlled by the provisions set forth in their union contract.
- (C) All other Village employees who are not included within the two categories listed above in (A) or (B) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the Village.

22-9-5 TESTING PROCEDURE. In conducting any drug testing under this policy, the Village shall:

- (A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101 et seq.**, that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").
- (B) Insure that the laboratory or facility selected conforms to all NIDA standards.
- (C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.
- (D) In conducting any alcohol testing under this policy, the Village shall use a facility that:
 - (1) Ensures that all technicians are trained and equipment is calibrated.
 - (2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.
- (E) The fees for drug/alcohol testing shall be paid as follows:
 - (1) Pre-employment testing will be paid by the Village.
 - (2) Post accident tests shall be paid by the Village.
 - (3) Reasonable suspicion testing will be paid by the Village.
 - (4) Random testing will be paid by the Village.
 - (5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.
 - (6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the Village.

22-9-6 **SCREENING AND TESTING.**
(A) **Pre-Employment Testing.**

- (1) All employee applicants shall be advised of the Village Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full time employee shall then be required to successfully complete the Village’s drug screening test, as part of his/her background investigation.
- (2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.
- (3) An applicant will not be employed or considered for employment if:
 - the test results confirm POSITIVE;
 - he/she refuses to complete the test;
 - he/she tampers with, or adulterates the specimen;
 - he/she fails to cooperate in the testing process (including executing all required documentation).

(B) **Testing Based on Reasonable Suspicion.** If there is a reasonable suspicion that any Village employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

- (1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.
- (2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the Village shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the Village. The Village shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a Village vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post accident drug/alcohol testing is required immediately following any accident involving a Village employee, paid or volunteer, who operates Village equipment or operates a Village vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that damage exceeds **One Hundred Dollars (\$100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.

22-9-7 CONFIDENTIALITY OF TEST RESULTS. Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the Village in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, Village Attorney and those permitted by law.

22-9-8 CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE. Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

ARTICLE X – POLICY PROHIBITING SEXUAL HARASSMENT

22-10-1 PROHIBITION ON SEXUAL HARASSMENT. It is unlawful to harass a person because of that person’s sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this Village to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

22-10-2 DEFINITION OF SEXUAL HARASSMENT. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes:

- (1) **Verbal.** Sexual innuendoes, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.
- (2) **Non-verbal.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic.** “Sexting” (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a “reasonable person.”

22-10-3 **PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.**

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources (Village Clerk), or the Mayor.
The employee experiencing what she/he believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.
- (4) **Allegations Made Against an Elected Official by Another Elected Official.** In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the human resources director (Village Clerk), or the Mayor. The official receiving the request shall take immediate action in keeping with the procurement process of the Municipality to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the corporate authorities.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the location), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

22-10-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.

(A) No municipal official, municipal agency, municipal employee or municipal office shall take any retaliatory action against any municipal employee or official due to a municipal employee's or official's:

- (1) Disclosure or threatened disclosure of any violation of this policy, or
- (2) Providing information related to an investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance with or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's or official's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against, even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action, and this policy prohibited retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, agency or other employee that the employee reasonably believes is in violation of a law, rule, or regulation; or
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, agency or other employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act or this policy.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the

employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. **(740 ILCS 174/15(b))**.

(F) According to the Illinois Human Rights Act **(775 ILCS 5/6-101)**, it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

22-10-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT. In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** per offense, applicable discipline or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

22-10-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT. A false report is a report of sexual harassment made by an accuser to accomplish an outcome other than stopping sexual harassment or stopping retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the Illinois State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars (\$5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

(Ord. No. 2020-26; 12-14-20)

ARTICLE XI – FRAUD AND PREVENTION POLICY

22-11-1 **PURPOSE.** The purpose of this Article is to communicate municipal policy regarding the deterrence and investigation of suspected fraudulent conduct and dishonesty by employees and others, and to provide specific instructions regarding appropriate action in case of suspected violations.

22-11-2 **INTRODUCTION.** The Village is committed to protecting its revenue, property, information and other assets from any attempt, either by members of the public, contractors, vendors, agents or its own employees, to gain by fraudulent conduct, financial or other benefits at the expense of Village taxpayers.

Village officials and employees must, at all times, comply with all applicable laws and regulations. The Village shall not condone the activities of officials or employees who achieve results through violation of the law or unethical business dealings. The Village does not permit any activity that fails to stand the closest possible public scrutiny.

This policy sets out specific guidelines and responsibilities regarding appropriate actions that must be followed for the investigation of fraudulent conduct and other similar irregularities.

The impact of fraudulent conduct and dishonesty may include, but is not limited to:

- (A) The actual financial loss incurred
- (B) Damage to the reputation of the Village and its employees
- (C) Negative publicity
- (D) The cost of investigation
- (E) Loss of employees
- (F) Loss of public confidence
- (G) Damaged relationships with Village contractors and suppliers
- (H) Litigation
- (I) Damages employee morale

The goal of this policy is to establish and maintain an environment of fairness, ethics and honesty for Village employees, the citizens, Village vendors and anyone else with whom the Village has a relationship. To maintain such an environment requires the diligence of each Village employee and manager while in the performance of their duties.

The Village is committed to the deterrence, detection and correction of fraudulent conduct, misconduct and dishonesty. The discovery, reporting and documentation of such acts provide a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including dismissal where appropriate, the referral to law enforcement agencies when warranted by facts, and the recovery of assets.

22-11-3 **APPLICABILITY.** This policy applies to all elected officials, appointed committee/board members and employees of the Village, as well as any individual or entity doing business with the Village.

22-11-4 **PROHIBITION.** All elected officials, appointed committee/board members and employees of the Village, as well as any individual or entity doing business with the Village are prohibited from engaging in fraudulent conduct in the course of their employment, duties or business relations with the Village.

22-11-5 **DEFINITIONS.** Fraudulent conduct is defined as the use of one’s occupation or position for personal enrichment through the deliberate misuse or misapplication of the Village’s resources or assets, or for the personal enrichment of others. There are three major categories of fraudulent conduct.

- (A) **Asset Misappropriations.** Theft or misuse of an organization’s assets.
 - (1) **Cash.**
 - (a) **Fraudulent Disbursements.** Perpetrator causes organization to disburse funds through some trick or device (e.g., submitting false invoices/timercards/sheets, expense reimbursement schemes, check tampering, etc.) or prevents the timeliness of the disbursements of funds.
 - (b) **Embezzlement.** Perpetrator appropriates monies fraudulently to one’s own use, as money or property entrusted in one’s care.
 - (c) **Skimming.** Cash is stolen from an organization before it is recorded on the organization’s books and records.
 - (d) **Cash Larceny.** Cash is stolen from an organization after it has been recorded on the organization’s books and records.
 - (2) **Inventory and All Other Assets.**
 - (a) **Misuse.** Improper use, misappropriations, misapplication, destruction, removal or concealment of an organization’s inventory or assets for personal use (e.g., Village vehicles, computers, supplies, etc.)
 - (b) **Larceny.** Inventory or other assets are stolen from an organization.
- (B) **Corruption.** Wrongful use of influence in a business transaction in order to procure some benefit for themselves or another person, contrary to duty to employer or the rights of another.
 - (1) **Conflicts of Interest.** An undisclosed economic or personal interest in a transaction that adversely affects the employer.
 - (2) **Bribery.** The offering, giving, receiving or soliciting of anything of value to influence an official act or a business decision.
 - (3) **Illegal Gratuities.** A party that benefits from an official act or a business decision in giving of a gift to a person who made the decision. An illegal gratuity does not require proof of intent to influence.
 - (4) **Economic Extortion.** An employee demands that a vendor/contractor/etc. pay to influence an official act or a business decision.
- (C) **Fraudulent Statements.** Falsification of an organization’s financial statements.
- (D) **Other Similar Irregularities.** Any activity involving questionable behavior or business dealings by members of the public contractors, vendors, agents or Village employees, that put Village revenue, property, information and other assets at risk of waste or abuse.
- (E) **Fraud Investigator.** In this context, reference is to any person or persons assigned by the Village President in consultation with the Village Board (whether a Village employee or an individual or firm retained by the Village on a contract basis) to investigate any fraud or similar activity.

22-11-6 POLICY ACKNOWLEDGEMENT. All Village Board, appointed committee/board members and employees of the Village shall be responsible for understanding and adherence to this policy. On an annual basis, these applicable individuals are required to review the current Village Fraud Policy and acknowledge their understanding of it by signing the Fraud Recognition and Understanding Form found at the end of this document. It is the responsibility of the Village Board, Village President, managers/supervisors and chairpersons to ensure all applicable individuals have read and understand the Village Fraud Policy and understand their responsibilities as related to the prevention, detection and reporting of suspected fraud, misconduct and dishonesty. The Village Board’s, Village President’s, managers/supervisors’ or chairperson’s signature on the attached Fraud Recognition and Understanding Form signifies that this process has occurred.

22-11-7 RESPONSIBILITIES. Each Village Board member, Village President, manager/supervisor and employee has defined responsibilities and procedures to follow when there is knowledge or suspicion of an act committed in violation of this policy.

(A) **President and Village Board Responsibilities.**

- (1) If the Board member has reason to suspect that an incident of fraudulent conduct has occurred, he/she shall immediately contact the Village President.
- (2) The Village Board shall not attempt to investigate the suspected incident of fraudulent conduct or discuss the matter with anyone other than the Village President.
- (3) The alleged fraud or audit investigation shall not be discussed with the media by any person other than through the Village President in consultation with the Village Attorney and the Fraud Investigator.
- (4) If a fraud allegation involves the Village President, the Village Board shall select a Fraud Investigator for the purpose of investigation the allegation and reporting the results thereof. The Village Board shall select a professional services firm or individual to act as the Fraud Investigator. In this situation, the Fraud Investigator shall inform the Village Board of pertinent investigative findings and results.
- (5) If a violation of this policy is determined, the Village Board will take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the Village Attorney.

(B) **Management Responsibilities.**

- (1) Each manager/supervisor of the Village is responsible for instituting and maintaining a system of internal controls to provide reasonable assurance for the prevention and detection of fraudulent conduct, and other similar irregularities.
- (2) Each manager/supervisor should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.
- (3) Management is responsible for being alert to and reporting fraudulent or related dishonest activities in their areas of responsibility.
- (4) When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.
- (5) Upon receipt of any allegation of fraud, the Village President shall notify the Village Board of such allegation.
- (6) In notifying the Village Board, the Village President shall exercise care to ensure that the Village Board is fully aware of the nature of the allegation presented while ensuring that the rights and identity of any Village employee involved are duly protected.
- (7) Based upon consultation with the Village Board, the Village President shall select a Fraud Investigator for the purpose of investigating the allegation and reporting the results thereof.
- (8) The selection of a Fraud Investigator shall be based upon careful consideration as to whether Village staff have the necessary degree of independence and competence as well as sufficient time available to ascertain the validity of the allegation that has been brought forth. If these qualifications are not met by internal staff, the Village President, in consultation with the Village Board, shall select a professional services firm or individual to act as the Fraud Investigator.
- (9) If any member of management determines a suspected activity may involve fraud or related dishonest activity, their immediate supervisor shall be informed. Department managers shall contact the Village President.

- (10) Management shall not attempt to conduct individual investigations, interviews or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions. Management shall support the Village's responsibilities and cooperate fully with the Fraud Investigator, other involved departments and law enforcement agencies in the detection, reporting and investigation of criminal acts, including the prosecution of offenders.
- (11) Management shall give full and unrestricted access to all necessary records and personnel. All Village property is open to inspection at any time and there is no assumption of privacy.
- (12) In dealing with the suspected dishonest or fraudulent activities, great care must be exercised. Management should avoid the following:
 - (a) Incorrect accusations.
 - (b) Alerting suspected individuals that an investigation is underway.
 - (c) Unfair treatment of employees.
 - (d) Making statements that could lead to claims of false accusations or other offenses.
- (13) In handling dishonest or fraudulent activities, management shall:
 - (a) Make no contact (unless requested) with the suspected individual to determine the facts or demand restitution. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc.
 - (b) Avoid discussion of the case, facts, suspicions or allegations with anyone outside the Village government, unless specifically directed to do so by the Village Attorney.
 - (c) Avoid discussion of the case with anyone inside the Village government other than the employees who have a need to know such as the Village President, Fraud Investigator, Village Attorney or law enforcement personnel.
 - (d) Direct all inquiries from the suspected individual, or representative, to the Village President or Village Attorney. All inquiries by an attorney of the suspected individual shall be directed to the Village Attorney. All inquiries from the media shall be directed to the Village President.
 - (e) Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the Village Attorney or labor relations representative, in conformance with the Village's personnel policies.

(C)

Employee Responsibilities.

- (1) A suspected fraudulent incident or practice observed by, or made known to, an employee shall be reported to the employee's supervisor for reporting to the proper management official.
- (2) When an employee believes the supervisor may be involved in the inappropriate activity, the employee shall make the report directly to the next higher level of management and/or the Village President.
- (3) The reporting employee shall refrain from further investigation of the incident, confrontation with the alleged violator or further discussion of the incident with anyone, unless specifically requested by the Village President, Fraud Investigator, Village Attorney or law enforcement personnel.

(D)

Fraud Investigator Responsibilities.

- (1) Upon assignment by the Village President, the Fraud Investigator shall promptly investigate the fraud.

- (2) In all circumstances where there appears to be reasonable grounds for suspecting that a fraud has taken place, the Fraud Investigator, in consultation with the Village Attorney, shall contact the Police Department or other appropriate law enforcement authorities.
- (3) The Fraud Investigator shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
- (4) If evidence is uncovered showing possible dishonest or fraudulent activities, the Fraud Investigator shall proceed as follows:
 - (a) Discuss the findings with the management and the department manager, if appropriate.
 - (b) Advise management, if the case involves staff members, to meet with the Village President (or designated representative) to determine if and the extent of disciplinary action to be taken.
 - (c) Report to the Village's external auditor of such activities in order to assess the effect of the illegal activity on the Village's financial statements.
 - (d) Coordinate with the Village's Risk Manager regarding notifications to insurers and filing of insurance claims.
 - (e) Take immediate action, in consultation with the Village Attorney, to prevent the theft, alteration or destruction of evidentiary records. Such action shall include, but not be limited to:
 - (i) Removal of records to place in a secure location or limit access to the location where the records currently exist.
 - (ii) Prevent the individual suspected of committing the fraud from having access to the records.
 - (f) In consultation with the Village Attorney and the Police Department, the Fraud Investigator may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
 - (g) If the Fraud Investigator is contacted by the media regarding an alleged fraud or audit investigation, the Fraud Investigator shall consult with the Village President and the Village Attorney, as appropriate, before responding to a media request for information or interview.
 - (h) At the conclusion of the investigation, the Fraud Investigator shall document the results in a confidential memorandum report to the Village President and Village Attorney. If the report concludes that the allegations are founded, the report shall be forwarded to the Police Department and Village Board.
 - (i) Unless exceptional circumstances exist, a person under investigation for fraud is to be given notice in writing of essential particulars of the allegations following the conclusion of the audit. Where notice is given, the person against whom allegations are being made may submit a written explanation to the Fraud Investigator no later than **seven (7) calendar days** after notice is received.
 - (j) The Fraud Investigator shall be required to make recommendations to the appropriate department for assistance in the prevention of future similar occurrences.
 - (k) Upon completion of the investigation, including all legal and personnel actions, all records, documents and other evidentiary material obtained from the department under investigation shall be returned by the Fraud Investigator to that department.

22-11-8 **AUTHORITY AND INVESTIGATION.** It is the Village's intent to fully investigate any suspected acts of fraud, misappropriation or other similar irregularity. An objective and impartial investigation shall be conducted regardless of the position, title, length of service or relationship with the Village of any party who might be or becomes involved in or becomes/is the subject of such investigation.

(A) The Fraud Investigator has the primary responsibility for the investigation of all activity as defined in this policy.

(B) Throughout the investigation, the Fraud Investigator shall inform the Village President of pertinent investigative findings.

(C) Upon conclusion of the investigation, the results shall be reported to the Village President.

(D) The Village President, following review of investigation results, shall take appropriate action regarding employee misconduct. Disciplinary action can include termination and referral of the case for possible prosecution.

(E) The Village shall pursue every reasonable effort, including court-order restitution, to obtain recovery of Village losses from the offender or other appropriate sources.

22-11-9 **WHISTLE-BLOWER PROTECTION.** Employees who observe and, in good faith, report a violation of the Village's fraud policy shall be granted the protections contained herein. However, such protection shall not be afforded to employees on a retroactive basis to those employees who are subject of pending disciplinary action. When informed of a suspected impropriety, neither the Village nor any person acting on behalf of the Village shall:

(A) Dismiss or threaten to dismiss the reporting employee;

(B) Discipline, suspend or threaten to discipline suspend the reporting employee;

(C) Impose any penalty upon the reporting employee; or

(D) Intimidate or coerce the reporting employee.

Violation of this Section shall result in discipline up to and including dismissal in accordance with applicable federal, state and local administrative laws.

22-11-10 **DISCIPLINE.** Violations of this policy by an employee will be handled in accordance with the Village's Administrative Policy Manual. All other persons or entities that are found to have violated this policy will be either removed from the applicable board or committee or subject to suspension by the Village from future business transactions for a specified period of time.

22-11-11 **EXCEPTIONS.** There shall be no exceptions to this policy unless provided and approved by the Village Board.

(Ord. No. 2018-10; 07-09-18)

Policy

As a Federal Grantee, I hereby notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in this workplace. As a condition of employment, employees must abide by this policy.

Drug-Free Awareness

Drug abuse in the workplace has major adverse effects on the welfare of all citizens of the United States, and it results in lost productivity each year. Employees who use illegal drugs have three to four times more accidents while at work.

Employees with drug abuse problems should seek help. Employees desiring more information on the dangers of drug abuse in the workplace and those employees needing drug counseling, rehabilitation, or other employee assistance should contact the local municipal drug administrator.

Employees will be referred to the appropriate resource for available counseling, rehabilitation or other assistance.

Notice of Potential Personnel Actions for Illegal Drug Use On-the-Job

Penalties may be imposed upon employees for drug abuse violations occurring in our workplaces:

1. Employees must notify this employer of any criminal drug statute conviction or a violation occurring in the workplace no later than five days after such conviction.
2. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer will take appropriate personnel action against such employee, up to and including termination; or
3. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer may require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

Employee Certification

- ✓ I understand the drug-free workplace policy.
- ✓ I agree, as a condition of my employment, to abide by the terms of this program.
- ✓ I agree to notify this employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

Employee Signature

Date

Employer Statement

- ✓ I have explained the policy, drug-free awareness, and potential personnel action statements and have provided the employee's part of this pamphlet to the employee.

Authorized Employer Signature

Date

Village of Bethalto, Bethalto, Illinois
Name of Organization