

## CHAPTER 22

### MANDATED POLICIES

#### ARTICLE I - FREEDOM OF INFORMATION

**22-1-1**     **DEFINITIONS.** For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A)     **"Public Body"** means all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1B of the School Code. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act.

(B)     **"Freedom of Information Act"** means the Illinois Freedom of Information Act, **5 ILCS 140/1.1 et seq.**

(C)     **"Person"** means any individual, corporation, partnership, firm, organization, or association, acting individually or as a group.

(D)     **"Public Records"** means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information, and all other documentary materials, pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.

(E)     **"Private Information"** means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

(F)     **"Commercial Purpose"** means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to

the public, or (iii) for the purpose of academic, scientific, or public research or education.

(G) **"Copying"** means the reproduction of any public record by means of any photographic, electronic, mechanical or other process, device or means now known or hereafter developed and available to the public body.

(H) **"Head of the public body"** means the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person's duly authorized designee.

(I) **"News media"** means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

**22-1-2      POLICY.** It is declared to be the public policy of the Village that all persons are entitled to full and complete information regarding the affairs of the Village. The official acts and policies of the public officials and public employees of the Village shall be consistent with the terms of this Article.

**22-1-3      INDIVIDUAL PRIVACY PROTECTED.** This Article is not intended to be used to violate individual policy, nor for the purpose of furthering a commercial enterprise, or to disrupt the duly undertaken work of the Village.

**22-1-4      PUBLIC RECORDS AVAILABLE.** The Village shall make available to any person for inspection or copying all public records, as provided in the Freedom of Information Act.

**22-1-5      FREEDOM OF INFORMATION ACT OFFICER.** The Village Clerk is hereby designated as the FOIA Officer to whom all initial request for access to the records of the Village are to be referred. Such requests are to be made at the office of the Village Clerk at Bethany, Illinois, between the hours of **9:00 A.M. - 4:30 P.M.**, Monday through Friday. In the event that the Village Clerk is not available during the times described above the Village Utilities Manager is designated as the Deputy FOIA Officer to whom such initial requests are to be made. In the event that the Deputy FOIA Officer is not available during the times described above the Village Treasurer shall act as the alternate Deputy FOIA Officer to whom such initial requests are to be made. Except in instances where records are furnished immediately, the FOIA Officer or his or her designee shall receive requests submitted to the Village under the Freedom of Information Act, to insure that the Village responds to requests in a timely

fashion, and issue responses under the Act. The FOIA Officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

**22-1-6      ACTION UPON RECEIPT OF REQUEST.** Upon receiving a request for public record, the FOIA Officer shall: (1) note the date the Village receives the written request; (2) compute the day on which the period for which response will expire and make a notation of that date on the written request; (3) maintain an electronic or paper copy of a 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 requestor, and a copy of other communication.

**22-1-7      FOIA OFFICER TRAINING.** The FOIA Officer and Deputy FOIA Officer shall, within **six (6) months** after **January 1, 2010**, successfully complete an electronic training curriculum to be developed by the Public Access Counselor of the State of Illinois and thereafter successfully complete an annual training program. Whenever 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.

**22-1-8      RETRIEVAL OF RECORDS.** Any records which are the subject of a request under the Freedom of Information Act shall be retrieved from such place as they are stored, by the FOIA Officer, or by an employee of the Village acting under the direction of the FOIA Officer. In no event shall records be retrieved by the party requesting them or by any person who is not employed by the Village.

**22-1-9      FEES.** If copies of records are requested, the fees for such copies, whether certified or not, shall be as determined from time to time by the FOIA Officer pursuant to Section 6(b) of the Freedom of Information Act. The FOIA Officer shall maintain a written schedule of current fees in the office of the FOIA Officer. The fees so charged shall reflect the actual cost of copying the records, and the cost of certifying copies, if certification is requested.

(A) The Village hereby establishes and shall charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the Village to copy records. Such fees exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by state statute. No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal size copies requested by a requestor. The fee for black and white, letter or legal

size copies shall not exceed **Fifteen Cents (\$0.15)** per page. The charge for color copies or any size other than letter or legal shall be the actual cost for reproducing the said records but shall not include the cost of any search for and review of the records or other personnel costs associated with reproducing said records. The costs of certifying records shall not exceed **One Dollar (\$1.00)**. The charge for computer printouts shall be **Ten Cents (\$0.10)** per page and **Five Dollars (\$5.00)** per audio tape. In addition thereto, the actual cost of postage for mailing said documents to any requestor shall be an additional charge hereunder. All fees shall be due and owing on the date the copies of said records are furnished to the requestor.

(B) Documents shall be furnished without charge or at a reduced charge where the Village determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefitting the general public. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In setting the amount of the waiver or reduction, the Village may take into consideration the amount of materials requested and the cost of copying them.

**22-1-10 DENIAL OF REQUEST.** In the event that a request to inspect Village records is denied by the FOIA Officer, the denial may be appealed to the Public Access Counselor of the State of Illinois.

**22-1-11 REQUESTS TO BE IN WRITING.** All requests for inspection or copying of public records shall be in writing and shall be addressed to the FOIA Officer. The requestor shall include the following information in any request for public records:

- (A) The requestor's full name, mailing address and telephone number at which the requestor can be reached during normal business hours;
- (B) A description of the records sought, being as specific as possible;
- (C) A statement as to whether the request is for inspection, copying or both.

The FOIA Officer shall make available a form for use by requestors; however, no request shall be denied for failure to use the form.

**22-1-12 TIME LIMIT FOR COMPLIANCE WITH REQUEST.** The Village shall either comply with or deny a request for public records within **five (5) working days** after its receipt unless the time for response is properly extending under Section 3(e) of the Freedom of Information Act (**5 ILCS 140/3(e)**). Denials shall be in writing and in accordance with Section 9 of the Freedom of Information Act (**5 ILCS 140/9**).

**22-1-13      EXTENSION OF TIME LIMIT; NOTICE.**

(A) The time limit prescribed in **Section 22-1-12** shall be extended in each case for not more than **five (5)** additional working days for any of the following reasons:

- (1) The requested records are stored in whole or in part at other locations.
- (2) The request requires the collection of a substantial number of records.
- (3) The request is categorical in nature and requires an extensive search for the records responsive to it.
- (4) The requested records have not been located in the course of routine search and additional efforts are being made to locate them.
- (5) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of the Freedom of Information Act (**5 ILCS 140/7**) or should be revealed only with appropriate deletions.
- (6) The request for records cannot be complied with by the Village within the time limits prescribed by the foregoing paragraph without unduly burdening or interfering with the Village.
- (7) There is a need for consultation, which shall be conducted with all practical speed, with another public body or among **two (2)** or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(B) When additional time is required for any of the above reasons, the FOIA Officer shall notify the person making the request, by letter, within the time limits specified in this Section, of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance may the delay in processing last longer than **five (5) working days**. A failure to render a decision within **five (5) working days** shall be considered a denial of the request.

**22-1-14      UNDULY BURDENSOME REQUEST.**

(A) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Village, there is no method of narrowing the request, and the burden on the Village strongly outweighs the public interest in the information. If the Village responds to a categorical request by stating that compliance would unduly burden its operation, it shall do so in a writing signed by the FOIA Officer specifying the reasons why it would

be unduly burdensome and the extent to which compliance will so burden the operation of the Village.

(B) After receipt of this response in writing, the person making the request shall have an opportunity to reduce the request to manageable proportions. If the person making the request fails to reduce the request to manageable proportions, the response of the Village shall be treated as a denial of the request information.

**22-1-15 REQUESTS 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. Response shall (1) provide to the requestor an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged which shall be required by Village to be paid in full before copying the requested documents, (2) deny the request pursuant to one or more of the exemptions hereinafter set forth, (3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to reduce the request to manageable proportions, or (4) provide the records requested.

**22-1-16 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** Information exempted by **5 ILCS Sec. 140/7 and 5 ILCS 140/7.5** of the Freedom of Information Act shall be exempt from inspection and copying. If a record contains both exempt and nonexempt information, the exempt information shall be deleted and the remainder of the record made available for inspection and copying.

**22-1-17 NOTICE OF DENIAL OF REQUEST; APPEALS.**  
(A) The FOIA Officer, when denying a request for public record, shall notify the requestor, in writing, of the decision to deny the request, the reasons for the denial including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by the FOIA Officer shall inform such person of the right to review by the Public Access Counselor and provide the address and telephone number for the Public Access Counselor. Each notice of denial shall inform such person of his or her right to judicial review under Section 11 of the Freedom of Information Act (**5 ILCS 140/11**).

(B) When a request for public records is denied on the grounds that the records are exempt under Section 7 of the Freedom of Information Act, the notice of denial shall specify the exemption claimed to authorize denial and specific reasons for the denial, including a detailed, factual basis and a citation to supporting legal authority. Copies of all notices of denial shall be retained by the Village in the office of the FOIA Officer in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

**22-1-18     DISSEMINATION OF INFORMATION ABOUT PUBLIC BODIES.** The Village shall prominently display at the office of the Village, make available for inspection and copying without charge, and shall send through the mail if requested, each of the following:

(A)            A brief description of itself, which will include, but not be limited to a short summary of its purpose, a block diagram giving its functional subdivisions, 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, or to which the Village is required to report and be answerable for its operations and a brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information Officer or Officers, the address where requests for public records should be directed, and any fees allowable under this Article or Section 6 (**5 ILCS 140/6**) of the Freedom of Information Act.

(B)            Should the Village maintain a website, said information shall also be posted upon said website.

**22-1-19     LIST OF CATEGORIES OF RECORDS.** As to public records prepared or received after the effective date of this Article, the FOIA Officer shall maintain and make available for inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be reasonably detailed in order to aid persons in obtaining access to public records pursuant to this Article. The FOIA Officer shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to person lacking knowledge of computer language or printout format.

**(Ord. No. 658; 03-11-10)**

## ARTICLE II – IDENTITY THEFT PREVENTION POLICY

**22-2-1      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.

**22-2-2      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.



**22-2-3 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.

**22-2-4 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)

**Unusual Use of, or Suspicious Activity Related to, the Covered Account.**

- (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).
- (5) 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).

- (6) 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.

**22-2-5 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.

**22-2-6 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.

**22-2-7      PROGRAM ADMINISTRATION.**

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

(B)            The Program Administrator will report to the Village Board, at least annually, on compliance by the Village with all identity theft issues.

(C)            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.

**22-2-8      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.

**22-2-9      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.

**22-2-10     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.

**22-2-11     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.

**22-2-12     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. 644; 02-12-09)**

**ARTICLE III – ETHICS CODE**

**22-3-1      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. 603; 05-13-04)**

## ARTICLE IV – INVESTMENT POLICY

**22-4-1**     **SCOPE.** This Investment Policy applies to the financial assets of the Village of Bethany, Illinois. These funds are accounted for in the Village's annual audit report and include the General Fund, Special Revenue Funds, Special Fee Funds, Trust and Agency Funds and any other funds that may be created from time to time.

**22-4-2**     **OBJECTIVES.**

(A)     **Safety of Capital.** Investments shall be made in such a manner as to ensure the preservation of capital in the overall portfolio.

(B)     **Liquidity.** Investments shall remain sufficiently liquid to meet the reasonably anticipated operating expenses and obligations for the fund.

(C)     **Return on Investments.** The investment portfolio shall be devised to attain a market-average rate of return in the overall portfolio throughout budgetary and economic cycles, taking into account investment risk restraints, policy requirements and cash flow.

**22-4-3**     **SUITABLE INVESTMENTS.** Investments shall be made in instruments allowed by Illinois law, as described in the Public Funds Investment Act, **30 ILCS 235**, but in the case of this Policy, shall be limited to the following:

(A)     Passbook savings accounts, Now, Super Now and Money Market Deposit Accounts.

(B)     Illinois Public Treasurer's Investment Pool (IPTIP).

(C)     Money market mutual funds registered under the Investment Company Act of 1940, and provided the portfolio is limited to bonds, notes, certificates of indebtedness, treasury bills, and other securities, which are guaranteed by the full faith and credit of the United States Government.

(D)     Certificates of deposit, either purchased new or in the secondary market, and constituting direct obligations of any bank as defined by the Illinois Banking Act and only those banks insured by the Federal Deposit Insurance Corporation (FDIC).

(E)     Obligations of the United States Agencies which are guaranteed by the full faith and credit of the United States Government or have full borrowing power of the United States Government.

**22-4-4**     **COLLATERALIZATION.**

(A)     The aggregate amount of demand and time deposits in any bank, exceeding **sixty-five percent (65%)** of the bank capital stock and surplus, shall be secured by some form of collateral. Collateral ratios shall be reviewed quarterly and shall be marked at **one hundred ten percent (110%)** of market value. Eligible collateral shall be any of the following:



- (1) United States Government treasury bills and notes.
  - (2) Obligations of Federal agencies.
- (B) Third-party safekeeping is required for all collateral and may be held at any of the following locations:
  - (1) A Federal Reserve Bank or its branch office.
  - (2) Custodial facility, generally a trust department through book entry at the Federal Reserve, unless physical securities are involved.
  - (3) By a Correspondent Bank agent of the pledging institution.
- (C) Safekeeping of collateral shall be documented by written agreement which may be in the form of a safekeeping agreement, trust agreement, escrow agreement, or custody agreement.
- (D) Substitution or exchange of securities held in safekeeping may be done without prior written notice, unless otherwise agreed in writing. When prior written notice is not required, the Treasurer shall be subsequently notified in writing of all substitutions or exchanges. The replacement securities shall be of a market value equal to or greater than that of the securities being replaced.

**22-4-5**

**QUALIFIED FINANCIAL INSTITUTIONS.**

**(A)**

**Depositories – Demand Deposits.**

- (1) Any financial institution selected by the Village shall provide normal banking services, including, but not limited to: checking accounts, wire transfers, purchase and sale of U.S. Treasury securities and safekeeping services.
- (2) The Village will not maintain funds in any financial institution that is not a member of the FDIC or SAIF system. In addition, the Village will not maintain funds in any institution not willing or capable of posting required collateral for funds in excess of FDIC or SAIF insurable limits.
- (3) To qualify as a depository, a financial institution must furnish the Treasurer or the Treasurer's Agent with copies of the latest two statements of condition, which it is required to furnish to the Office of Banks and Real Estate or to the Comptroller of Currency as the case may be. While acting as a depository, a financial institution must continue to furnish such statement to the Treasurer or the Treasurer's Agent within **forty-five (45) days** of the end of each calendar year.
- (4) Fees for banking services shall be mutually agreed to by an authorized representative of the depository bank and the Finance Officer on an annual basis.
- (5) All financial institutions acting as a depository for the Village must enter into a "Depository Agreement".

(B) **Banks and Savings and Loans – Certificates of Deposit.** Any financial institution selected to be eligible for the Village's competitive certificates of deposit purchase program must meet the following requirements:

- (1) Shall provide wire transfer and safekeeping services.
- (2) Shall be a member of FDIC or SAIF system and shall be willing and capable of posting required collateral for funds in excess of FDIC or SAIF insurable limits.
- (3) To qualify as a depository, a financial institution must furnish the Treasurer or the Treasurer's Agent with copies of the latest two statements of condition, which it is required to furnish to the Officer of Banks and Real Estate, or to the Comptroller or Currency as the case may be. While acting as a depository, a financial institution must continue to furnish such statements to the Treasurer or the Treasurer's Agent within **forty-five (45) days** of the end of each calendar year.

(C) **Sixty-Five Percent (65%) Rule.** The amount of funds deposited and/or invested in a financial institution shall not exceed **sixty-five percent (65%)** of the capital stock and surplus of such institution unless collateral security has been pledged; in which case the amount of such deposits and/or investments shall not exceed **seventy-five percent (75%)**.

**22-4-6 PROGRAM MANAGEMENT AND INTERNAL CONTROL.**

(A) It shall be the responsibility of the Treasurer for the proper execution and compliance of this policy.

(B) The Treasurer shall establish written procedures to ensure policy compliance.

(C) The Treasurer shall authorize and approve all investments and wire transfers, authorize the release of pledged collateral, and execute all agreements and documents required under this policy.

- (1) In the absence of the Treasurer, the Mayor is authorized to execute the sale of investments, and to execute any wire transfers needed to complete the sale with subsequent approval of the Treasurer.
- (2) The Treasurer is responsible for monitoring liquidity as described in **Section 22-4-2(B)** of this policy and shall execute the wire transfers necessary to meet this responsibility.
- (3) The Treasurer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures.

**22-4-7      REPORTING.**

(A)            A report of time deposits and securities investments for all funds owned by the County will be submitted to the Village Board at their regularly scheduled monthly meeting, as of the end of the preceding month. The report shall include the fund, location, type, amount, rate of interest, date purchased, maturity date and other such information as the Village Board may request.

(B)            Included in the Treasurer's Mid-Year Report shall be an investment report in such form as the Treasurer would require, which shall report interest earned in the previous fiscal year and current year-to-date for all funds included therein, and shall report the yield benchmark compliance for the current year-to-date.

**(Ord. No. 577; 12-09-99)**

**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 - EQUAL EMPLOYMENT POLICY**

**22-6-1     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 167 of JTPA 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.

**22-6-2      NON-DISCRIMINATORY PRACTICES.** The Village will assure non-discriminatory employment practices in recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

**22-6-3      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 sex, color, race, religion, age, national origin, political affiliation or belief.

(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 for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability or national origin. The contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, religion, sex, national origin or disability. Such action shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisement for employees places by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or disability.
- (3) In the event of the contractor's noncompliance with the Equal Opportunity Clause or with any of the said rules, regulations, and orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts.
- (4) The contractor will include the provisions of this Equal Opportunity clause in every subcontract or purchase order, unless exempted by the rules, regulations, or orders of the Secretary of Labor so that such provisions will be binding upon each such subcontractor or vendor.



**22-6-4     OUTREACH TO ALL.** The Village assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

**22-6-5     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.

**22-6-6     ACCOMMODATIONS FOR DISABLED.** The Village will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

**22-6-7     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.

**22-6-8     DESIGNATED ENFORCERS.** The Village designates the Mayor and the Village Board to carry out the EEO/AA plan.

## ARTICLE VII – POLICY PROHIBITING SEXUAL HARASSMENT

**22-7-1 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.

**22-7-2 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 a term or condition of an individual's employment, either explicitly or implicitly; or
- (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, but is not limited to:

- (1) **Verbal Harassment.** Sexual innuendoes, suggestive comments, insults, humor, jokes about: sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates; or, statements of a sexual nature about other employees, even outside their presence.
- (2) **Non-verbal Harassment.** 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 Harassment.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic Harassment.** "Sexting" (electronically sending messages with sexual content, including pictures or video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (email/text/picture/video messages, intranet/online postings, blogs, instant messages and posts on 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."

**22-7-3      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 harassment 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, an ethics officer, the village manager or administrator, or the chief executive officer of the Municipality. The employee experiencing what he/she 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 of Sexual Harassment Made Against an Elected Official of the Governmental Unit by Another Elected Official of a Governmental Unit.** 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, the village manager or administrator or the chief elected official of the Municipality. 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.

**22-7-4 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 prohibits 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 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, or 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 within **three hundred (300) days** of the alleged retaliation.

**22-7-5 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 agreements, 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 disciplinary actions 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.

**22-7-6 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 disciplinary action 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 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. 20-786; 06-11-20)**