

## Article I ETHICS, CODE OF THE VILLAGE OF SOUTH BLOOMING GROVE

### Chapter 18: ETHICS, CODE OF

HISTORY: Adopted by the Village Board of the Village of South Blooming Grove

#### **§ 18-1. Title.**

This chapter shall be known and cited as the "Ethics in Government Law of the Village of South Blooming Grove."

#### **§ 18-2. Legislative intent.**

In a democracy, government should be open, accessible, equitable and efficient. Democratic government requires that elected officials be independent, impartial and responsible to the people. Government decisions and policy must be made through the appropriate channels of government structure. Public office must not be used or be perceived for personal gain. The public must have confidence in the integrity of its government. In order to strengthen the democratic operation of the Village of South Blooming Grove and to enhance public trust in that government. Elected officials, covered employees or Village employees hold office for the benefit of the public, and their conduct must be of the highest standard. It is of the utmost importance that all individuals covered by that law must be seen to be acting solely in the public interest. Therefore, it is the intent of this legislation to;

- A. Establish high standards of ethical conduct for elected officials, covered employees and Village employees.
- B. Afford elected officials, covered employees and Village employees clear guidance to such standards.
- C. Promote public confidence in the integrity of Village government.
- D. Facilitate consideration of potential problems before they arise, minimize unwarranted suspicion and enhance the accountability of government to the people.

#### **§ 18-3. Scope and applicability.**

- A. Nothing contained in this chapter shall be deemed to supersede the provisions of § 800, 801, 802, 803 and 809 of the General Municipal Law, but rather this chapter is deemed supplementary thereto. However, should a higher standard of disclosure of conflict of interest be required by this chapter, then the provisions of this chapter shall govern.
- B. All other legal requirements pertaining to the conduct of elected officials, covered employees and Village employees shall not be deemed to have been superseded by this chapter, including but not limited to rules of any state or county agency relating to licensing and discipline and any other applicable disciplinary codes.

#### **§ 18-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AGENCY** — Any Village, agency, department, division, board, commission or bureau of the Village of South Blooming Grove.

**BOARD** — The Board of Ethics of the Village of South Blooming Grove.

**BUSINESS/PROFESSIONAL DEALING AND/OR BUSINESS TRANSACTION** — Having or providing any contract, service or work with the Village; buying, selling, renting, leasing or otherwise acquiring from or dispensing to the Village any goods, services or property; or obtaining any approval, grant, loan, license, permit or other privilege from the Village, excepting that by operation of law.

**COMPENSATION** — Any money, thing of value or financial benefit conferred in return for services rendered or to be rendered.

**CONTRACT** — Any claim, account or demand against or agreement with the Village, express or implied, and shall include the designation of a depository of public funds and the designation of an official newspaper.

**COVERED EMPLOYEES** — The heads, other than elected officials, of any agency, department, division, council, board, commission or bureau of the Village and their deputies and assistants and the officers, employees and consultants on annual retainers of such agencies, departments, divisions, boards, bureaus, commissions or councils who hold policy-making positions as determined by the Village Board and set forth in a written instrument annexed hereto as Appendix I, which shall be filed with the Board of Ethics.

**ELECTED OFFICIAL** — An elected official of the Village of South Blooming Grove.

**FAMILY** — The officer or employee him/herself, his/her spouse or their brothers, sisters, parents, children, grandchildren or the spouse of any of the foregoing.

**INTEREST** — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the Village or any other business or professional transaction with the Village. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract or the business or professional affairs of:

- A. His spouse, minor children and dependents;
- B. A business concern, firm, partnership or association of which such officer or employee, or such officer or employee's immediate family is a member, partner, owner, director or employee;
- C. A corporation of which such officer or employee is an officer, director or employee; and
- D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee or immediate family member.

**LICENSING** — Any agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in a profession, trade or occupation or any business or activity regulated by a regulatory agency which, in the absence of such license, permit or other form of permission, would be prohibited.

**MINISTERIAL MATTER** — An administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

REPRESENTATIVE CAPACITY — The presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.

VILLAGE EMPLOYEE — Any employee other than an elected official or covered employee of the Village of South Blooming Grove, whether paid or unpaid.

**§ 18-5. Code of Ethics.**

- A. No elected official, covered employee or Village employee shall directly or indirectly solicit or receive compensation or agree to receive compensation for services rendered concerning matters before any Village agency, nor shall any such person accept other employment or engage in any business transactions or make any investments directly or indirectly which create a conflict with his or her official duties.
- B. No elected official, covered employee or Village employee shall be employed, with or without compensation, as an attorney, agent, broker, director, representative or employee for any person, firm or corporation interested, directly or indirectly, in any manner whatsoever, in business or professional dealings with the Village or any agency thereof unless full disclosure is made as to such employment to the Village Board, in writing, and such elected official, covered employee or Village employee disqualifies himself or herself from acting in his or her official capacity in matters affecting such person, firm or corporation.
- C. No elected official, covered employee or Village employee shall, directly or indirectly, solicit any gift or gifts, or accept or receive any gift or gifts with an aggregate value of \$150 or more within any twelve-month period, whether in the form of a service, loan, thing, travel, entertainment, hospitality or promise, or any other form of gratuity, from any person other than a relative or from any firm, any organization or any corporation which, to his or her knowledge, is interested, directly or indirectly, in any manner whatsoever, in business or any case, proceeding or application or professional dealings with the Village or any agency thereof. Refreshments or meals that are provided as part of an informational presentation in a group setting or as part of a reception shall not be considered gifts, nor shall the receipt or acceptance of gifts or other things of value less than \$150 received from other elected officials, covered employees or Village employees for purposes of being social, showing appreciation or celebrating a holiday or other event be considered gifts.
- D. No former elected official, former covered employee or former Village employee shall directly or indirectly appear, render services or have any business transaction before any Village agency concerning a matter in which he or she was personally involved for two years after termination of his or her service of employment.
- E. No elected official, covered employee or Village employee who is a member of a firm which is appearing before a Village agency may communicate about the matter with an elected official, covered employee or Village employee concerned with the matter. However, printed material such as the letterhead or stationery imprinted with the name of the elected official, covered employee or Village employee is deemed not to be a communication so long as the printed material is not issued or signed by the elected official, covered employee or Village employee.
- F. No elected official, covered employee or Village employee shall disclose confidential information concerning the property, government or affairs of the Village except when permitted or required by law, nor shall he or she use such information to advance the financial or other private interests of any person, firm or corporation.
- G. Any applicant or any representative of any applicant before any agency must disclose, in writing and on the record, any previous business dealings and/or business transactions that said applicant or representative has had with any member of said agency within the previous two years.
- H. Each elected official, covered employee or Village employee shall be furnished a copy of the

Code of Ethics, Chapter 18 of the Code of the Village of South Blooming Grove, by the Village Clerk before entering upon the duties of his or her office or employment. All effected persons shall be required to acknowledge receipt by signing and dating such receipt.

**§ 18-6. Discrimination.**

No officer or employee of the Village and no organization or service chartered by or directly or indirectly sponsored or supported by the Village shall:

- A. Discriminate or cause segregation, directly or indirectly, based upon gender, creed, race, age or national origin or allow said factors to affect the recruitment, selection, placement, assignment, compensation or promotion of any officer, employee or member of said organization or service.
- B. Permit directly or indirectly, the use of any Village property, equipment or service by any person or persons, organizations, corporations or any other group which directly or indirectly discriminates as set forth in Subsection A above.
- C. Allow the Village to knowingly possess any financial or business interest or dealings with any organization, which discriminates as set forth in Subsection A above.

**§ 18-7. Board of Ethics.**

- A. Establishment of Village Board of Ethics.
  - (1) A local Board of Ethics for the Village of South Blooming Grove is hereby established.
  - (2) The Board of Ethics, shall consist of no less than three and no more than five members, all of whom shall be appointed by the Village Board. Of the initial members, two shall be appointed for three years, one shall be appointed for two years, and two shall be appointed for one year. All subsequent appointees shall be appointed to three-year terms commencing January 1.
  - (3) All members of the Board of Ethics shall reside within the Village. No political party officer, lobbyist or elected official may be a member.
- B. Operation of Board of Ethics.
  - (1) Appropriate funds shall be allocated by the Village Board for the operation and maintenance of the Board of Ethics.
  - (2) Matters before the Board of Ethics shall be confidential, and, therefore, all meetings of the Board to discuss or hear a matter concerning the ethical conduct of an officer or employee shall be closed to the public. Opinions and requests for opinions shall be confidential records, except as provided in Subsection K(4) below or unless the individual who is the subject of the opinion specifically requests otherwise, in writing, to the Board of Ethics. All opinions and requests for opinions shall be indexed and maintained on file in an appropriate manner by the Board of Ethics.
  - (3) The Attorney for the Village shall provide such legal and advisory services to the Board of Ethics as the Board may require for the performance of its duties.
- C. Compensation. Members of the Board of Ethics shall not receive compensation for the performance of their official duties but shall be reimbursed as determined by the Village Board for reasonable and necessary expenses, with appropriate documentation.
- D. Removal of Board member. A member of the Board of Ethics serves at the pleasure of the Village Board and may be removed with or without cause by a majority vote of the Village

Board.

- E. No member of the Board shall:
- (1) Hold any public office, elected or appointed, or be a public officer or employee. This provision is adopted so as to establish a Board of Ethics that is an unquestionably independent body, pursuant to and by the authority granted to the Village by the New York Constitution, Article IX, § 2(c) and § 10(1)(i) and (ii)(a)(1) of the Municipal Home Rule Law to adopt a Code provision not inconsistent with and stricter than § 808(3) of the General Municipal Law.
  - (2) Hold office in any political party or be employed as a lobbyist.
  - (3) Be a family member, as that term is defined in § 18-7 of this chapter, of a person holding any office or position describe in Subsection E(1) or (2) above.
  - (4) Be a party to any civil proceeding against the Village other than that arising out of a personal injury or property damage claim or from any lawful benefit, or have any business dealings with the Village, other than applications for building permits, certificates of occupancy, marriage licenses, or other similar ministerial matters.
- F. Quorum, voting and meetings. At its first meeting each year the Board of Ethics shall elect a Chairman from among its membership. Three members of the Board shall constitute a quorum, and a vote of at least two members shall be required for the Board to take any action. The Board shall hold at least one regularly scheduled meeting per year, in June of each year, and other meetings as needed. The Chairman or any two members of the Board may call a meeting of the Board.
- G. Any vacancy occurring on the Board shall be filled within 60 days of its occurrence by the Village Board in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy shall be appointed for the unexpired term of the member he or she succeeds.
- H. Powers, duties and responsibilities. The Board of Ethics shall have the following powers, duties and responsibilities:
- (1) Prescribe and promulgate rules and regulations governing its own organization and procedures in a manner consistent with the code.
  - (2) Issue advisory opinions to any Village officer or employee in accordance with Subsection G below.
  - (3) Document advisory opinions and Index and maintain their confidentiality.
  - (4) Provide training and education to Village officers and employees with respect to the provisions of the code.
  - (5) Prepare an annual report to the Village Board summarizing the activities of the Board of Ethics.
  - (6) Recommend changes to the Code of Ethics if deemed necessary or appropriate by the Board.
  - (7) Act only with respect to officers, employees, consultants and appointees of the Village of South Blooming Grove.
  - (8) At the Board's option and discretion, refer any matter within its jurisdiction to the County of Orange Board of Ethics.
  - (9) Conduct any investigation and hearing necessary to carry out the provisions of this chapter, including the power to administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant and material.

- I. The Board shall receive only sworn complaints alleging a violation of any of the provisions of this chapter. The source of the complaint shall be verified prior to the commencement of any investigation thereof.
- J. Upon written request from any person who is subject to the jurisdiction of the Board, the Board shall render advisory opinions on the requirements of the provisions of this chapter. An opinion rendered by the Board, until and unless amended or revoked, shall be binding on the Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such request and any such opinions shall be confidential.
- K. Advisory opinions.
  - (1) Upon the written request of a municipal officer or employee, the Board of Ethics shall render an advisory opinion to such officer or employee with respect to any matter addressed by the code as such matter may apply to the subject officer or employee.
  - (2) In addition, the Village Board, by majority vote, may make a written request to the Board of Ethics to render such an advisory opinion to a specified officer or employee. Such request by a Village Board member shall set forth specific reasons in support of the request.
  - (3) Any advisory opinion rendered by the Board of Ethics shall be in writing, shall set forth supporting reasons and shall be delivered to the Village Board and to the subject officer or employee. Such opinion shall remain confidential except as provided in Subsection K (4) below or unless the subject officer or employee specifically requests otherwise, in writing, to the Board of Ethics.
  - (4) If the Village Board advises the Board of Ethics, in writing, that the Village Board (or any other Village body with disciplinary authority) is investigating potential misconduct or is considering the preparation of disciplinary charges against any officer or employee based, in whole or part, on an alleged violation of any matter addressed by the code or any alleged breach of ethical conduct, and the Village Board (or such other body) requests a copy of any advisory opinion the Board of Ethics has rendered with respect to the subject matter of the Village Board's (or such other body's) request, then the Board of Ethics shall transmit said copy to the Village Board (or such other body). The Village Board (or such other body) shall maintain the confidentiality of any such advisory opinion, except the opinion may be made public as part of a disciplinary hearing. If the Board of Ethics has not rendered an advisory opinion on that subject or if the subject officer or employee has not requested such an advisory opinion, then the Board of Ethics shall so advise the Village Board (or other such body).
  - (5) Upon written request of any board or commission of the Village, the Board of Ethics shall render a written advisory opinion with respect to the general interpretation or application of any provision of the code.
  - (6) Any advisory opinion rendered by the Board of Ethics may, where appropriate, recommend to the Village Board disciplinary action or penalties for violation of the Ethics Code.

**§ 18-8. Distribution of Code of Ethics.**

The Village Clerk shall cause a copy of Article 18 of the General Municipal Law and of this Code of Ethics to be distributed to every officer, employee or consultant of the Village. Failure to distribute any such copy or failure of any officer, employee or consultant to receive such copy shall have no effect on the duty of compliance with such code nor the enforcement of provisions thereof. All affected persons shall be required to acknowledge receipt by signing and dating such document.

**§ 18-9. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who violates any of the provisions of this code may be fined, suspended or removed from office or employment in the manner provided by law.

**§ 18-10. Duties of Village Clerk.**

- A. Until January 1, 2007, the Village Clerk shall file in the office of the State Comptroller and on or after January 1, 2007, the Village Clerk shall file with the State Commission on Local Government Ethics established by § 813 of the General Municipal Law, if such State Commission is in existence, and in all events shall maintain as a record subject to public inspection:
- (1) A copy of this chapter or any amendments hereto adopted, within 30 days after the adoption thereof.
  - (2) A statement that the Village of South Blooming Grove has established a Board of Ethics in accordance with this chapter and the composition of such Board, within 30 days after the establishment of such Board.

**§ 18-11. Inducement of violations.**

Any person who induces any elected official, covered employee or Village employee to take any action or refrain from taking any action, which is in violation of this chapter, shall be guilty of a Class A misdemeanor as that term is defined in the New York State Penal Law and shall be barred from doing business with the Village for a period of five years from the date of conviction.

**§ 18-12. Effective Date**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.