

### **TITLE III: ADMINISTRATION**

#### Chapter

- 30. GOVERNING BODY**
- 31. OFFICIALS AND EMPLOYEES**
- 32. FINANCE AND REVENUE**
- 33. EMERGENCY POWERS**
- 34. BOARDS AND COMMISSIONS**
- 35. DEPARTMENTS**
- 36. EMPLOYMENT POLICY**
- 37. IDENTITY THEFT PREVENTION PROGRAM**
- 38. SEXUAL HARASSMENT POLICY**



## CHAPTER 30: GOVERNING BODY

### Section

#### *General Provisions*

- 30.01 Compensation
- 30.02 Inauguration

#### *Mayor*

- 30.15 Designation of Chief Executive Officer of the Village
- 30.16 Mayor; generally
- 30.17 Mayor Pro Tem

#### *Board of Trustees*

- 30.30 Composition
- 30.31 Powers and duties
- 30.32 Regular meetings
- 30.33 Special meetings
- 30.34 Meetings open to the public
- 30.35 Approval of appointments to external organizations and boards
- 30.36 Remote attendance at meetings policy

#### *Cross-reference:*

*Boards and Commissions, see Ch. 34*

*Departments, see Ch. 35*

*Emergency Powers, see Ch. 33*

*Officials and Employees, see Ch. 31*

### **GENERAL PROVISIONS**

#### **§ 30.01 COMPENSATION.**

(A) The Mayor shall receive compensation in the amount of \$4,500 per year, payable in December and April. If the Mayor vacates office prior to the end of his or her term, the annual compensation shall

be prorated for the time served in office. In addition thereto, the Mayor may receive reimbursement from the village for expenses that may be incurred by him or her in the course of performing his or her official duties.

(B) The Trustees shall receive compensation in the amount of \$2,500 per year, payable in December and April. If a Trustee vacates office prior to the end of his or her term, the annual compensation shall be prorated for the time served in office. In addition thereto, Trustees may receive reimbursement from the village for expenses that may be incurred by them in the course of performing their official duties. (Ord. 631, passed 10-4-2004; Am. Ord. 927, passed 10-20-2014)

### **§ 30.02 INAUGURATION.**

The Mayor and Trustees shall commence their respective terms at the first regular meeting of the Board of Trustees held in the month of May following the regular municipal election at which the officers were elected.

(Ord. 928, passed 10-20-2014)

## ***MAYOR***

### **§ 30.15 DESIGNATION OF CHIEF EXECUTIVE OFFICER OF THE VILLAGE.**

(A) Henceforth the designation of the Chief Executive Officer of the Village of Forsyth shall be changed from President to Mayor.

(B) This section shall be in effect upon its publication in pamphlet form.  
(Ord. 558, passed 12-3-2001)

### **§ 30.16 MAYOR; GENERALLY.**

(A) The Mayor of the village shall be the President of the Board of Trustees and presiding officer at all meetings of the Board of Trustees.  
(ILCS Ch. 65, Act 5, § 3.1-40-30)

(B) A Mayor shall be elected by the electors of the village at a general municipal election for a 4-year term and serve until his or her successor is elected and has qualified.  
(ILCS Ch. 65, Act 5, § 3.1-15-10)

(C) The Mayor shall perform the duties and exercise the powers conferred on mayors of villages by the Illinois Compiled Statutes and ordinances.  
(Prior Code, § 29.01)

**§ 30.17 MAYOR PRO TEM.**

If a temporary absence or disability of the Mayor incapacitates him or her from the performance of his or her duties, the Board of Trustees shall elect 1 of its members to act as Mayor Pro Tem.  
(ILCS Ch. 65, Act 5, § 3.1-35-35) (Prior Code, § 29.02)



**BOARD OF TRUSTEES****§ 30.30 COMPOSITION.**

The Board of Trustees shall consist of the Mayor and 6 Trustees who shall hold their respective offices for 4 years and until their successors are elected and qualified.  
(ILCS Ch. 65, Act 5, §§ 3.1-25-5 *et seq.*) (Prior Code, § 30.01)

**§ 30.31 POWERS AND DUTIES.**

Powers and duties of the Board of Trustees are found in ILCS Ch. 65, Act 5, § 3.1-45-5, ILCS Ch. 65, Act 5, § 3.1-45-15, and ILCS Ch. 65, Act 5, §§ 3.1-40-5 *et seq.*  
(Prior Code, § 30.02)

**§ 30.32 REGULAR MEETINGS.**

The regular meetings of the Board of Trustees shall be held on the first and third Mondays of each month at 7:00 p.m., at the Village Hall, located at 301 South Route 51, Forsyth, Illinois. In the event a regular meeting falls on a holiday observed by the village, such regular meeting shall be held on the first business day following. Public notice of regular meetings shall be given as required by the Open Meetings Act, ILCS Ch. 5, Act 120, §§ 1 *et seq.*

(Prior Code, § 30.03) (Ord. 2, passed 3-19-1958; Am. Ord. 163, passed 2-16-1976; Am. Ord. 191, passed 8-21-1978; Am. Ord. 204A, passed 12-18-1978; Am. Ord. 929, passed 10-20-2014)

**Statutory reference:**

*Meetings, see ILCS Ch. 65, Act 5, § 3.1-40-25*

**§ 30.33 SPECIAL MEETINGS.**

(A) Special meetings may be called by the Mayor or by any 3 members of the Board of Trustees by notice in writing filed with the Village Clerk at least 48 hours prior to the time specified for the meeting. At least 48-hours, written notice of the special meeting shall be given by the Clerk, which notice shall specify the time and purpose of the meeting and shall be delivered to the Mayor and each member of the Board of Trustees personally, if he or she can be found, and if he or she cannot be found, then by leaving a copy of the notice at the home of the person in the presence of an adult member of the family of the Mayor or Trustee.

(B) Special meetings may be held without notice when the Mayor and all members of the Board of Trustees are present in person or consent in writing to the holding of the meeting; the written consent to be filed with the Clerk prior to the beginning of the meeting.

(Prior Code, § 30.04)

**§ 30.34 MEETINGS OPEN TO THE PUBLIC.**

(A) All meetings of the Board of Trustees shall be open to the public, except as set forth in ILCS Ch. 5, Act 120, §§ 1 *et seq.*  
(Prior Code, § 30.05)

(B) *Public forum.* A public forum shall be conducted at the Village Board meeting occurring on the first and third Monday of each month, or at the Village Board meeting occurring on the Tuesday following an observed state or federal holiday. The parliamentary rules shall be suspended and the floor opened for public input without a vote. The purpose of the public forum is to allow the citizens of the village an opportunity to raise ideas, comment or voice concerns related to the village before members of the Village Board. Members of the public will step to the podium at the front of the audience and be given 3 minutes for comment. Comments shall be restricted to the declared subject matter. Speakers shall maintain proper decorum as determined in the sound discretion of the Mayor.

(C) *Order of business.* The regular order of business at meetings of the Village Board shall be as follows:

- (1) Call to order.
- (2) Pledge of Allegiance.
- (3) Roll call.
- (4) Consent agenda.
- (5) Public comment.
- (6) Administration reports.
- (7) Old business.
- (8) New business.
- (9) Closed session (if any).
- (10) Reconvene to open session (if necessary).
- (11) Adjournment.

(Am. Ord. 813, passed 1-18-2011)



**§ 30.35 APPROVAL OF APPOINTMENTS TO EXTERNAL ORGANIZATIONS AND BOARDS.**

The Village Board of Trustees shall approve all appointments to external governmental or private organizations and boards, when the appointee will be representing the interests of the village.  
(Ord 803, passed 9-20-2010)

**§ 30.36 REMOTE ATTENDANCE AT MEETINGS POLICY.**

The village hereby adopts the Remote Attendance at Meetings Policy, attached to Ordinance 832 and incorporated by reference as if fully set forth herein, that permits a member of the Board of Trustees to attend any meeting of the Board of Trustees from a remote location via telephone, video or internet connection.  
(Ord. 832, passed 10-17-2011)



## CHAPTER 31: OFFICIALS AND EMPLOYEES

### Section

#### *State Gift Ban Act*

- 31.01 Adoption of Act
- 31.02 Ethics Officer
- 31.03 State Legislative Ethics Commission; complaints
- 31.04 Future amendments to Act
- 31.05 Future declaration of unconstitutionality of Act
- 31.06 Effective date

#### *General Provisions*

- 31.20 Village Attorney
- 31.21 Village Treasurer
- 31.22 Village Clerk
- 31.23 Village Engineer
- 31.24 Building Inspector
- 31.25 Plat Officer
- 31.26 Public Works Director
- 31.27 Deputy Clerk
- 31.28 Librarian
- 31.29 Village Administrator
- 31.30 (Reserved)
- 31.31 State Officials and Employees Ethics Act
- 31.32 Code of conduct
- 31.33 Code Enforcement Officer

#### *Bonds for Municipal Officers*

- 31.40 Mayor
- 31.41 Board of Trustees
- 31.42 Village Administrator
- 31.43 Village Clerk
- 31.44 Village Treasurer
- 31.45 General requirements

***STATE GIFT BAN ACT*****§ 31.01 ADOPTION OF ACT.**

(A) The State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) is hereby adopted as required by ILCS Ch. 5, Act 430, § 70-5.

(B) The solicitation or the acceptance of gifts prohibited to be solicited or accepted under the Act is prohibited by any elected or appointed official or any employee of the Village of Forsyth. (Ord. 521, passed 7-6-1999) Penalty, see § 10.99

**§ 31.02 ETHICS OFFICER.**

To the extent authorized by law and to the extent required by ILCS Ch. 5, Act 430, § 20-23, the Village Mayor is appointed to serve as the Ethics Officer of the Village of Forsyth. The Ethics Officer's duties shall be as provided in ILCS Ch. 5, Act 430, § 20-23. (Ord. 521, passed 7-6-1999)

**§ 31.03 STATE LEGISLATIVE ETHICS COMMISSION; COMPLAINTS.**

All complaints for violations of the Act and this subchapter shall be filed with the State Legislative Ethics Commission, created by ILCS Ch. 5, Act 430, § 20-5. (Ord. 521, passed 7-6-1999)

**§ 31.04 FUTURE AMENDMENTS TO ACT.**

Any amendment to the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) that becomes effective after the passage of this subchapter shall be incorporated into this subchapter by reference and shall be applicable to the solicitation and acceptance of gifts. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this subchapter by reference without formal action by the corporate authorities of the Village of Forsyth. (Ord. 521, passed 7-6-1999)

**§ 31.05 FUTURE DECLARATION OF UNCONSTITUTIONALITY OF ACT.**

(A) If the Illinois Supreme Court declares the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) unconstitutional in its entirety, then this subchapter shall be repealed as of the date that the Supreme Court's decision becomes formal and not subject to any further appeals or rehearings. This subchapter shall be deemed repealed without further action by the corporate authorities of the Village of Forsyth if the Act is found unconstitutional by the Illinois Supreme Court.

(B) If the Illinois Supreme Court declares part of the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) 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 subchapter shall remain in full force and effect; however, that part of this subchapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Village of Forsyth.

(Ord. 521, passed 7-6-1999)

**§ 31.06 EFFECTIVE DATE.**

This subchapter shall be in effect upon its passage, approval, and publication as provided by law.

(Ord. 521, passed 7-6-1999)

***GENERAL PROVISIONS***

**§ 31.20 VILLAGE ATTORNEY.**

(A) The Village Administrator, with the approval of the Mayor and the Board of Trustees, may employ an attorney or attorneys, as independent contractor or as independent contractors, to represent or advise the village on legal matters as the Mayor and Board of Trustees shall determine.

(B) The attorney or attorneys employed by the village shall attend Village Board meetings as corporate counsel, act as village prosecutor, draw up ordinances, contracts, and other legal documents as requested by the Mayor and Board of Trustees, as well as perform any other legal services as may be directed by the Village Administrator.

(Prior Code, § 31.01) (Ord. 335, passed 1-4-1988)

**§ 31.21 VILLAGE TREASURER.**

(A) (1) The Office of Village Treasurer is hereby established.

(2) The Treasurer shall be appointed by the President/Mayor of the Village Board of Trustees with the advice and consent of the Board of Trustees. The Treasurer shall be an appointed officer within the Administrative Department of the village, and shall be considered “personnel” for human resources purposes.

(B) Compensation of the Village Treasurer shall be as set by the Board of Trustees from time to time.

(C) *Payment of bills.*

(1) The Village Treasurer is authorized to pay the following categories of bills as soon as practical and outside of the regular accounts payable process in order to avoid incurring late fees and penalties:

- (a) Credit card;
- (b) Internet service;
- (c) Telephone (cellular and land line); and
- (d) Utilities (electricity, natural gas, waste water, and water).

(2) Any such bills paid outside of the regular accounts payable process in order to avoid incurring late fees and penalties shall be submitted to the Board of Trustees separately from other bills for its approval at the next regular meeting of the Board of Trustees following the payment of such bills. (Prior Code, § 31.02) (Ord. 3, passed 3-19-1958; Am. Ord. 194, passed 5-1-1978; Am. Ord. 265A, passed 4-18-1983; Am. Ord. 267, passed 4-18-1983; Am. Ord. 807, passed 10-4-2010; Am. Ord. 920, passed 9-2-2014)

***Cross-reference:***

*Administrative Department, see § 35.01*

***Statutory reference:***

*Authority to appoint Village Treasurer, see 65 ILCS Ch. 65, Act 5, § 3.1-30-5*

**§ 31.22 VILLAGE CLERK.**

(A) The Office of the Village Clerk of the Village of Forsyth, Illinois is hereby established. The Clerk shall be appointed by the President/Mayor of the Village Board of Trustees with the advice and consent of the Board of Trustees. The Clerk shall be an appointed officer within the Administrative Department of the village, and shall be considered “personnel” for human resources purposes.

(B) The powers and duties of the Village Clerk shall be those provided for by ordinance and statute.

(C) Compensation of the Village Clerk shall be as set by the Board of Trustees from time to time. (Prior Code, § 31.03) (Am. Ord. 808, passed 10-4-2010; Am. Res. 10-04, passed 10-4-2010)

***Cross-reference:***

*Administrative Department, see § 35.01*

***Statutory reference:***

*Authority to appoint Village Clerk, see ILCS Ch. 65, Act 5, § 3.1-30-5*

**§ 31.23 VILLAGE ENGINEER.**

For provisions regarding the Village Engineer, see Subdivision Ordinance.  
(Prior Code, § 31.04)

**§ 31.24 BUILDING INSPECTOR.**

For provisions regarding the Building Inspector, see §§ 90.26, 150.009, and 154.02.  
(Prior Code, § 31.05)

**§ 31.25 PLAT OFFICER.**

The Village Administrator shall serve as Plat Officer. For provisions regarding the Plat Officer, see Subdivision Ordinance.  
(Prior Code, § 31.06)

**§ 31.26 PUBLIC WORKS DIRECTOR.**

The village has provided for the employment of a full-time Public Works Director.  
(Prior Code, § 31.07, § 31.08) (Ord. 373, passed 9-25-1991)

***Cross-reference:***

*Appointment, powers, and duties of Water and Sewer Department Superintendent, see Title V*

***Editor's note:***

*Ordinances 211, 261, and 286, upon which §§ 31.26 and 31.27 were based, were superseded by Ordinance 298, adopting the Personnel Policy and Practices Manual.*

**§ 31.27 DEPUTY CLERK.**

(A) The Office of Deputy Clerk is hereby established.

(B) The Village Clerk is hereby authorized to appoint not more than 2 Deputy Clerks.

(C) A Deputy Clerk may execute all documents required by law to be executed by the Municipal Clerk and may affix the Seal of the Clerk wherever required. In signing any document, a Deputy Clerk shall sign the name of the Clerk followed with the word "By" and the Deputy Clerk's own name and the words "Deputy Clerk."

(D) The powers and duties of a Deputy Clerk shall be exercised only in the absence of the Clerk from the place where the Clerk's office is maintained, and only when either written direction has been given by the Clerk to that Deputy to exercise a power or the corporate authorities have determined by resolution that the Municipal Clerk is temporarily or permanently incapacitated to perform that function. When a Deputy's signature is duly authorized as provided in this section and is affixed by a Deputy in the manner prescribed in this section on any document (including, but not limited to, contracts, bonds, or other obligations of the municipality), the document shall have the same effect as if the document had been signed by the Municipal Clerk in person.

(Prior Code, § 31.09) (Ord. 316, passed 3-2-1987; Am. Ord. 2017-20, passed 10-2-2017)

### § 31.28 LIBRARIAN.

The position of Librarian is created to supervise the Forsyth Public Library. The Mayor and Board of Trustees shall provide by ordinance for the appointment of this position.

(Prior Code, § 31.10)

***Cross-reference:***

*Public Library, see Ch. 93*

### § 31.29 VILLAGE ADMINISTRATOR.

(A) The position of Village Administrator, created by Ordinance 372 on July 15, 1991, is an executive office of the village.

(B) The Village Administrator shall be appointed by the Mayor with the advice and consent of the Board of Trustees and shall be the direct representative of the corporate authorities in the transaction of all village business and in all matters concerning the citizens of the village. The Administrator shall have such specific duties as are assigned from time to time by the corporate authorities.

(C) *Qualifications.* The Village Administrator shall be chosen solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in or his or her knowledge of accepted practice in respect to the duties of his or her office hereinafter set forth. The Administrator shall reside within the village, but with satisfactory explanation and with the approval of the Mayor and Board of Trustees, the Administrator may live outside of Forsyth for a period of not more than 9 months. No village elected official shall receive such appointment during the term for which they have been elected nor within 1 year after the expiration of their term.

(D) *Oath of office.* Before taking office, the Village Administrator shall take and subscribe to the oath prescribed in ILCS Ch. 65, Act 5, § 3-14-3, which oath shall be filed in the office of the Village Clerk.

(E) *Removal from office: filling vacancy.*



(1) The Village Administrator may be removed at any time by a majority vote of the corporate authorities then in office.

(2) The Village Administrator may be removed in accordance with law. If requested by the Village Administrator, a public hearing shall be granted by the Board of Trustees within 30 days following notice of removal. During the interim, the Board of Trustees may suspend the Administrator from duty, but shall continue the Administrator's salary until the removal becomes final.

(3) In the event that Village Administrator ceases to perform the duties of or to hold his or her office by reason of death, permanent physical or mental disability, conviction of a disqualifying crime, or dismissal from or abandonment of office, the Mayor, with the consent of the Board of Trustees, may appoint a successor who shall succeed to the office of Village Administrator under the provisions and with the duties, powers and obligations herein provided.

(F) *Powers and duties.* The Village Administrator shall supervise and coordinate the work of all departments of the village that are created by the Mayor and Board of Trustees. He or she shall be the chief administrator of the village and to that end shall have power and shall be required to:

(1) Provide the Mayor and Board of Trustees with alternative solutions on policy issues for consideration on new and existing ordinances;

(2) Coordinate the activities of the various departments of the village;

(3) Direct the day to day activities of each department through the appropriate department head;

(4) Prepare the agenda for meetings of the Board of Trustees;

(5) Keep the Mayor and Board of Trustees informed of the activities of the various departments;

(6) Keep the Mayor and Board of Trustees informed of the fiscal condition of each of the village's funds;

(7) Act as purchasing agent for the village within limitations and under conditions as established from time to time by the Board of Trustees;

(8) Assume the duties of Budget Officer of the village as defined in ILCS Ch. 65, Act 5, § 8-2-9.1, at such time as the village adopts the provisions of ILCS Ch. 65, Act 5, §§ 8-2-9.1 through 8-2-9.10. There shall be no additional remuneration for activity as Budget Officer of the village;

(9) Recommend personnel action to the Mayor and Board of Trustees including salary and wage adjustments, promotions, demotions, layoffs, suspensions, discharges and other disciplinary actions;

**Forsyth - Administration**

- (10) Attend all meetings of the Board of Trustees with the right to take part in the discussions, but with no right to vote;
- (11) Recommend to the Board of Trustees for adoption such measures as he or she may deem necessary or expedient;
- (12) Enforce the faithful performance of all contracts or public utility franchises so that the village and its inhabitants will receive full benefits thereunder;
- (13) Promote good relations with other governmental agencies and the public;
- (14) Enforce or oversee the enforcement of the Code of Ordinances of the Village of Forsyth;
- (15) Cause to be prepared and submitted to the Board of Trustees each month a statement of the financial condition of the village as of the end of the preceding month;
- (16) Have and exercise the power, authority and duties of any manager or director of a department or division of the village during the time when the office of any such department or division shall be vacant or no person shall have been appointed thereto;
- (17) Keep or cause to be kept a current inventory showing all real and personal property of the village and the location of such property. He or she shall be responsible for the care and custody of all such property including equipment, buildings, parks and all such property which is not by law assigned to some other office or body for care and control;
- (18) The Village Administrator shall have the sole and exclusive authority to appoint and remove all employees of the village. All such appointments shall be made on the basis of merit and fitness;
- (19) Recommend the compensation of all appointive officers and employees not otherwise provided for by statute or ordinance of the village;
- (20) Recommend to the Mayor and Board of Trustees rules and regulations for the conduct of the various departments of the village and the divisions thereunder;
- (21) Recommend to the Mayor and Board of Trustees the reorganization or consolidation of the departments or divisions of the village;
- (22) Devote his or her entire time to the discharge of their duties;
- (23) Perform such other duties as may be prescribed by the statutes of the State of Illinois, by this section or by any ordinance or resolution of the corporate authorities.

(G) *Compensation.* The Village Administrator shall receive such compensation as shall be fixed from time to time by the Mayor and Board of Trustees. The Mayor and Board of Trustees will offer an employment agreement.

(Prior Code, § 31.11) (Ord. 372, passed 7-15-1991; Am. Ord. 386, passed 7-6-1992; Am. Ord. 463, passed 12-4-1995; Am. Ord. 784, passed 1-4-2010; Am. Ord. 896, passed 10-21-2013)

***Cross-reference:***

*Administrative Department, see § 35.01*

**§ 31.30 (RESERVED).**

**§ 31.31 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.**

(A) The regulations of ILCS Ch. 5, Act 430, § 5-15, and ILCS Ch. 5, Act 430, §§ 10-10 through 10-40, of the State Officials and Employees Ethics Act, ILCS Ch. 5, Act 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 ILCS Ch. 5, Act 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 under the Act 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 purposes of this section, the terms officer and employee shall be defined as set forth in ILCS Ch. 5, Act 430, § 70-5(c).

(F) The penalties for violations of this section shall be the same as those penalties set forth in ILCS Ch. 5, Act 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 ILCS Ch. 5, Act 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, the 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.

(K) This section shall be in full force and effect upon its passage, approval, and publication in pamphlet form as provided by law.  
(Ord. 620, passed 5-3-2004)

**§ 31.32 CODE OF CONDUCT.**

(A) Where applicable, all members of the Village Board, defined herein as including all duly elected or appointed Trustees and the Mayor, shall be subject to the provisions of this section.

(1) It is the policy of the village of uphold, promote and demand the highest standards of behavior from its elected officials. Accordingly, the Village Board shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties. All shall comply with all applicable laws, ordinances and policies, and never use their village position or powers improperly, or for personal or private gain.

(2) No Trustee shall disclose or improperly utilize any confidential information without prior authorization from the Mayor or the authorization of the Village Board. Confidential information shall mean any non-public information, written or otherwise, including information exempt from disclosure pursuant to the Open Meetings Act, the Freedom of Information Act or information exempt from disclosure pursuant to written agreement.

(3) No Trustee shall directly or indirectly communicate with staff seeking to influence the hiring or termination of an employee or contractor. Such discussions shall be conducted with the Mayor or the Village Administrator (or acting administrator) or in accordance with the requirements of the Open Meetings Act, with members of the Village Board.

(4) No member of the Village Board shall directly or indirectly obtain or seek to obtain preferential treatment for himself or herself or any other individual or entity.

(5) No member of the Village Board shall publically act in a manner that brings disrepute to the village or impairs its reputation.

(6) No member of the Village Board shall act in a manner that exceeds his or her authority given either by the Illinois Municipal Code or expressly by the Village Board.

(7) No member of the Village Board shall utilize his or her role to intentionally misrepresent the policy or position of the Village.

(8) The employees of the village, under the supervision of the department heads or other structure approved by the Village Board, are responsible for the day-to-day operations of the village. All operational matters shall be directed and carried out accordingly.

(9) No member of the Village Board shall engage in discriminatory behavior based upon race, age, sex, sexual orientation, gender identity, religious affiliation, marital status or any other protected status under applicable law.

(10) All members of the Village Board shall conduct themselves in a manner to maintain proper decorum during Village Board meetings. Members shall confine themselves to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote.

(B) Any violation of division (A) above shall be subject to the following remedies:

(1) If a Trustee violates a rule relating to decorum at a meeting, the Trustee may be expelled from the meeting with the concurrence of two-thirds of the Trustees then holding office. However, a Trustee may be expelled only once per incident.

(2) A written complaint may be filed with the Mayor by any person alleging that a Trustee violated any provision of this section. If the complaint is against the Mayor, it shall be filed with the Village Administrator. Upon the filing of a complaint, the Village Board shall hold a hearing on the complaint and decide upon the merits of same. The person whom the complaint was filed against may

act as a witness in said proceedings, but shall not act in any other capacity at the hearing. If the Village Board finds that the member violated any portion of this section, it may censure and reprimand the member via written resolution.

(Ord. 849, passed 5-7-2012)

**§ 31.33 CODE ENFORCEMENT OFFICER.**

The position of Code Enforcement Officer is hereby established to enforce, as set forth in § 10.99 of the Village Code, the provisions of the Village Code identified therein and as well as those provisions not enforced by sworn law enforcement officers, as well as the village’s Development Ordinance. The Code Enforcement Officer shall be appointed by the Village Administrator and may also serve as the Building Inspector.

(Ord. 911, passed 6-2-2014)

***BONDS FOR MUNICIPAL OFFICERS***

**§ 31.40 MAYOR.**

The Mayor (current and future) shall hold a sureties bond in the amount of \$50,000 furnished and paid by the village. Said bond shall be filed with the Village Clerk and shall be reviewed annually.

(Ord. 724, passed 10-15-2007)

**§ 31.41 BOARD OF TRUSTEES.**

The Board of Trustees (current and future) shall hold a sureties bond in the amount of \$1,000 up to \$5,000 furnished and paid by the village. Said bonds shall be filed with the Village Clerk and be reviewed annually.

(Ord. 724, passed 10-15-2007)

**§ 31.42 VILLAGE ADMINISTRATOR.**

The Village Administrator (current and future) shall hold a sureties bond in the amount of \$50,000 furnished and paid by the village. Said bond shall be filed with the Village Clerk and be reviewed annually.

(Ord. 724, passed 10-15-2007)

**§ 31.43 VILLAGE CLERK.**

The Village Clerk (current and future) shall hold a sureties bond in the amount of \$50,000 furnished and paid by the village. Said bond shall be filed with the Village Treasurer and reviewed annually. (Ord. 724, passed 10-15-2007)

**§ 31.44 VILLAGE TREASURER.**

The Village Treasurer (current and future) shall hold a sureties bond in the amount of \$100,000 furnished and paid by the village. Said bonds shall be filed with the Village Clerk and reviewed annually. (Ord. 724, passed 10-15-2007)

**§ 31.45 GENERAL REQUIREMENTS.**

All bonds of village officers shall be conditioned upon the faithful performance of the duties of the office and the payment of all money received by such officer, according to law and provided that the obligations of the sureties shall not extend to any loss sustained by the insolvency, failure or loss of any bank organized and operated under the laws of the state or of the United States wherein such officer has placed funds in its custody, if the bank has been approved by the corporate authorities as a depository for such funds. (Ord. 724, passed 10-15-2007)



## CHAPTER 32: FINANCE AND REVENUE

### Section

#### *General Provisions*

- 32.01 Fiscal year
- 32.02 Tax levy ordinance
- 32.03 Budget law
- 32.04 Municipal retailers' occupation tax and municipal service occupation tax
- 32.05 Hotel tax
- 32.06 Policy on village contributions and sponsorships
- 32.07 Economic development grants

#### *Locally Imposed and Administered Tax Rights and Responsibility*

- 32.20 Title
- 32.21 Scope
- 32.22 Definitions
- 32.23 Notices
- 32.24 Late payment
- 32.25 Payment
- 32.26 Certain credits and refunds
- 32.27 Audit procedure
- 32.28 Appeal
- 32.29 Hearing
- 32.30 Interest and penalties
- 32.31 Abatement
- 32.32 Installment contracts
- 32.33 Statute of limitations
- 32.34 Voluntary disclosure
- 32.35 Publication of tax ordinances
- 32.36 Review of liens
- 32.37 Application
- 32.38 Effective date

#### ***Cross-reference:***

- Business Regulations, see Title XI*
- Governing Body, see Ch. 30*
- Village Administrator, see § 31.29*
- Village Treasurer, see § 31.21*

**GENERAL PROVISIONS****§ 32.01 FISCAL YEAR.**

The fiscal year of the village shall begin on January 1 and end of December 31 of each year.  
(Prior Code, § 35.01) (Ord. 7, passed 3-19-1978; Am. Ord. 913, passed 5-5-2014)

**§ 32.02 TAX LEVY ORDINANCE.**

(A) A tax levy ordinance shall be prepared and adopted annually to levy the taxes as authorized and needed to anticipate expenditures and to meet any outstanding bond issues.  
(ILCS Ch. 65, Act 5, § 8-3-1)

(B) A certified copy of the tax levy ordinance shall be filed by the Village Clerk with the Macon County Clerk not later than the last Tuesday in December.  
(Prior Code, § 35.02)

**§ 32.03 BUDGET LAW.**

(A) The village adopts the provisions of ILCS Ch. 65, Act 5, §§ 8-2-9.1 through 8-2-9.10.

(B) The Village Administrator serves as Budget Officer.  
(Ord. 372, passed 7-15-1991)  
(Prior Code, § 35.03)

**§ 32.04 MUNICIPAL RETAILERS' OCCUPATION TAX AND MUNICIPAL SERVICE OCCUPATION TAX.**

(A) (1) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled and registered with an agency of this state's government, at retail in this municipality at the rate of 1% of the gross receipts from the sales made in the course of the business while this section is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of 1% of the selling price of all tangible personal property transferred by the service person as an incident to a sale of service. The rate of 1% provided herein shall revert to .50% upon the end of the obligation of the village to transfer sales tax revenue to the Maroa/Forsyth School District #2 pursuant to the intergovernmental agreement between the parties dated June 4, 2007.

(2) The Non-Home Rule Municipal Retailers' Occupation Tax and the Non-Home Rule Municipal Service Occupation Tax shall not be applicable to the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine-testing materials, syringes, and needles used by diabetics.

(3) The imposition of these non-home rule taxes is in accordance with the provisions of ILCS Ch. 65, Act 5, §§ 8-11-1.3 and 8-11-1.4.

(B) (1) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois.

(2) The Department of Revenue shall have full power to administer and enforce the provisions of this section.

(C) The Village Clerk is hereby directed to file a certified copy of this section and a certification that this section received referendum approval with the Illinois Department of Revenue on or before 10-1-2007.

(D) This section shall take effect on 1-1-2008 next following the adoption and filing of this section with the Department of Revenue.

(E) This section shall be published in pamphlet form.

(Ord. 570, passed 5-6-2002; Am. Ord. 581, passed 10-21-2002; Am. Ord. 712, passed 6-4-2007; Am. Ord. 839, passed 1-2-2012)

### § 32.05 HOTEL TAX.

(A) *Definitions.* The definition of words, terms, and phrases contained in ILCS Ch. 65, Act 5, § 8-3-14, and the Hotel Operators Occupational Tax Act (ILCS Ch. 35, Act 145, §§ 1 *et seq.*) as now or as may hereafter be amended, are hereby adopted by reference and made part of this section.

(B) *Purpose.* It is declared to be the purpose of this section to provide revenue, to promote tourism and conventions within the village, and/or otherwise to attract nonresident overnight visitors to the village.

(C) *Imposition of tax.* There is hereby imposed pursuant to the provisions of the Illinois Municipal Code, 65 ILCS Ch. 65, Act 5, § 8-3-14, a tax upon all persons engaged in the Village of Forsyth in the business of renting, leasing, or letting rooms in a hotel at a rate of 5% of the gross rental receipts from the renting, leasing, or letting, excluding however, from gross rental receipts, the proceeds of the renting, leasing, or letting to permanent residents of that hotel.

(Ord. 370, passed 6-17-1991; Am. Ord. 845, passed 3-5-2012; Am. Ord. 888, passed 8-19-2013; Am. Ord. 957, passed 10-19-2015)

(D) *Payment; generally.*

(1) The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the sales tax under the sales tax law of the State of Illinois.

(2) The tax herein levied shall be paid to the Treasurer of the Village of Forsyth.

(E) *Collection of tax; violations.*

(1) The tax levied hereunder shall be collected by the hotel or motel operator or owner.

(2) A hotel or motel operator or owner who willfully or intentionally fails, neglects, or refuses to collect or pay the full amount of the tax levied herein, or willfully or intentionally fails, neglects, or refuses to comply with the provisions of this section, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$100, including costs.

(F) *Returns and remittance of tax.* Returns and remittance of the tax herein levied and collected shall be made to the Treasurer of the Village of Forsyth, at the time as prescribed for returns and remittances required by the sales tax law of the State of Illinois.

(Prior Code, § 35.05)

(G) *Policy on distribution of tax.*

(1) Distribution of the hotel/motel tax pursuant hereto is intended to offset the costs of conducting events in order to promote tourism and conventions within the village and to otherwise attract nonresident overnight visitors to the village.

(2) Any entity or individual seeking a distribution of the hotel/motel tax shall submit a written application for funding using forms provided by the village. Applications for funding made in any other manner shall not be accepted or considered.

(3) Applications for funding shall be accepted in the months of January and July of each year. Applications for funding submitted at any other time shall not be accepted or considered.

(4) Applications for funding must be properly completed and executed and must include all requested information and materials in order to be considered.

(5) Only one application for funding shall be considered for any event in a fiscal year. Applications for funding that are denied or rejected for any reason shall not be reconsidered. Applications for funding for subsequent events may be considered in subsequent fiscal years.

(6) Applications for funding for events which have previously received funding shall not request more than 110% of the amount most recently awarded for such event.

(7) The village reserves the right to limit the number of applicants receiving funding and the amount of funding awarded based on the quantity of applications for funding submitted and the amount of funds available.

(8) Funding is intended to primarily assist with advertising, marketing, and promotional expenses; however, other expenses related to a specific event may be considered on a case-by-case basis.

(9) No applicant shall receive more than \$5,000 for an event or 10% of the total cost of the event, whichever is less.

(10) No applicant shall receive more than \$10,000 per fiscal year.

(11) The Board of Trustees shall set the total amount of funds that may be disbursed annually as part of the annual budget process. The Board of Trustees is in no way obligated to budget any amount of money to be disbursed. The amount budgeted to be disbursed may be amended at any time by the Board of Trustees at its sole discretion.

(12) The following shall be excluded from the provisions of this policy:

- (a) Contributions for events initiated by the village; and
- (b) Contributions for the Decatur-Forsyth Classic.

(13) Exceptions to these provisions shall require approval by a vote of 5 members of the Board of Trustees, including the Mayor.  
(Ord. 851, passed 5-7-2012; Am. Ord. 936, passed 1-5-2015)

**§ 32.06 POLICY ON VILLAGE CONTRIBUTIONS AND SPONSORSHIPS.**

(A) It shall be the policy of the village to not make contributions or provide sponsorships to any entity unless all of the criteria set forth below are satisfied.

(1) The money to be expended is for either a non-profit, charitable or religious organization;  
and

(2) The expenditure of the money will promote the general welfare of the community and will not be used in a discriminatory manner;

(3) The expenditure of the money is in furtherance of an activity or service that could have been performed directly by the village or is otherwise within the corporate purposes of the village; and

(4) The village received an application identifying the purpose of the requested contribution and that it meets the criteria set forth in divisions (A)(1) and (2) above.

(B) No contribution shall be given that exceeds the actual cost of the proposed service or activity.  
(Ord. 850, passed 5-7-2012)

#### **§ 32.07 ECONOMIC DEVELOPMENT GRANTS.**

(A) *Policy on economic development grants for commercial buildings.* A new policy on economic development commercial buildings grants shall be enacted as set forth in Exhibit A to Ordinance 880 and incorporated by reference as if set forth in full herein.

(B) *Policy on economic development grants for vacant property.* A new policy on economic development vacant property grants shall be enacted as set forth in Exhibit A to Ordinance 881 and incorporated by reference as if set forth in full herein.  
(Ord. 880, passed 6-3-2013; Am. Ord. 881, passed 6-3-2013)

### ***LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY***

#### **§ 32.20 TITLE.**

This subchapter shall be known as, and may be cited as, the Locally Imposed and Administered Tax Rights and Responsibility Ordinance.  
(Ord. 540, passed 1-8-2001)

#### **§ 32.21 SCOPE.**

The provisions of this subchapter shall apply to the village's procedures in connection with all of the village's locally imposed and administered taxes.  
(Ord. 540, passed 1-8-2001)

**§ 32.22 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACT.** The Local Government Taxpayers' Bill of Rights Act.

**CORPORATE AUTHORITIES.** The village's Mayor and Board of Trustees.

**LOCAL TAX ADMINISTRATOR.**

(1) The village's Mayor is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees, or agents to the extent they are authorized by the Local Tax Administrator to act in the Local Tax Administrator's stead.

(2) The **LOCAL TAX ADMINISTRATOR** shall have the authority to implement the terms or this subchapter to give full effect to this subchapter.

(3) The exercise of the authority by the Local Tax Administrator shall not be inconsistent with this subchapter and the Act.

**LOCALLY IMPOSED AND ADMINISTERED TAX or TAX.**

(1) Each tax imposed by the village that is collected or administered by the village not an agency or department of the state.

(2) It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the village other than infrastructure maintenance fees.

**NOTICE.** Each audit notice, collection notice, or other similar notice or communication in connection with each of the village's locally imposed and administered taxes.

**TAX ORDINANCE.** Each ordinance adopted by the village that imposes any locally imposed and administered tax.

**TAXPAYER.** Any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of the tax is placed and, with respect to consumer taxes, includes the business or entity required to collect and pay the locally imposed and administered tax to the village.

**VILLAGE.** The Village of Forsyth, Illinois.  
(Ord. 540, passed 1-8-2001)

**§ 32.23 NOTICES.**

(A) Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed 7 calendar days prior to the day fixed for any applicable hearing, audit, or other scheduled act of the Local Tax Administrator.

(B) The notice shall be sent by the Local Tax Administrator as follows:

(1) First-class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address; or

(2) Personal service or delivery.

(Ord. 540, passed 1-8-2001)

**§ 32.24 LATE PAYMENT.**

Any notice, payment, remittance, or other filing required to be made to the village pursuant to any tax ordinance shall be considered late unless it is physically received by the village on or before the due date, or received in an envelope or other container displaying a valid, readable U.S. Postmark dated on or before the due date, properly addressed to the village, with adequate postage prepaid.

(Ord. 540, passed 1-8-2001)

**§ 32.25 PAYMENT.**

Any payment or remittance received for a tax period shall be applied in the following order:

(A) First to the tax due for the applicable period;

(B) Second to the interest due for the applicable period; and

(C) Third to the penalty for the applicable period.

(Ord. 540, passed 1-8-2001)

**§ 32.26 CERTAIN CREDITS AND REFUNDS.**

(A) (1) The village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction.



(2) However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) (1) The statute of limitations on a claim for credit or refund shall be 4 years after the end of the calendar year in which payment in error was made.

(2) The village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the village.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest, or penalties paid in error shall be as follows.

(1) The taxpayer shall submit to the Local Tax Administrator in writing a claim for credit or refund together with a statement specifying:

(a) The name of the locally imposed and administered tax subject to the claim;

(b) The tax period for the locally imposed and administered tax subject to the claim;

(c) The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;

(d) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and

(e) A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest, and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the village.

(2) Within 10 days of the receipt by the Local Tax Administrator of any claim for a refund or credit, the Local Tax Administrator shall either:

(a) Grant the claim; or

(b) Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

(3) In the event the Local Tax Administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of 5% per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

(Ord. 540, passed 1-8-2001)

**§ 32.27 AUDIT PROCEDURE.**

(A) Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this subchapter.

(B) Each notice of audit shall contain the following information:

- (1) The tax;
- (2) The time period of the audit; and
- (3) A brief description of the books and records to be made available for the auditor.

(C) Any audit shall be conducted during normal business hours, and if the date and time selected by the Local Tax Administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within 30 days after the originally designated audit and during normal business hours.

(D) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than 7 days nor more than 30 days from the date the notice is given, unless the taxpayer and the Local Tax Administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the 30 days, approved in writing, that is convenient to the taxpayer and the Local Tax Administrator.

(E) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption, or deduction. All books shall be kept in the English language and shall be subject to and available for inspection and copying by the village.

(F) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the Local Tax Administrator may issue a tax determination and assessment based on the Tax Administrator's determination of the best estimate of the taxpayer's tax liability.

(G) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within 30 days of the village's determination of the amount of overpayment.

(H) In the event a tax payment was submitted to the incorrect local governmental entity, the Local Tax Administrator shall notify the local governmental entity imposing the tax.

(Ord. 540, passed 1-8-2001) Penalty, see § 10.99

**§ 32.28 APPEAL.**

(A) The Local Tax Administrator shall send written notice to a taxpayer upon the Local Tax Administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) The reason for the assessment;
- (2) The amount of the tax liability proposed;
- (3) The procedure for appealing the assessment; and
- (4) The obligations of the village during the audit, appeal, refund, and collection process.

(B) A taxpayer who received written notice from the Local Tax Administrator of a determination of tax due or assessment may file with the Local Tax Administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the Local Tax Administrator within 45 days of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the Local Tax Administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the 45-day period, the tax determination, audit, or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the Local Tax Administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than 90 days after the expiration of the 45-day period.

(Ord. 540, passed 1-8-2001)

**§ 32.29 HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under § 32.28, the Local Tax Administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days.

(C) At the hearing, the Local Tax Administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit, or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the Local Tax Administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

(Ord. 540, passed 1-8-2001)

### **§ 32.30 INTEREST AND PENALTIES.**

(A) *Generally.* In the event a determination has been made that a tax is due and owing, through audit, assessment, or other bill sent, the tax must be paid within the time frame otherwise indicated.

(B) *Interest.* The village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 5% per annum, based on a year of 365 days and the number of days elapsed.

(C) *Late filing and payment penalties.*

(1) If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of 5% of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5% of the tax due shall be imposed.

(2) If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 25% of the total tax due for the applicable reporting period for which the return was required to be filed.

(3) A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(Ord. 540, passed 1-8-2001)

### **§ 32.31 ABATEMENT.**

The Local Tax Administrator shall have the authority to waive or abate any late filing penalty, late payment penalty, or failure to file penalty if the Local Tax Administrator shall determine reasonable cause exists for delay or failure to make a filing.

(Ord. 540, passed 1-8-2001)

**§ 32.32 INSTALLMENT CONTRACTS.**

(A) The village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance.

(B) The Local Tax Administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing.

(C) Upon written notice by the Local Tax Administrator that the payment is 30 days delinquent, the taxpayer shall have 14 working days to cure any delinquency.

(D) If the taxpayer fails to cure the delinquency within the 14-day period or fails to demonstrate good faith in restructuring the installment contract with the Local Tax Administrator, the installment contract shall be canceled without further notice to the taxpayer.

(Ord. 540, passed 1-8-2001)

**§ 32.33 STATUTE OF LIMITATIONS.**

(A) The village, through the Local Tax Administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(B) No determination of tax due and owing may be issued more than 4 years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(C) If any tax return is not filed or if, during any 4-year period for which a notice of tax determination or assessment may be issued by the village, the tax paid was less than 75% of the tax due, the statute of limitations shall be 6 years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(D) No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

(Ord. 540, passed 1-8-2001)

**§ 32.34 VOLUNTARY DISCLOSURE.**

(A) For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the Local Tax Administrator, a taxpayer is entitled to file an application with the Local Tax Administrator for a voluntary disclosure of the tax due.

(B) A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of 1 % per month, for all periods prior to filing of the application but not more than 4 years before the date of filing the application.

(C) A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed.

(D) However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void.

(E) The payment of tax and interest must be made by no later than 90 days after the filing of the voluntary disclosure application or the date agreed to by the Local Tax Administrator.

(F) However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid within 90 days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the Local Tax Administrator, whichever is longer.

(Ord. 540, passed 1-8-2001)

**§ 32.35 PUBLICATION OF TAX ORDINANCES.**

(A) Any locally administered tax ordinance shall be published via normal or standard publishing requirements.

(B) The posting of a tax ordinance on the internet shall satisfy the publication requirements.

(C) Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office.

(Ord. 540, passed 1-8-2001)

**§ 32.36 REVIEW OF LIENS.**

(A) The Local Tax Administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes.

(B) Upon a determination by the Local Tax Administrator that the lien is valid, the lien shall remain in full force and effect.

(C) If the lien is determined to be improper, the Local Tax Administrator shall:

(1) Timely remove the lien at the village's expense;

(2) Correct the taxpayer's credit record; and

(3) Correct any public disclosure of the improperly imposed lien.

(Ord. 540, passed 1-8-2001)

**§ 32.37 APPLICATION.**

(A) This subchapter shall be liberally construed and administered to supplement all of the village's tax ordinances.

(B) To the extent that any tax ordinance is in conflict with or inconsistent with this subchapter, this subchapter shall be controlling.

(Ord. 540, passed 1-8-2001)

**§ 32.38 EFFECTIVE DATE.**

This subchapter shall be in full force and effect after passage, approval, and publication as required by law.

(Ord. 540, passed 1-8-2001)





## CHAPTER 33: EMERGENCY POWERS

### Section

- 33.01 Definitions
- 33.02 Declaration of emergency
- 33.03 Emergency powers; generally
- 33.04 Termination of emergency powers
- 33.05 Notice
- 33.06 Construction

- 33.99 Penalty

### ***Cross-reference:***

*Board of Trustees, see §§ 30.30 et seq.*

*Mayor, see §§ 30.15 et seq.*

### **§ 33.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CURFEW.*** The general prohibition against any person or persons being upon the streets, alleys, ways, or public places in the village, or specified parts thereof, or moving from place to place by whatever means, excepting those having a continuing responsibility to the public during the emergency or disaster, and those that may be specifically exempted for a particular purpose by the authority charged with enforcing the prohibition.

***DISASTER.*** An occurrence or threat of widespread or severe damage, injury, or loss of life or property, resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, water contamination, epidemic, air contamination, extended periods of severe and inclement weather, infestation, critical shortage of fuel or energy, explosion, mob action, riot, or hostile military or paramilitary action.

***EMERGENCY.*** A combination of circumstances requiring immediate action to suppress or prevent the spread of disease or to remove imminent danger to persons or property, and includes disasters. (Prior Code, § 94.01)

**§ 33.02 DECLARATION OF EMERGENCY.**

In the event of the occurrence of facts appearing to constitute an emergency, the Mayor, Mayor Pro Tem, or Administrator acting in the stead of Mayor if he or she then not be immediately available, may declare or proclaim the existence of the emergency by signing a statement of the existing facts constituting the emergency and, at that time or within a reasonable time thereafter when circumstances admit, taking oath as to the truth of the statement. The statement shall be filed with the Village Clerk as soon as practicable.

(Prior Code, § 94.02)

**§ 33.03 EMERGENCY POWERS; GENERALLY.**

Upon the proclamation or declaration of an emergency or at any time during the continuation thereof to the extent deemed necessary to meet the emergency and to protect and conserve the public health, safety, and welfare, the authority responsible for the same shall have the power and authority:

(A) To suspend the provisions of any regulatory ordinance or statute prescribing procedures for the conduct of the government or affairs of the village, if strict compliance therewith would prevent, hinder, or delay action necessary to cope with the emergency;

(B) To utilize all available resources for the village as are reasonably necessary to cope with the emergency;

(C) To enforce a curfew throughout the village or any part or parts thereof with the conditions as to application, time, or otherwise as deemed necessary, or to control ingress and egress to or from the village, or any part or parts thereto the movement of persons there within, or the occupation of premises there within;

(D) To suspend or limit the dispensing, delivery, or transportation of alcoholic liquor, firearms, ammunition, explosives, corrosives, flammables, or combustibles;

(E) To recommend and enforce evacuation of all or a part of the population of any stricken or threatened area if necessary for the preservation of life or other emergency mitigation, response, or recovery, and to prescribe routes, modes of transportation, and destinations in connection therewith;

(F) To exercise any power or perform any function of the corporate authority of the village;

(G) To close commercial establishments, places of amusement or accommodations, and other places of public resort;

(H) To control, restrict, and regulate the use, sale, or distribution of food, fuel, clothing, and other commodities, materials, goods, or services; and

(I) To perform and exercise any other functions, powers, and duties as may be necessary to promote and secure the safety and protection of the community and its population.  
(Prior Code, § 94.03)

**§ 33.04 TERMINATION OF EMERGENCY POWERS.**

The proclamation or declaration and the powers and authority attached thereto shall extend until terminated by the issuing authority, but in no event beyond adjournment of the next regular or special meeting of the Village Board subsequent to the issuance thereof; except that the limitation shall not prevent issuance of additional proclamation or declarations.  
(Prior Code, § 94.04)

**§ 33.05 NOTICE.**

Upon issuance thereof, notice of the proclamation or declaration, or of exercise of any power or authority responsive thereto, shall be as widely disseminated as the conditions of the time admit, but in no event less than communication of the substance thereof by the most direct means then available to the news media as may then be reached, whether by telephone, hand delivery, or otherwise, and by posting a copy thereof at the Village Hall or at the place from which emergency operations are being centrally controlled.  
(Prior Code, § 94.05)

**§ 33.06 CONSTRUCTION.**

Nothing contained herein shall be construed to impair any other power or authority of the village or the departments thereof but shall be construed together therewith and in addition thereto, liberally, to secure, protect, promote, and enhance the general public health, safety, and welfare.  
(Prior Code, § 94.07)

***Statutory reference:***

*Similar, see ILCS Ch. 20, Act 3305, § 10, and ILCS Ch. 20, Act 3305, § 11*

**§ 33.99 PENALTY.**

Any person violating any provision of this chapter or refusing to obey or respond to any lawful order issued in exercise of any power or authority ordained hereby shall, upon conviction thereof, be fined not to exceed \$500.  
(Prior Code, § 94.06)



## CHAPTER 34: BOARDS AND COMMISSIONS

### Section

- 34.01 [Reserved]
- 34.02 Library Commission
- 34.03 Planning and Zoning Commission
- 34.04 Tree Board

### **§ 34.01 [RESERVED].**

### **§ 34.02 LIBRARY COMMISSION.**

For provisions regarding the Library Commission, see § 93.03.  
(Prior Code, § 32.10)

### **§ 34.03 PLANNING AND ZONING COMMISSION.**

For provisions regarding the Planning and Zoning Commission, see Zoning Ordinance.  
(Prior Code, § 32.20) (Ord. 413, passed 4-5-1993; Am. Ord. 449, passed 8-15-1995; Am. Ord. 450, passed 8-7-1995; Am. Ord. 830, passed 10-3-2011)

### **§ 34.04 TREE BOARD.**

For provisions regarding the Tree Board, see Chapter 96.  
(Prior Code, § 32.21)



## CHAPTER 35: DEPARTMENTS

### Section

- 35.01 Administrative Department
- 35.02 Water and Sewer Department
- 35.03 Street and Building Department
- 35.04 Parks and Recreation Department

### **§ 35.01 ADMINISTRATIVE DEPARTMENT.**

The Village Administrative Department, which shall manage and effectuate the duties and functions assigned to it by statute and ordinance, is hereby established. The Administrative Department shall be composed of those individuals properly holding the following positions: Village Administrator, Village Clerk, Village Treasurer, and Administrative Assistant, along with such other positions which may be established from time to time. The individuals composing the Administrative Department shall perform the duties assigned to each by statute, ordinance, resolution and/or applicable job descriptions.

(Prior Code, § 33.01) (Am. Ord. 806, passed 10-4-2010)

#### ***Cross-references:***

*Village Administrator, see § 31.29*

*Village Clerk, see § 31.22*

*Village Treasurer, see § 31.21*

### **§ 35.02 WATER AND SEWER DEPARTMENT.**

See Title V.

(Prior Code, § 33.02)

### **§ 35.03 STREET AND BUILDING DEPARTMENT.**

See Chapter 90.

(Prior Code, § 33.03)

**§ 35.04 PARKS AND RECREATION DEPARTMENT.**

See Chapter 94.  
(Prior Code, § 33.04)



## CHAPTER 36: EMPLOYMENT POLICY

### Section

36.01 Adoption by reference

### *Prevailing Wage Rates*

36.05 Prevailing wage rates

#### **§ 36.01 ADOPTION BY REFERENCE.**

The village's employment policy provisions are hereby adopted by reference and incorporated herein as if set out in full. A copy of which is on file in the office of Village Clerk and is available for public inspection and copying.

(Ord. 528, passed 4-17-2000; Am. Res. 14-04, passed 8-18-2014; Am. Res. 14-05, passed 8-18-2014)

### ***PREVAILING WAGE RATES***

#### **§ 36.05 PREVAILING WAGE RATES.**

(A) To the extent and as required by "An Act regulating wages of laborers, mechanics and other workers employed in any public works, by the state, county, city or any public body or any political subdivision or by anyone under contract for public works," approved June 26, 1941, as amended, the general prevailing rate of wages in this locality for laborers, mechanics and other workers engaged in the construction of public works coming under the jurisdiction of the village is hereby ascertained to be the same as the prevailing rate of wages for construction work in the Macon County area as determined by the Department of Labor of the State of Illinois as of June of the current year, a copy of that determination being attached to Ordinance 2017-11 as Exhibit A and incorporated herein by reference. As required by said Act, any and all revisions of the prevailing rate of wages by the Department of Labor of the State of Illinois shall supersede the Department's June 2017 determination and apply to any and all public works construction undertaken by the village. The definition of any terms appearing in this section which are also used in aforesaid Act shall be the same as in said Act.

(B) Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of the village to the extent required by the aforesaid Act.

(C) The Village Clerk shall publicly post or keep available for inspection by any interested party in the main office of the village, this determination or any revisions of such prevailing rate of wage. A copy of this determination or of the current revised determination of prevailing rate of wages then in effect shall be attached to all contract specifications.

(D) The Village Clerk shall mail a copy of the determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

(Ord. 2017-11, passed 7-3-2017)

## CHAPTER 37: IDENTITY THEFT PREVENTION PROGRAM

### Section

- 37.01 Purpose
- 37.02 Scope
- 37.03 Definitions
- 37.04 Administration of the program
- 37.05 Identity theft prevention elements
- 37.06 Program management and accountability
- 37.07 Other legal requirements

### § 37.01 PURPOSE.

The purpose of this Identity Theft Prevention Program (program) is to protect customers of the utility services provided by the village from identity theft. The program is intended to establish reasonable policies and procedures to facilitate the detection, prevention and mitigation of identity theft in connection with the opening of new, covered accounts and activity on existing covered accounts. (Ord. 767, passed 5-4-2009)

### § 37.02 SCOPE.

This program applies to the creation, modification and access to identifying information of a customer of the utilities operated by the village (water and waste water) by any and all personnel of the village, including management personnel. This program does not replace or repeal any previously existing policies or programs addressing some or all of the activities that are the subject of this program, but rather it is intended to supplement any such existing policies and programs. (Ord. 767, passed 5-4-2009)

### § 37.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COVERED ACCOUNT.** An account that the village offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments of transactions.

(16 C.F.R. 681.2(b)(3)(I)). A utility account is a **COVERED ACCOUNT**. The term **COVERED ACCOUNT** also includes other accounts offered or maintained by the village for which there is a reasonably foreseeable risk to its customers from identity theft. (16 C.F.R. 681.2(b)(3)(h)).

**IDENTIFYING INFORMATION.** Any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number. Additional examples of identifying information are set forth in 16 C.F.R. 603.2(a).

**IDENTITY THEFT.** A fraud committed or attempted using the identifying information of another person without authority (16 C.F.R. 681.2(b)(8) and 16 C.F.R. 603.2(a)).

**RED FLAG.** A pattern, practice or specific activity that indicates the possible existence of identity theft.

(B) Certain terms used but not otherwise defined herein shall have the meanings given to them in the FTC's Identity Theft Rules (16 C.F.R. pt. 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §§ 1681 *et seq.*), as amended by the Fair and Accurate Credit Transactions Act of 2003 into law on December 4, 2003 (Public Law 108-159).  
(Ord. 767, passed 5-4-2009)

#### § 37.04 ADMINISTRATION OF THE PROGRAM.

(A) The initial adoption and approval of the Identity Theft Prevention Program shall be by ordinance of the Mayor and Board of Trustees ("Corporate Authorities") of the village. Thereafter, changes to the program of a day-to-day operational character and decisions relating to the interpretation and implementation of the program may be made by the Village Administrator ("Program Administrator"). Major changes or shifts of policy positions under the program shall only be made by the Corporate Authorities.

(B) Development, implementation, administration and oversight of the program will be the responsibility of the Program Administrator. The Program Administrator may, but shall not be required to, appoint a committee to administer the program. The Program Administrator shall be the head of any such committee. The Program Administrator will report at least annually to the Corporate Authorities regarding compliance with this program.

(C) Issues to be addressed in the annual Identity Theft Prevention Report include:

(1) The effectiveness of the policies and procedures in addressing the risk of identity theft in connection with the opening of new, covered accounts and activity with respect to existing covered accounts.

(2) Service provider arrangements.

(3) Significant incidents involving identity theft and management's response.

(4) Recommendations for material changes to the program, if needed for improvement.

(Ord. 767, passed 5-4-2009)

**§ 37.05 IDENTITY THEFT PREVENTION ELEMENTS.**

*(A) Identification of relevant red flags.*

(1) The village has considered the guidelines and the illustrative examples of possible red flags from the FTC's Identity Theft Rules and has reviewed the village's past history with instances of identity theft, if any. The village hereby determines that the following are the relevant red flags for purposes of this program given the relative size of the village and the limited nature and scope of the services that the village provides to its citizens:

(a) Alerts, notifications, or other warnings received from consumer reporting agencies or service providers.

1. A fraud or active duty alert is included with a consumer report or an identity verification response from a credit reporting agency.

2. A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.

3. A consumer reporting agency provides a notice of address discrepancy, as defined in § 681.1(b) of the FTC's Identity Theft Rules.

4. A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

a. A recent and significant increase in the volume of inquiries;

b. An unusual number of recently established credit relationships;

c. A material change in the use of credit, especially with respect to recently established credit relationships; or

d. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(b) The presentation of suspicious documents.

1. Documents provided for identification appear to have been altered or forged.
2. The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
3. Other information on the identification is not consistent with information provided by the person opening a new, covered account or customer presenting the identification.
4. Other information on the identification is not consistent with readily accessible information that is on file with the village, such as a signature card or a recent check.
5. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(c) The presentation of suspicious personal identifying information, such as a suspicious address change.

1. Personal identifying information provided is inconsistent when compared against external information sources used by the village. For example:
  - a. The address does not match any address in the consumer report or CRA ID Check response; or
  - b. The social security number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
2. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
3. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the village. For example:
  - a. The address on an application is the same as the address provided on a fraudulent application; or
  - b. The phone number on an application is the same as the number provided on a fraudulent application.

4. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the village. For example:

- a. The billing address on an application is fictitious, a mail drop, or a prison;
- or
- b. The phone number is invalid, or is associated with a pager or answering service.

5. The SSN provided is the same as that submitted by other persons opening a covered account or other customers.

6. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.

7. 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.

8. Personal identifying information provided is not consistent with personal identifying information that is on file with the village.

9. If the village uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(d) The unusual use of, or other suspicious activity related to, a covered account.

1. Shortly following the notice of a change of address for a covered account, the village receives a request for the addition of authorized users on the covered account.

2. A new, covered account is used in a manner commonly associated with known patterns of fraud patterns. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.

3. A covered account with a stable history shows irregularities.

4. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of such account, the expected pattern of usage and other relevant factors).

5. Mail sent to the customer is returned repeatedly as undeliverable although usage of utility products or services continues in connection with the customer's covered account.

6. The village is notified that the customer is not receiving paper account statements.

7. The village is notified of unauthorized usage of utility products or services in connection with a customer's covered account.

(e) Notice of possible identity theft. 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.

*(B) Detection of red flags.*

(1) The officials and employees of the village that interact directly with customers on a day-to-day basis shall have the initial responsibility for monitoring the information and documentation provided by the customer and any third-party service provider in connection with the opening of any new, covered account and the modification of or access to existing accounts and the detection of any red flags that might arise. The Program Administrator shall see to it that all officials and employees who might be called upon to assist a customer with the opening of a new, covered account or with modifying or otherwise accessing an existing covered account are properly trained such that they have a working familiarity with the relevant red flags identified in this program so as to be able to recognize any red flag that might surface in connection with the transaction. An official or employee who is not sufficiently trained to recognize the red flags identified in this program shall not open a new, covered account for any customer, modify any existing covered account or otherwise provide any customer with access to information in an existing covered account without the direct supervision and specific approval of Program Administrator. The responsible officials and employees shall be properly trained such that they can recognize the relevant red flags identified in this program and exercise sound judgment in connection with the response to any unresolved red flags that may present themselves in connection with the opening of a new, covered account or with modifying or accessing of an existing covered account. The Program Administrator shall be responsible for making the final decision on any such unresolved red flags.

(2) The Program Administrator shall establish from time to time a written policy setting forth the manner in which a prospective new customer may apply for service, the information and documentation to be provided by the prospective customer in connection with an application for a new, covered account, the steps to be taken by the officials and employees assisting the customer with the application in verifying the customer's identity and the manner in which the information and documentation provided by the customer and any third-party service provider shall be maintained. Such policy shall be generally consistent with the spirit of the Customer Identification Program Rules (31 C.F.R. 103.121) implementing Section 326(a) of the USA Patriot Act but need not be as detailed. The Program Administrator shall establish from time to time a written policy setting forth the manner in which customers with an existing covered account shall establish their identity before being allowed to make modifications to or otherwise gain access to an existing covered account.

*(C) Response to detected red flags.*

(1) If the responsible officials or employees of the village as set forth in the previous section are unable, after making a good faith effort, to form a reasonable belief that they know the true identity



of a customer attempting to open a new, covered account or modify or otherwise access an existing covered account based on the information and documentation provided by the customer and any third-party service provider, the village shall not open the new, covered account or modify or otherwise provide access to the existing covered account as the case may be. Discrimination in respect to the opening of a new, covered account or the modification or access to an existing covered account will not be tolerated by employees of the village and shall be subject to the disciplinary action.

(2) The Program Administrator shall establish from time to time a written policy setting forth the steps to be taken in the event of an unresolved red flag situation. Consideration should be given to aggravating factors that may heighten the risk of identity theft, such as a data security incident that results in unauthorized access to a customer’s covered account, or a notice that a customer has provided account information to a fraudulent individual or website. Appropriate responses to prevent or mitigate identity theft when a red flag is detected include:

- (a) Monitoring a covered account for evidence of identity theft.
- (b) Contacting the customer.
- (c) Changing any passwords, security codes, or other security devices that permit access to a covered account.
- (d) Reopening a covered account with a new account number.
- (e) Not opening a new, covered account.
- (f) Closing an existing covered account.
- (g) Not attempting to collect on a covered account or not selling a covered account to a debt collector.
- (h) Notifying law enforcement.
- (I) Determining that no response is warranted under the particular circumstances.

(Ord. 767, passed 5-4-2009)

**§ 37.06 PROGRAM MANAGEMENT AND ACCOUNTABILITY.**

(A) *Initial risk assessment — covered accounts.* Utility accounts for personal, family and household purposes are specifically included within the definition of “covered account” in the FTC’s Identity Theft Rules. Therefore, the village determines that the residential utility accounts it offers and/or maintains are covered accounts. The village also performed an initial risk assessment to determine whether the

village offers or maintains any other accounts for which there are reasonably foreseeable risks to customers of the utility from identity theft. In making this determination, the village considered:

- (1) The methods it uses to open its covered accounts;
- (2) The methods it uses to access its covered accounts; and
- (3) Its previous experience with identity theft, and it concluded that it does not offer or maintain any such other covered accounts.

(B) *Program updates — risk assessment.* The program, including relevant red flags, is to be updated as often as necessary but at least annually to reflect changes in risks to customers from identity theft. Factors to consider in the program update include:

- (1) An assessment of the risk factors identified above.
- (2) Any identified red flag weaknesses in associated account systems or procedures.
- (3) Changes in methods of identity theft.
- (4) Changes in methods to detect, prevent, and mitigate identity theft.
- (5) Changes in business arrangements, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

(C) *Training and oversight.* All staff and third-party service providers performing any activity in connection with 1 or more covered accounts are to be provided appropriate training and receive effective oversight to ensure that the activity is conducted in accordance with policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

(Ord. 767, passed 5-4-2009)

#### **§ 37.07 OTHER LEGAL REQUIREMENTS.**

Awareness of the following related legal requirements should be maintained:

- (A) 31 U.S.C. 5318(g) — Reporting of Suspicious Activities;
- (B) 15 U.S.C. 1681 c-1(h) — Identity Theft Prevention; Fraud Alerts and Active Duty Alerts — Limitations on Use of Information for Credit Extensions;
- (C) 15 U.S.C. 1681 s-2 — Responsibilities of Furnishers of Information to Consumer Reporting Agencies;

(D) 15 U.S.C. 1681 m — Requirements on Use of Consumer Reports.  
(Ord. 767, passed 5-4-2009)



## CHAPTER 38: SEXUAL HARASSMENT POLICY

### Section

- 38.01 Sexual harassment policy
- 38.02 Prohibition of sexual harassment
- 38.03 Definition of sexual harassment
- 38.04 Procedures for reporting complaints of sexual harassment
- 38.05 Prohibition on retaliation and whistleblower protections
- 38.06 Consequences for violating this sexual harassment policy
- 38.07 Consequences for knowingly making a false report of sexual harassment
- 38.08 Resolution outside of the village

### § 38.01 SEXUAL HARASSMENT POLICY.

The village's sexual harassment policy shall be as set forth in this chapter and as set forth below.  
(Ord. 2017-27, passed 12-18-2017)

### § 38.02 PROHIBITION OF SEXUAL HARASSMENT.

It is the policy of the Village of Forsyth ("Village") to prohibit harassment of its employees and officials by any other village official or village employee on the basis of sex or gender. It shall be a violation of this policy for any village official or employee to engage in such sexual harassment as defined herein. The village will not tolerate the conduct that is described in this policy, and has provided a procedure by which inappropriate conduct will be dealt with, if encountered.  
(Ord. 2017-27, passed 12-18-2017)

### § 38.03 DEFINITION OF SEXUAL HARASSMENT.

This chapter 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) Examples of conduct which may constitute sexual harassment include, but are not limited to:

(1) *Verbal*. Sexual innuendos, suggestive or insulting comments, insults, humor, epithets, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, statements about other employees, even outside of their presence, of a sexual nature, discussion of one's sexual activities, inquiries into one's sexual experiences, and direct or implied requests by a manager or supervisor, whether male or female, of sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits.

(2) *Non-verbal*. Suggestive or insulting sounds (e.g., whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls," "smacking" or "kissing" noises.

(3) *Visual*. Displaying sexually suggestive objects, pictures, cartoons, 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 and threats via all forms of electronic communication (i.e., e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites such as Facebook, Instagram, 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."

(Ord. 2017-27, passed 12-18-2017)

#### **§ 38.04 PROCEDURES FOR REPORTING COMPLAINTS OF SEXUAL HARASSMENT.**

(A) Because the village takes allegations of sexual harassment seriously, the village will respond promptly to complaints of sexual harassment, and where it is determined that such inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Please note that while this policy sets forth the village's goals of promoting a workplace that is free of sexual harassment, the policy is not designed

or intended to limit the village's authority to discipline or take remedial action for workplace conduct deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment. It is not necessary for sexual harassment to be directed at the person making the report.

(B) If an employee believes an individual has violated this policy or is otherwise engaging in sexual harassment, the employee should clearly tell the alleged offending individual that the behavior is not welcomed and must cease. Exceptions to this are permitted where the employee is not comfortable directly approaching the alleged offender.

(1) *Methods for reporting sexual harassment.*

(a) 1. If any employee of the village believes that he or she has been subjected to sexual harassment, whether by a manager, a supervisor, a co-worker, or any other person in the work environment, that employee has the right to file a complaint either verbally or in writing. The primary method of filing complaints shall be with the Village Administrator. If the complaint involves the Village Administrator, the complaint should be filed with the Mayor. In addition, employees may also file their complaints with:

- a. Their direct supervisor; or
- b. The Village Attorney.

2. Complaints should not be filed directly with the employee or official accused of the misconduct.

(b) An employee experiencing what he or she believes to be sexual harassment must not assume that the village is aware of the conduct. If the victim fails to notify a supervisor or other responsible officer, the village will not be presumed to have knowledge of the harassment.

(c) Complaints may be filed confidentially by an employee to the extent permitted by law, which shall mean the village shall take steps to exempt the employee's identifying information from disclosure under the Freedom of Information Act and that the village will take steps within the investigation to maintain confidentiality to the extent practicable and as set forth in division (2) below.

(d) Other village officials may report sexual harassment in the same manner as described above.

(2) *Investigation of complaints of sexual harassment.*

(a) When a complaint is received, the village will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. However, the complainant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome. The village will

strive to release information arising out of a complaint or investigation only on a need-to-know basis. Employees should be aware, however, that, in certain cases, information must be shared for an effective investigation to be conducted.

(b) The investigation may include, but it is not limited to, private interviews with the complainant and witnesses. The village will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the village will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation. If it is determined that inappropriate conduct has occurred, the village will act promptly to eliminate the offending conduct, and where it is appropriate, impose disciplinary action. (Ord. 2017-27, passed 12-18-2017)

### **§ 38.05 PROHIBITION ON RETALIATION AND WHISTLEBLOWER PROTECTIONS.**

(A) Retaliation against an individual who has filed a sexual harassment complaint, and retaliation against individuals who cooperate with an investigation of sexual harassment, is unlawful, prohibited, and will not be tolerated by the village. A person who has filed a sexual harassment complaint is entitled to the protections set forth in the Whistleblower Act (ILCS Ch. 740, Act 174, §§ 1 *et seq.*) and § 6-101 of the Illinois Human Rights Act, as well as any other applicable laws and policies adopted by the village.

(B) No individual making a report (or individuals who cooperate with an investigation) will be retaliated against even if a report made in good faith is not substantiated. 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 involvement in protected activity pursuant to this policy. (Ord. 2017-27, passed 12-18-2017)

### **§ 38.06 CONSEQUENCES FOR VIOLATING THIS SEXUAL HARASSMENT POLICY.**

(A) Any person who violates this policy or the prohibition on sexual harassment contained in ILCS Ch. 5, Act 430, § 70-5 is specifically subject to discipline up to and including suspension or termination. Immediate removal from the workplace may also be ordered if necessary during the pendency of an investigation and/or to ensure a safe working environment.

(B) The village's elected officials and officers that are not subject to employment discipline who violate this policy and/or the laws prohibiting sexual harassment may also be subject to fine up to \$5,000 as permitted in the State Officials and Employees Ethics Act and/or prosecution as permitted by law. (Ord. 2017-27, passed 12-18-2017)



**§ 38.07 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT OF SEXUAL HARASSMENT.**

(A) A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or 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 up to and including suspension or termination.

(B) The State Officials and Employees Ethics Act also provides that intentionally making a false, frivolous or bad faith allegation can subject the individual to both criminal prosecution and the levying of an administrative fine of up to \$5,000, which such penalties are adopted and incorporated within this policy and are in addition to any employment-related discipline.

(Ord. 2017-27, passed 12-18-2017)

**§ 38.08 RESOLUTION OUTSIDE OF THE VILLAGE.**

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) to file a formal complaint for sexual harassment or retaliation for filing a sexual harassment complaint. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days.

(Ord. 2017-27, passed 12-18-2017)

