

## TITLE 1

### ADMINISTRATION

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## CHAPTER 1

**SHABBONA VILLAGE CODE**

## SECTION:

- 1-1-1: Title
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1-1-1: **TITLE:** Upon the adoption by the village board of trustees, this code is hereby declared to be and shall hereafter constitute the official village code of Shabbona. This code of ordinances shall be known and cited as the *SHABBONA VILLAGE CODE* and is hereby published by authority of the board of trustees and shall be supplemented to incorporate the most recent legislation of the village as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents. (2009 Code)

1-1-2: **ACCEPTANCE:** The village code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the village of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2009 Code)

1-1-3: **AMENDMENTS:**

- A. Procedure; Validity; Insertion Into Code: Any ordinance amending this code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be prepared for insertion in its proper place in each

copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the village code. (2009 Code)

- B. Reference To Code Includes Amendments: Any additions or amendments to this code, when passed in such form as to indicate the intention of the mayor and board of trustees to make the same part of this code, shall be deemed to be incorporated in this code so that a reference to the Shabbona village code shall be understood to include them. (1995 Code ch. 1, art. II § 1)
- C. Penalties: In case of amendment of any section of this code containing the provisions for which a penalty is provided in another section, the penalty so provided in such other section shall be held to relate to the section so amended or the amending section, whether reenacted in the amendatory ordinance or not, unless such penalty is specifically repealed therein. (1995 Code ch. 1, art. II § 2)
- D. Recording Amendments:
  - 1. It shall be the duty of the village clerk to keep at least one copy of the village code which he shall mark in the following manner: Whenever an ordinance which amends or makes an addition to the code is passed and approved, he shall note on the section or sections amended that such amendment has been made, with a reference to the place in the amendment book, hereinafter described, where the amendment may be found.
  - 2. The village clerk shall also keep a separate book containing every amendment or addition to this code that is passed, with a reference on each copy of such amendment or addition as to the place in the record of ordinances where the original ordinance may be found.
  - 3. The records mentioned in this subsection shall be kept in addition to the record of ordinances which the clerk is required to keep by statute. (1995 Code ch. 1, art. II § 3)

1-1-4: **CODE ALTERATIONS:** It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Said code, while in actual possession of officials and other interested persons, shall be and remain the property of the village and shall be returned to the office of the village clerk when directed so to do by order of the

village board of trustees. (2009 Code)

**1-1-5: COPIES OF CODE:**

- A. All of the printed copies of this code belonging to the village shall be deposited with the clerk. He shall deliver one copy thereof to the mayor and each member of the board of trustees and copies to such other persons as the mayor and board of trustees may direct, and shall charge therefore such amount as may be determined to be reasonably necessary to cover the expense of duplication. (1995 Code ch. 1, art. III § 2)
- B. The mayor and board of trustees shall have the power to extend or reciprocate courtesies of other municipalities by presenting them with a copy of this code, bound either at the expense of the requesting village, or in exchange for a bound copy of the requesting Village's code, as to them shall seem suitable. (1995 Code ch. 1, art. III § 3)

## CHAPTER 2

### SAVING CLAUSE

#### SECTION:

- 1-2-1: Repeal Of General Ordinances
- 1-2-2: Public Ways And Public Utility Ordinances
- 1-2-3: Effect Of Repeal; Court Proceedings
- 1-2-4: Severability Clause

1-2-1:       **REPEAL OF GENERAL ORDINANCES:** All general ordinances of the village passed by the mayor and board of trustees prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed:

- A.     Tax levy ordinances;
- B.     Appropriation ordinances;
- C.     Ordinances relating to boundaries and annexations;
- D.     Franchise ordinances and other ordinances granting special rights to persons or corporations;
- E.     Contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants;
- F.     Salary ordinances;
- G.     Ordinances establishing, naming or vacating streets, alleys or other public places;
- H.     Improvement ordinances;

- I. Bond ordinances;
- J. Ordinances relating to elections;
- K. Ordinances relating to the transfer or acceptance of real estate by or from the village;
- L. Civil defense ordinances; and
- M. All special ordinances. (1995 Code ch. 1, art. IV § 1; amd. 2009 Code)

**1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:** No ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of section 1-2-1 of this chapter, except as this code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (1995 Code ch. 1, art. IV § 2)

**1-2-3: EFFECT OF REPEAL; COURT PROCEEDINGS:**

- A. Reviving Prior Ordinances: The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. (2009 Code)
- B. Offenses: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

- C. **Extend To All Repeals:** This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance. (1995 Code ch. 1, art. IV § 3)
- D. **Current Pending Actions:** Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the village herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the village under any ordinance or provision thereof in force at the effective date hereof. (1995 Code ch. 1, art. IV § 3; amd. 2009 Code)

1-2-4: **SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein. The board of trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2009 Code)

## CHAPTER 3

### DEFINITIONS; INTERPRETATION

#### SECTION:

- 1-3-1: General Rules Of Interpretation
- 1-3-2: General Definitions
- 1-3-3: Catchlines

#### 1-3-1: **GENERAL RULES OF INTERPRETATION:**

- A. Liberal Construction: All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and board of trustees may be fully carried out. (1995 Code ch. 1, art. I § 5)
- B. Minimum Requirements: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.
- C. Computation Of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be held, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.
- D. Delegation Of Authority: Whenever a provision appears requiring the head of a department or some other village officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
- E. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as



to males.

- F. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- G. May; Shall: The word "may" is permissive; the word "shall" is mandatory.
- H. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- I. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. (1995 Code ch. 1, art. I § 2; amd. 2009 Code)
- J. Officers And Employees Generally: Whenever any officer or employee is referred to by title only, such reference shall be construed as if followed by the words "of the village of Shabbona", and shall be taken to mean the officer or employee of the village having the title mentioned or performing the duties mentioned. (1995 Code ch. 1, art. I § 4)
- K. Tense: Words used in the past or present tense include the future as well as the past and present.
- L. Ordinance: The word "ordinance" contained in the ordinances of the village has been changed in the content of this code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to village ordinances is not meant to amend passage and effective dates of such original ordinances.
- M. Limitation: These rules of interpretation shall not be applied to any section of this code which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto. (1995 Code ch. 1, art. I § 2; amd. 2009 Code)

1-3-2: **GENERAL DEFINITIONS:** Whenever the following words or terms are used in this code, they shall have the meanings herein ascribed to

them, unless the context makes such meaning repugnant thereto:

AGENT:	A person acting on behalf of another with authority conferred, either expressly or by implication.
BOARD OF TRUSTEES:	Unless otherwise indicated, the village board of trustees of the village of Shabbona.
CODE:	The village code of the village of Shabbona.
COUNTY:	The county of DeKalb, state of Illinois.
LICENSE:	The permission granted for the carrying on of a business, profession or occupation.
NUISANCE:	Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the village, or any activity which, by its perpetuation, can reasonably be said to have a detrimental effect on the property of a person or persons within the village.
OCCUPANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
OFFENSE:	Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
OPERATOR:	The person who is in charge of any operation, business or profession.
OWNER:	As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.
PERSON:	Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY:	Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right or interest therein.
RETAILER:	Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
RIGHT OF WAY:	The privilege of the immediate use of the roadway or other property.
STATE:	The state of Illinois.
STREET:	Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.
TENANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
VILLAGE:	The village of Shabbona, county of DeKalb, state of Illinois.
WHOLESALE AND WHOLESALE DEALER:	Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.
WRITTEN, IN WRITING:	May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law on any official or public writing or bond, it shall be in the proper handwriting of such person or, in case such person is unable to write, by such person's proper mark. (1995 Code ch. 1, art. I § 2; amd. 2009 Code)

1-3-3: **CATCHLINES:** The catchlines of the several sections of the village code are intended as mere catchwords to indicate the content of the

section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2009 Code)

## CHAPTER 4

**GENERAL PENALTY**

## SECTION:

- 1-4-1: General Penalty
- 1-4-2: Application Of Provisions
- 1-4-3: Liability Of Officers And Employees
- 1-4-3-1: Legal Defense And Indemnification

1-4-1: **GENERAL PENALTY<sup>1</sup>:**

## A. General Penalty Imposed:

1. Unless specifically provided elsewhere in this code or state statute, any person found to have been in violation of any of the terms and provisions of this code shall be fined in an amount not less than fifty dollars (\$50.00) and not greater than seven hundred fifty dollars (\$750.00). No imprisonment for failure to pay such fine, penalty or cost shall exceed six (6) months for each offense. Each day that a violation continues shall be deemed to be a separate offense.

2. A penalty for each offense may include a requirement that the offending party perform some reasonable public service work such as, but not limited to, picking up litter in public parks or upon public highways or performing maintenance of public facilities. A violation hereof may be established by a preponderance of the evidence. (Ord. 2001-3, 7-23-2001; amd. 2009 Code)

3. A default in the payment of a fine or any installment of a fine may be collected by any means authorized for the collection of monetary judgments. The village attorney may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or installment of that fine. Any fees or costs incurred by the village with respect to attorneys or private collection agents retained by

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1. 65 ILCS 5/1-2-1, 5/1-2-1.1.

the village attorney under this subsection shall be charged to the offender.

- B. Acts Consistent With Criminal Laws Of State: If, by the terms of an ordinance, an act that would be consistent with the criminal laws of the state is declared to be a misdemeanor, the penalty therefor shall be for a period of incarceration in a penal institution other than the penitentiary not to exceed six (6) months. The matter shall be prosecuted under the rules of criminal procedure of the state, and the village shall be required to establish guilt beyond a reasonable doubt.
- C. Limitation; Compliance With Statute: The provisions of subsection A of this section notwithstanding, no penalty shall be greater than that established by state statute for the same offense. (2009 Code)

**1-4-2: APPLICATION OF PROVISIONS:**

- A. Application Of Penalty: The penalty provided in this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section. (2009 Code)
- B. Acts Punishable Under Different Sections: In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced. (1995 Code ch. 1, art. I § 3)
- C. Breach Of Provisions: Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply.
- D. Minimum But No Maximum Penalty: Whenever in this code a minimum but not a maximum fine or penalty is imposed, the court may, at its discretion, fine the offender any sum exceeding the minimum fine or penalty but not exceeding the maximum fine or penalty. (1995 Code ch. 1, art. I § 3; amd. 2009 Code)

**1-4-3: LIABILITY OF OFFICERS AND EMPLOYEES:** No provision of

this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the village board of trustees to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (1995 Code ch. 1, art. I § 4)

**1-4-3-1: LEGAL DEFENSE AND INDEMNIFICATION:**

- A. Definitions: For purposes of this section, the following words and terms shall have the meanings ascribed to them in this subsection:

**ARISING OUT OF THE COURSE AND SCOPE OF EMPLOYMENT:** Shall not include any action which occurs during a period of time in which the officer or employee is engaged in outside employment or is rendering contractual services to someone other than the village.

**EMPLOYEE:** Shall include all employees of the village, whether under civil service or not, including law enforcement officers.

**OFFICER:** Shall include any elected or appointed official of the village. (1995 Code ch. 3, art. II §§ 15.01, 15.02; amd. 2009 Code)

- B. Indemnification: Any officer or employee who is liable for the payment of any claims or damages, excluding punitive damages, arising out of the course and scope of employment shall be entitled to indemnification by the village; provided, that the acts or omissions resulting in such liability were done in good faith and without malicious or felonious intent. Whether the acts were done in good faith, without malicious or felonious intent, and within the course and scope of employment shall be determined by the village, and such determination shall be final for the purposes of the representation and indemnity of this section; provided, however, that in the event such representation and indemnity have been denied by the village, if, upon a trial on the merits, the village determines that the officer or employee was acting in good faith, without malicious or felonious intent and within the scope of employment, the indemnification hereunder shall be granted and reasonable legal expenses incurred in the defense of the claim reimbursed. The village shall not be liable for any settlement of any such claim or suit effected without its consent, and

the village reserves the right to assert any defense and make any settlement of any claim or suit that it deems expedient. (1995 Code ch. 3 art II § 15.02)

- C. Representation In Actions: The village shall have the right and duty to provide legal representation through the village attorney, or in its discretion, through the selection of outside legal counsel, to any officer or employee sued in connection with any claim for damages or other civil action against such person arising out of the course and scope of employment; provided, that such officer or employee is entitled to indemnification as set forth in this section. Such legal representation shall be provided at no cost to the officer or employee, and any officer or employee may have his own counsel assist in the defense at the sole expense of the officer or employee. The officer or employee shall cooperate fully with the village in preparation and presentation of the case, and the failure to cooperate shall waive such officer's or employee's right to representation and indemnity under this section. (1995 Code ch. 3, art. II § 15.03)
- D. Village Defenses: Nothing in this section will be construed as waiving the village defense of governmental immunity to the village or its employees or officers in any action brought against the village or such officer or employee. For any suit or claim arising under the Illinois local governmental and governmental employees tort immunity act<sup>2</sup>, the indemnity provided by this section shall be limited to the statutory limits applicable to the village provided in said act, as amended. (1995 Code ch. 3, art. II § 15.04)
- E. Notice Required: The provisions of this section shall apply only where the village has been given notice of the action brought against any village officer or employee within ten (10) days of service of process upon the officer or employee. (1995 Code ch. 3, art. II § 15.05)
- F. Disciplinary Actions: Nothing in this section shall prevent the village from taking disciplinary action against any officer or employee for conduct defended or indemnified by the village under this section, either before or after conclusion of the civil suit. (1995 Code ch. 3, art. II § 15.06)
- G. Suits In Behalf Of Village: Nothing in this section shall require the village to indemnify any officer or employee for recoveries made against him in suits by or on behalf of the village. The village board may, however, authorize the village attorney to represent any officer or employee in a

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2. 745 ILCS 1/1-101 et seq.



suit brought by a taxpayer in behalf of the village against the officer or employee. (1995 Code ch. 3, art. II § 15.07)

## CHAPTER 5

### MAYOR

#### SECTION:

- 1-5-1: Election; Term Of Office
- 1-5-2: Bond And Oath
- 1-5-3: Powers And Duties
- 1-5-4: Mayor Pro Tem

1-5-1:       **ELECTION; TERM OF OFFICE:** The mayor shall be elected for a term of four (4) years, and he shall be the president of the board of trustees as is provided by statute. (1995 Code ch. 2 § 1)

1-5-2:       **BOND AND OATH:** Before entering upon the duties of his office, the mayor shall give a bond, with sureties to be approved by the village board of trustees, conditioned upon the faithful performance of his duties, in the sum of three thousand dollars (\$3,000.00). He shall take the oath of office as prescribed by statute. (1995 Code ch. 2 § 3; amd. 2009 Code)

1-5-3:       **POWERS AND DUTIES:**

- A.       Generally: The mayor shall be the chief executive officer of the village, and shall devote so much of his time to the duties of his office as a faithful and efficient discharge thereof may require; he shall take care that all the ordinances of the village are duly enforced, respected and observed; he shall preside at all meetings of the village board, but shall not vote except as set forth in 65 Illinois Compiled Statutes 5/3.1-40-30; he shall supervise over all the executive officers of the village and all the employees of the village. (1995 Code ch. 2 § 2; amd. 2009 Code)
- B.       Appointment Of Officers; Filling Vacancies: The mayor shall appoint, by and with the advice and consent of the board of trustees, all officers of the village whose appointments are not otherwise provided for by law, and whenever a vacancy shall occur in any office, which by law or

ordinance he is empowered and required to fill, he shall, at the next regular meeting of the village board, not less than five (5) days after such vacancy, communicate to the village board the name of his appointee to such office, and pending the concurrence of the board in such appointment, he may designate some suitable person to discharge the function of such office. (1995 Code ch. 2 § 5)

- C. **Removal Of Officers; Procedure:** The mayor shall have the power to remove any officer appointed by him, on any formal charge, whenever he shall be of the opinion that the interests of the village demand such removal; but he shall report the reasons for such removal to the board of trustees at a meeting to be held not less than five (5) days nor more than ten (10) days after such removal; and if the mayor shall fail or refuse to file with the village clerk a statement of the reasons for such removal, or if the board of trustees, by a two-thirds ( $\frac{2}{3}$ ) vote of all its members authorized by law to be elected, by yeas and nays, to be entered upon its records, disapprove of such removal, such officer shall thereupon become restored to the office from which he was removed; but he shall give new bond and take a new oath of office. No officer shall be removed a second time for the same offense. (1995 Code ch. 2 § 6)
- D. **Action On Ordinances:** The mayor shall carefully inspect all ordinances passed by the board of trustees and affix his official signature to such as he may approve, and return them to the village clerk within ten (10) days after their passage; and all ordinances passed as aforesaid, which do not meet his approval, shall be returned to the board of trustees with his objections thereto in writing at the next regular meeting of the board of trustees, occurring not less than five (5) days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance, or to the entire ordinance, and in case the veto extends only to a part of such ordinance, the residue thereof shall take effect and be in force, but in case the mayor shall fail to return any ordinance with his objection thereto by the time aforesaid, he shall be deemed to have approved such ordinance, and the same shall take effect accordingly. (1995 Code ch. 2 § 7)
- E. **Signature Required; Ensure Compliance With Contracts; Assist Attorney In Suits:** The mayor shall sign all commissions, licenses, permits and warrants granted, issued or drawn by the order of the village board of trustees or authorized by the ordinances of the village. In all contracts where the village is a party, he shall sign the same on behalf of the village, and it shall be his special duty to see that the other contracting

parties faithfully comply with the contract, and in all suits where the village is a party, it shall be the duty of the mayor to advise with and assist the village attorney in prosecuting or defending the same as the case may be. (1995 Code ch. 2 § 8)

- F. Additional Duties: In addition to the duties set out in this section, the mayor shall perform all such other and further duties pertaining to his office as are or may be required of him by the laws of the state or the ordinances of the village. (1995 Code ch. 2 § 9)

1-5-4: **MAYOR PRO TEM:** If the mayor is temporarily absent because of an incapacity to perform official duties, but the incapacity does not create a vacancy in the office, the board of trustees shall elect one of its number to act as mayor pro tem who, during the absence or disability of the mayor, shall perform the duties and possess all the rights and powers of the mayor but shall not be entitled to vote as both the mayor pro tem and as trustee. (1995 Code ch. 2 § 4; amd. 2009 Code)

CHAPTER 6  
**VILLAGE BOARD OF TRUSTEES**

**SECTION:**

- 1-6-1: Election And Term; Powers And Duties
- 1-6-2: Oath Of Office
- 1-6-3: Meetings
- 1-6-4: Rules And Order Of Business
- 1-6-5: Committees

1-6-1:       **ELECTION AND TERM; POWERS AND DUTIES:** The board of trustees, consisting of six (6) members, shall be elected to office for a four (4) year term, according to the method provided by statute. The board shall be the legislative department of the village government and shall perform such duties and have such powers as may be delegated by statute to it. (1995 Code ch. 3, art. I § 1)

1-6-2:       **OATH OF OFFICE:** The members of the board of trustees shall take the oath of office prescribed by statute. (1995 Code ch. 3, art. I § 2; amd. 2009 Code)

1-6-3:       **MEETINGS:**

- A.     Regular Meetings: The village board shall have its regular meetings in the village hall on the fourth Monday of every month at seven o'clock (7:00) P.M., except when said fourth Monday shall be a public holiday, in which case, the board of trustees shall meet at the same hour on the day following or the day so designated by the board. (Ord., 3-29-2004; amd. 2009 Code)
- B.     Adjourned Meetings: Adjourned meetings may be held for the purpose of completing the unfinished business of the regular meeting at such time or times that may be determined by the board of trustees. (Ord., 3-29-2004)

- C. **Special Meetings:** Special meetings may be called by the mayor of the village or any three (3) trustees, whenever, in their discretion, they deem it necessary, in which event, such meeting shall be called in the following manner: the mayor or the three (3) trustees, as the case may be, shall file in the village clerk's office a statement in writing setting forth the objective and purpose of such special meeting and directing the clerk to give at least forty eight (48) hours' notice of same. Upon the filing of such a statement, the village clerk shall cause to be served personally on each member of the board of trustees, or left at his usual place of business or his home, a notice of such special meeting, setting forth the objective and purpose thereof and the time of holding the same. No business other than that mentioned in the call shall be transacted at such special meeting. (1995 Code ch. 3, art. I § 4; amd. 2009 Code)
- D. **Presiding Officer:** The mayor shall be the presiding officer at all regular and special meetings of the board of trustees and at all times when the board meets as a committee of the whole. (1995 Code ch. 3, art. I § 5)

**1-6-4: RULES AND ORDER OF BUSINESS:**

- A. **Quorum:** A majority of the trustees shall constitute a quorum to do business, but no ordinance shall be passed except upon the favorable vote of a majority of the elected members, as provided by statute. (1995 Code ch. 3, art. II § 12)
- B. **Order Of Business:** The order of business of the village board of trustees shall be as follows:
  1. Call to order/Pledge of Allegiance/Roll call.
  2. Additions to agenda.
  3. Citizens addressing the board.
  4. Reports.
  5. Minutes.
  6. Bills, communications, resolutions and ordinances.
  7. Old business.

8. New business. (1995 Code ch. 3, art. II § 6; amd. 2009 Code; amd. Ord. 2015-03-23(a), 3-23-2015)

- C. Rescinded Action: No vote or action of the board of trustees shall be rescinded at any special meeting of the board of trustees unless there is present at such special meeting as many members of the board of trustees as were present at the meeting when such vote or action was taken, as prescribed by statute. (1995 Code ch. 3, art. II § 7)
- D. Resolutions: Any resolution submitted to the board of trustees shall be reduced to writing before being voted upon on request of any two (2) members of the board. (1995 Code ch. 3, art. II § 8)
- E. Addressing Meetings: No person, other than the mayor or a member of the board of trustees, shall address that body at any regular or special meeting, except during that portion of the meeting designated on the agenda for public comment or except upon the consent of a majority of the members present. (1995 Code ch. 3, art. II § 9; amd. Ord. 2015-03-23(a), 03-23-2015)
- F. Disturbing Meetings: It shall be unlawful for any person to disturb any meeting of the board of trustees or any committee thereof. Any person violating the provisions of this subsection shall be fined as provided in section 1-4-1 of this title for each offense. (1995 Code ch. 3, art. II § 14; amd. Ord. 2001-3, 7-23-2001; 2009 Code)
- G. Robert's Rules Of Order: "Robert's Rules Of Order" shall govern the deliberation of the board of trustees, except when in conflict with any of these rules. (1995 Code ch. 3, art. II § 11)
- H. Suspension Of Rules: The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the members present at any meeting. (1995 Code ch. 3, art. II § 10)

1-6-5: **COMMITTEES:**

- A. Standing Committees: The following shall be the standing committees of the board of trustees: None.
- B. Special Committees: Special committees shall be created from time to time as directed by the board of trustees.

- C. Membership; Appointment: All standing and special committees shall consist of three (3) members each, including the chairperson, unless the board shall direct that said committee shall consist of more than three (3) members. All committees shall be appointed by the mayor. (1995 Code ch. 3, art. II § 13)



## CHAPTER 7

### VILLAGE CLERK

#### SECTION:

- 1-7-1: Election And Term
- 1-7-2: Oath And Bond
- 1-7-3: Powers And Duties
- 1-7-4: Deputy Clerk

1-7-1:       **ELECTION AND TERM:** The village clerk shall be appointed by the Village President with the advice and consent of the Board of Trustees for a term not exceeding one (1) year. (1995 Code ch. 4 § 16)

1-7-2:       **OATH AND BOND:** The village clerk, before entering upon the duties of his office, shall take the oath prescribed for other village officers and shall execute a bond to the village in the penal sum of one thousand dollars (\$1,000.00), or other such amount as may be reasonably required by the board of trustees, with security as may be approved by the board of trustees, conditioned for the faithful performance of the duties of his office and the payment of all monies that may be received by him according to law and the ordinances of the village, which bond shall be filed with the village treasurer. (1995 Code ch. 4 § 1; amd. 2009 Code)

1-7-3:       **POWERS AND DUTIES:**

- A.   Attend Meetings; Minutes; Notices Of Meetings: The village clerk shall attend all meetings of the board of trustees and shall keep, in a suitable book to be styled "the record of the board of trustees", a full and faithful record of its proceedings. He shall issue and cause to be served upon all trustees notices of special meetings of the board of trustees, notices to the members of different committees of that body and to all other persons whose attendance may be required before any such committee when so directed by the chairperson thereof. (1995 Code ch. 4 § 2)

- B. Custody Of Seal And Other Documents: The clerk shall keep the corporate seal, to be provided under the direction of the board of trustees, and all papers belonging to the village. Copies of all papers duly filed in his office, and transcripts from the records and files of his office, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. (1995 Code ch. 4 § 3)
- C. Ordinances:
1. Record And Index: The clerk shall record and properly index, in a book kept for that purpose, all ordinances passed by the board of trustees, and at the foot of the record of each ordinance so recorded, he shall make a memorandum of the date of the passage and of the publication of such ordinance, which record and memorandum, or certified copy thereof, shall be the prima facie evidence of the passage and legal publication of such ordinances, for all purposes whatsoever. (1995 Code ch. 4 § 4)
  2. Publication: The clerk shall cause all ordinances passed by the board of trustees to be published within ten (10) days after their passage in such manner as is required by the laws of the state and shall file and preserve in his office one or more copies of evidence of any such publication. (Ord. 2001-4, 8-27-2001)
- D. Deliver Documents: The clerk shall, without delay, upon the adjournment of each meeting of the board of trustees, notify and, upon demand, shall deliver to the several committees of said body and to the officers of the corporation all petitions, communications, reports, resolutions, orders, claims and other papers referred to those committees or officers of the board. He shall also, without delay, deliver to the mayor all ordinances or resolutions in his charge which may be required to be approved or otherwise acted upon by the mayor. (1995 Code ch. 4 § 6)
- E. Prepare Official Documents: The clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him under the laws and ordinances of the village, and shall attest the same with the corporate seal, and he shall, in a like manner, attest all deeds for the sale of real estate owned or conveyed by the village. (1995 Code ch. 4 § 7)

- F. Notice Of Election Or Appointment Of Officers: It shall be the duty of the clerk, within five (5) days after the result of the election is declared or appointment is made, to notify all persons elected or appointed to office of their election or appointment, and unless such person shall respectively qualify within ten (10) days after such notice, the office shall become vacant. (1995 Code ch. 4 § 9)
- G. Records Kept:
1. Records Kept Generally; Present To Successor: The village clerk shall carefully preserve in his office all books, records, papers, maps and effects of every description belonging to the village or appertaining to other village officers and not in the actual use or possession of such other village officers, and upon the expiration in any way of his official term, he shall, on demand, deliver all such books, records, papers and effects to his successor in office. (1995 Code ch. 4 § 14)
  2. Bonds: The clerk shall keep in his office, in a book or books kept expressly for that purpose, a correct list of all outstanding bonds of the village, showing the number and amount of each and for and to whom said bonds are issued, and when any village bonds are purchased, or paid, or cancelled, said book or books shall show the fact, and in his annual report, he shall describe particularly the bonds sold during the year and the terms of sale, with each and every item of expense thereof. (1995 Code ch. 4 § 10)
  3. Books And Accounts: The clerk shall open and keep in a neat and methodical manner a complete set of books in which shall be kept a detailed account of the village revenue, and of each separate fund, crediting the same with all receipts or appropriations, and charging it with all warrants drawn thereon, and he shall charge each one to the fund or appropriation against which it is drawn. He shall also keep an accurate account of all debts due from or owing to the village and shall keep a correct list of all notes or other obligations given by or payable to the village, with the date thereof, the person to whom the principal and interest are payable, and such other particulars as may be necessary to the full understanding thereof. Said books and all other contracts, bonds, deeds, warrants, vouchers, receipts and other papers kept in said office shall be subject to the examination of the mayor, the members of the board of trustees or any committee thereof. (1995 Code ch. 4 § 11)

4. Warrants: The clerk shall keep in a suitable book an accurate list of all warrants drawn upon the village treasurer, showing the date, number, amount of each, and the name of the person in whose favor drawn, and the clerk shall take the receipt of the person or the warrant upon the delivery thereof. All warrants drawn upon the village treasury shall be signed by the mayor and countersigned by the clerk, and approved for payment by the board of trustees. Warrants shall specify therein the particular fund or appropriation to which the same is chargeable and the person to whom payable, and no money shall be otherwise paid than upon such warrants drawn. The clerk shall preserve all warrants. The mayor may recommend an additional person to be approved by the board of trustees as a third signer in the event that either the mayor or the clerk are not available. (1995 Code ch. 4 § 12) (amd. Ord. 2020-02-24, 02-24-2020)

5. Election And Appointment Of Officers: The village clerk shall keep a record of the election or appointment and confirmation of all officers of the village, and said record shall be so ruled and headed that the same shall exhibit the name of the officer, to what office elected or appointed, the date of confirmation or election, the date of commission, and the date of death, resignation, removal or expiration of term of office, with a column for remarks. (1995 Code ch. 4 § 13)

1-7-4: **DEPUTY CLERK:** The Village Clerk is authorized to appoint one Deputy Clerk, with the approval of the mayor and the concurrence of the Board, who shall perform the duties and functions as provided by statute and ordinance to execute all documents required by law to be executed by the clerk and to affix the seal of the clerk thereto wherever required in the absence of the clerk. In signing any document, the deputy clerk shall sign the name of the clerk followed by the word "by" and the deputy clerk's own name and the words "Deputy Clerk." Compensation for the deputy clerk shall be established by the mayor and the board. (1995 Code ch. 4 § 8) (amd. Ord. 2019-09-23(A), 09-23-2019)

## CHAPTER 8

### APPOINTIVE OFFICERS AND PERSONNEL

#### ARTICLE A. VILLAGE TREASURER

##### SECTION:

- 1-8A-1: Appointment; Oath; Bond  
1-8A-2: Duties

1-8A-1:       **APPOINTMENT; OATH; BOND:** The village treasurer shall be appointed by the mayor, by and with the advice and consent of the board of trustees, at the first regular meeting after the annual village election and, before entering upon the duties of his office, shall take the oath prescribed for the village officers and shall execute a bond to the village in an amount to be determined by the board of trustees, but in no event to be less than that amount required by state statute, with at least two (2) good and sufficient sureties to be approved by the board of trustees, conditioned for the faithful performance of the duties of his office and the payment of all monies received by him, according to law and ordinances of the village. (1995 Code ch. 5 § 1)

1-8A-2:       **DUTIES:**

- A.     Receive Monies; Issue Receipts: The treasurer shall receive all monies belonging to the village and shall keep a separate account of each appropriation and debits belonging thereto. He may give to every person paying money into the village treasury a receipt therefor, specifying the date of the payment and upon what account paid, and he may file copies of such receipts with the village clerk at the date of his monthly report. (1995 Code ch. 5 § 2)
- B.     Records Kept; Deposit Funds: The treasurer shall keep all records and files of his office in such place as is designated by the village board, which shall at all times be open for inspection by the mayor, village clerk

or any member of the board of trustees, and he shall deposit all funds of the village in such bank or banks as depositories as designated from time to time by the village board of trustees. (1995 Code ch. 5 § 3; amd. 2009 Code)

- C. Report Delinquent Officers: It shall be the duty of the treasurer to report to the village clerk any officer authorized to receive monies for the use of the village who may fail to make return of the monies received by him at the time required by law or by the ordinances of the village. (1995 Code ch. 5 § 4)

- D. Reports:

1. Monthly Report: The village treasurer shall, at the regular meeting of each month, render an account under oath showing the financial condition of the treasury at the date of such account, the condition of each appropriation and the balance of the money in the treasury. The treasurer shall also accompany such account, with a statement of all monies received into the treasury and on what account credited, together with all warrants redeemed and paid by him, which said warrants, with any or all of said vouchers held by him, shall be delivered to the clerk. (1995 Code ch. 5 § 5)

2. Annual Report: The village treasurer shall annually, between May 1 and May 10, make and file with the village clerk a full and detailed account of all the receipts and expenditures of the village, and all of his transactions as the treasurer during the preceding fiscal year, which statement shall exhibit on separate and appropriate headings the several accounts with the several funds or appropriations. It shall be the duty of the treasurer, after the approval of the treasurer's annual report by the board of trustees, to cause said report to be published in some newspaper of general circulation in the village. (1995 Code ch. 5 § 6; amd. 2009 Code)

CHAPTER 8

APPOINTIVE OFFICERS AND PERSONNEL

**ARTICLE B. SUPERINTENDENT OF PUBLIC WORKS**

SECTION:

1-8B-1: Office

1-8B-1: **OFFICE INTENTIONALLY DELETED**

## CHAPTER 9

**ETHICS**

## SECTION:

1-9-1:	Definitions
1-9-2:	Prohibited Political Activities
1-9-3:	Gift Ban
1-9-4:	Ethics Advisor
1-9-5:	Travel Expenses
1-9-6:	Penalties

1-9-1:       **DEFINITIONS:** For purposes of this chapter, the following terms shall be given the following definitions:

CAMPAIGN FOR ELECTIVE OFFICE:	Any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the selection, nomination, or election of presidential or vice presidential electors, but does not include activities: a) relating to the support or opposition of any executive, legislative, or administrative action; b) relating to collective bargaining; or c) that are otherwise in furtherance of the person's official duties.
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CANDIDATE:	A person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a "regular election", as defined in section 1-3 of the election code, 10 Illinois Compiled Statutes 5/1-3.
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COLLECTIVE BARGAINING:	Has the same meaning as the term is defined in section 3 of the Illinois public labor relations act, 5 Illinois Compiled Statutes 315/3.
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COMPENSATED TIME:	With respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this chapter, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.
COMPENSATORY TIME OFF:	Authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.
CONTRIBUTION:	Has the same meaning as that term is defined in section 9-1.4 of the election code, 10 Illinois Compiled Statutes 5/9-1.4.
EMPLOYEE:	A person employed by the village of Shabbona, whether on a full time or part time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.
EMPLOYER:	The Village of Shabbona.
GIFT:	Any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

LEAVE OF ABSENCE:	Any period during which an employee does not receive: a) compensation for employment; b) service credit towards pension benefits; and c) health insurance benefits paid for by the employer.
OFFICER:	A person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.
POLITICAL ACTIVITY:	Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities: a) relating to the support or opposition of any executive, legislative, or administrative action; b) relating to collective bargaining; or c) that is otherwise in furtherance of the person's official duties.
POLITICAL ORGANIZATION:	A party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the state board of elections or the county clerk under section 9-3 of the election code, 10 Illinois Compiled Statutes 5/9-3, but only with regard to those activities that require filing with the state board of elections or the county clerk.
PROHIBITED POLITICAL ACTIVITY:	<p>A. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.</p> <p>B. Soliciting contributions, including, but not limited to, the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.</p> <p>C. Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.</p> <p>D. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political</p>

organization for political purposes or for or against any referendum question.

E. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

F. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

G. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

H. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

I. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

J. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

K. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

L. Campaigning for any elective office or for or against any referendum question.

M. Managing or working on a campaign for elective office or for or against any referendum question.

N. Serving as a delegate, alternate, or proxy to a political party convention.

O. Participating in any recount or challenge to the outcome of any election.

PROHIBITED SOURCE: Any person or entity who:

A. Is seeking official action: 1) by an officer; or 2) by an employee, or by the officer or another employee directing that employee;

B. Does business or seeks to do business: 1) with the officer; or 2) with an employee, or with the officer or another employee directing that employee;

C. Conducts activities regulated: 1) by the officer; or 2) by an employee, or by the officer or another employee directing that employee; or

D. Has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee. (Ord., 4-26-2004; amd. 2009 Code)

**1-9-2: PROHIBITED POLITICAL ACTIVITIES:**

- A. No officer or employee shall intentionally perform any prohibited political activity during any "compensated time", as defined in section 1-9-1 of this chapter. No officer or employee shall intentionally use any property or resources of the village in connection with any prohibited political activity.
- B. At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity: 1) as part of that officer's or employee's duties; 2) as a condition of employment; or 3) during any compensated time off (such as holidays, vacation or personal time off).

- C. No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his participation in any prohibited political activity.
- D. Nothing in this section prohibits activities that are permissible for an officer or employee to engage in as part of his official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this chapter.
- E. No person, either: 1) in a position that is subject to recognized merit principles of public employment; or 2) in a position, the salary for which is paid in whole or in part by federal funds and that is subject to the federal standards for a merit system of personnel administration applicable to grant in aid programs, shall be denied or deprived of employment or tenure solely because he is a member or an officer of a political committee, of a political party, or of a political organization or club. (Ord., 4-26-2004)

**1-9-3: GIFT BAN:**

- A. Gifts Prohibited: Except as permitted by this section, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any "prohibited source", as defined in section 1-9-1 of this chapter, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this subsection.
- B. Exceptions:
  - 1. Subsection A of this section is not applicable to the following:
    - a. Opportunities, benefits, and services that are available on the same conditions as for the general public.
    - b. Anything for which the officer or employee, or his spouse or immediate family member, pays the fair market value.

c. Any: 1) contribution that is lawfully made under the election code<sup>1</sup>; or 2) activities associated with a fundraising event in support of a political organization or candidate.

d. Educational materials and missions.

e. Travel expenses for a meeting to discuss business.

f. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

g. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: 1) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; 2) whether, to the actual knowledge of the recipient, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and 3) whether, to the actual knowledge of the recipient, the individual who gave the gift also, at the same time, gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

h. Food or refreshments not exceeding seventy five dollars (\$75.00) per person in value on a single calendar day; provided, that the food or refreshments are: 1) consumed on the premises

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1. 10 ILCS 5/1-1 et seq.

from which they were purchased or prepared; or 2) catered. For the purpose of this subsection, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means. (Ord., 4-26-2004)

i. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee) of the officer or employee or spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances. (Ord., 4-26-2004; amd. 2009 Code)

j. Intragovernmental and intergovernmental gifts. For the purpose of this chapter, "intragovernmental gift" means any gift given to an officer or employee from another officer or employee, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

k. Bequests, inheritances, and other transfers at death.

l. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than one hundred dollars (\$100.00).

2. Each of the exceptions listed in this subsection is mutually exclusive and independent of every other.

- C. Disposition Of Gifts: An officer or employee, his spouse or an immediate family member living with the officer or employee does not violate this chapter if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3) of the internal revenue code of 1986, as now or hereafter amended, renumbered, or succeeded. (Ord., 4-26-2004)

#### 1-9-4: **ETHICS ADVISOR:**

- A. Advisor Designated: The mayor, with the advice and consent of the village board, shall designate an ethics advisor for the village. The duties of the ethics advisor may be delegated to an officer or employee of the

village or the village attorney unless the position has been created as an office by the village.

- B. Duties: The ethics advisor shall provide guidance to the officers and employees of the village concerning the interpretation of and compliance with the provisions of this chapter and state ethics laws. The ethics advisor shall perform such other duties as may be delegated by the corporate authorities. (Ord., 4-26-2004)

#### 1-9-5: **TRAVEL EXPENSES:**

##### A. **DEFINITIONS:**

**ENTERTAINMENT:** Includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.

**PUBLIC BUSINESS:** Expenses incurred in the performance of a public purpose which is required or useful for the benefit of the Village to carry out the responsibilities of village business.

**TRAVEL:** Any expenditure directly incident to official travel by employees and officers of the Village or by wards or charges of the village involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

- B. The village may reimburse travel, meal, and lodging expenses incurred by its employees and officers. The maximum allowable rate for reimbursement of travel expenses for employees shall be as prescribed in the adapted Government Services Administration (GSA) rates ([www.gsa.gov](http://www.gsa.gov)) as incorporated herein, as from time to time amended. The village reserves the unfettered right to approve, on a case-by-case basis, expenses that exceed the maximum allowable travel, meal, or lodging expenses because of extraordinary circumstances pursuant to 50 ILCS 150/10 with said approval recorded by roll call vote at an open meeting of the village board at a duly convened public meeting in accordance with 50 ILCS 150/15.

- C. No reimbursement of travel, meal or lodging expenses incurred by a



village employee or officer shall be authorized unless the "Travel, Meal, and Lodging Expense Reimbursement Request Form", has been submitted and approved. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act (5 ILCS 140/1 *et seq.*).

- D. Expenses for travel, meals, and lodging of: (1) any officer or employee that exceeds the maximum reimbursement allowed under the regulations adopted under paragraph B of this section, or (2) any member of the corporate authorities of the village may only be approved by roll call vote at an open meeting of the corporate authorities of the village. However, in the event of an emergency or other extraordinary circumstances, the corporate authorities may approve more than the maximum allowable expenses set forth above.
- E. The village shall not reimburse any elected official, employee, or officer for any activities which would be considered entertainment. Activities which would otherwise be considered entertainment, but which are excluded from the prohibition on reimbursement due to being ancillary to the purpose of the program or event, may be reimbursed in accordance with the provisions of this Ordinance. (Ord., 1-23-2017)

**1-9-6: PENALTIES:**

- A. A person who intentionally violates any provision of section 1-9-2 of this chapter may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty four (364) days, and may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00).
- B. A person who intentionally violates any provision of section 1-9-3 of this chapter is subject to a fine in an amount not less than one thousand one dollars (\$1,001.00) and not more than five thousand dollars (\$5,000.00).
- C. Any person who intentionally makes a false report alleging a violation of any provision of this chapter to the local enforcement authorities, the state's attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty four (364) days, and may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00).
- D. A violation of section 1-9-2 of this chapter shall be prosecuted as a

criminal offense by an attorney for the village by filing in the circuit court on information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

- E. A violation of section 1-9-3 of this chapter may be prosecuted as a quasi-criminal offense by an attorney for the village.
- F. In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of section 1-9-2 or 1-9-3 of this chapter is subject to discipline or discharge. (Ord., 4-26-2004)

## CHAPTER 10

## UTILITIES TAXES

**ARTICLE A. GAS TAX**

## SECTION:

1-10A-1:	Definitions
1-10A-2:	Tax Imposed; Effective Date
1-10A-3:	Exemptions From Tax
1-10A-4:	Tax Is Additional
1-10A-5:	Return By Taxpayer
1-10A-6:	Credit For Overpayment
1-10A-7:	Statute Of Limitations
1-10A-8:	Violation; Penalties

1-10A-1:     **DEFINITIONS:** For the purpose of this article, the following definitions shall apply:

**GROSS RECEIPTS:**     The consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. "Gross receipts" shall not include that portion of the consideration received for distributing, supplying, furnishing, or selling gas to business enterprises described in 65 Illinois Compiled Statutes 5/8-11-2, paragraph (e), to the extent and during the period in which the exemption authorized by said paragraph (e) is in effect or for school districts or units of local government described in paragraph (f) during the period in which the exemption

authorized in 65 Illinois Compiled Statutes 5/8-11-2, paragraph (f), is in effect.

**PERSON:**

Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this state, or a receiver, trustee, conservator or other representative appointed by order of any court. (Ord., 10-26-1992; amd. Ord., 4-26-1999; 2009 Code)

**1-10A-2: TAX IMPOSED; EFFECTIVE DATE:** A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the village and not for resale at the rate of five percent (5%) of the gross receipts therefrom. The tax provided for herein shall be based on the "gross receipts", as defined in section 1-10A-1 of this article, actually paid to the taxpayer for services billed on or after January 1, 1993. (Ord., 10-26-1992; amd. Ord. 4-26-1999; 2009 Code)

**1-10A-3: EXEMPTIONS FROM TAX:** No tax is imposed by this article with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this state or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting gas be subject to taxation under the provisions of this article for such transactions as are or may become subject to taxation under the provisions of the municipal retailers' occupation tax act authorized by section 8-11-1 of the Illinois municipal code; nor shall any tax authorized by this article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the village, whether privately or municipally owned or operated, or exercising the same privilege within the village. (Ord., 10-26-1992; amd. Ord., 4-26-1999; 2009 Code)

1-10A-4:     **TAX IS ADDITIONAL:** The tax shall be in addition to the payment of money or value of products or services furnished to the village by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business. (Ord., 10-26-1992)

1-10A-5:     **RETURN BY TAXPAYER:**

- A.     On or before April 30, 1993, each taxpayer shall make a return to the village treasurer for the months of January, February, and March 1993, stating:
1. His name.
  2. His principal place of business. (Ord., 10-26-1992)
  3. His gross receipts during those months upon the basis of which the tax is imposed.
  4. Amount of tax.
  5. Such other reasonable and related information as the board of trustees may require. (Ord., 10-26-1992; amd. 2009 Code)
- B.     On or before the last day of every third month thereafter, each taxpayer shall make a like return to the village treasurer for a corresponding three (3) month period.
- C.     The taxpayer making the return herein provided for shall, at the time of making such return, pay to the village treasurer the amount of tax herein imposed; provided, that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amount previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts. (Ord., 10-26-1992)

1-10A-6:     **CREDIT FOR OVERPAYMENT:** If it shall appear that an

amount of tax has been paid which was not due under the provisions of this article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this article from the taxpayer who made the erroneous payment; provided, that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited. (Ord., 10-26-1992)

1-10A-7:       **STATUTE OF LIMITATIONS:** No action to recover any amount of tax due under the provisions of this article shall be commenced more than three (3) years after the due date of such amount. (Ord., 10-26-1992)

1-10A-8:       **VIOLATION; PENALTIES:** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in section 1-4-1 of this title and, in addition, shall be liable in a civil action for the amount of tax due. (Ord., 10-26-1992; amd. Ord. 2001-3, 7-23-2001; 2009 Code)

## CHAPTER 10

## UTILITIES TAXES

**ARTICLE B. ELECTRICITY TAX**

## SECTION:

- 1-10B-1: Tax Imposed; Amount Of Tax
- 1-10B-2: Exemptions From Tax
- 1-10B-3: Tax Is Additional
- 1-10B-4: Collection Of Tax
- 1-10B-5: Return By Taxpayer; Payment Of Tax
- 1-10B-6: Credit For Overpayment
- 1-10B-7: Statute Of Limitations
- 1-10B-8: Violation; Penalties
- 1-10B-9: Unconstitutionality, Repeal Of Provisions

1-10B-1: **TAX IMPOSED; AMOUNT OF TAX:** A tax is imposed on all persons engaged in the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the village at the following rates, calculated on a monthly basis for each purchaser:

Number Of Kilowatt Hours Used Or Consumed Per Month	Cents Per Kilowatt Hour
First 2,000	0.61
Next 48,000	0.40
Next 50,000	0.36
Next 400,000	0.35
Next 500,000	0.34

Next 2,000,000	0.32
Next 2,000,000	0.315
Next 5,000,000	0.31
Next 10,000,000	0.305
All electricity used or consumed in excess of 20,000,000	0.30

(Ord., 4-26-1999; amd. 2009 Code)

**1-10B-2: EXEMPTIONS FROM TAX:** None of the taxes authorized by this article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the constitution and statutes of the United States, be made the subject of taxation by this state or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting electricity, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this article for those transactions that are or may become subject to taxation under the provisions of the municipal retailers' occupation tax act as authorized by 65 Illinois Compiled Statutes 5/8-11-1; nor shall any tax authorized by this article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the village, whether privately or municipally owned or operated, or exercising the same privilege within the village. (Ord., 4-26-1999; amd. 2009 Code)

**1-10B-3: TAX IS ADDITIONAL:** The tax shall be in addition to other taxes levied upon the taxpayer or its business. (Ord., 4-26-1999)

**1-10B-4: COLLECTION OF TAX:** The tax authorized by this article shall be collected from the purchaser by the person maintaining a place of business in this state who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the



purchaser and, if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this article and any such tax collected by a person delivering electricity shall constitute a debt owed to the village by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax to reimburse the person delivering electricity for the expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the village in the manner prescribed by the village. Persons delivering electricity who file returns pursuant to this section shall, at the time of filing such return, pay the village the amount of the tax collected pursuant to this article; provided, that the person delivering electricity shall be allowed a credit for such tax related to deliveries of the electricity, the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. For the purposes of this section, any partial payment not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. (Ord., 5-24-1999; amd. 2009 Code)

**1-10B-5: RETURN BY TAXPAYER; PAYMENT OF TAX:**

- A. On or before the last day of each month, each taxpayer who has not paid the tax imposed by this article to a person delivering electricity as set forth in section 1-10B-4 of this article and who is not otherwise exempted from paying such tax shall make a return to the village treasurer for the preceding month stating:
1. His name.
  2. His principal place of business. (Ord., 4-26-1999)
  3. His kilowatt hour usage during the month upon the basis of which the tax is imposed.
  4. Amount of tax.
  5. Such other reasonable and related information as the board of trustees may require.

- B. The taxpayer making the return herein provided for shall, at the time of making such return, pay to the village the amount of tax herein imposed; provided, that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable kilowatt hours. (Ord., 4-26-1999; amd. 2009 Code)

1-10B-6: **CREDIT FOR OVERPAYMENT:** If it shall appear that an amount of tax has been paid which was not due under the provisions of this article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this article from the taxpayer who made the erroneous payment; provided, that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited. (Ord., 4-26-1999)

1-10B-7: **STATUTE OF LIMITATIONS:** No action to recover any amount of tax due under the provisions of this article shall be commenced more than three (3) years after the due date of such amount. (Ord., 4-26-1999)

1-10B-8: **VIOLATION; PENALTIES:** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who wilfully violates any other provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in section 1-4-1 of this title and, in addition, shall be liable in a civil action for the amount of tax due<sup>1</sup>. (Ord., 4-26-1999; amd. Ord. 2001-3, 7-23-2001; 2009 Code)

1-10B-9: **UNCONSTITUTIONALITY, REPEAL OF PROVISIONS:** In the event that public act 90-561 is declared unconstitutional, or if this article is voided by court action, the provisions of the village gross receipts utility tax ordinance shall remain in effect in all respects as if it had never been amended by this article, and any amounts paid to the village by any person delivering electricity pursuant to this article shall be deemed to have been paid pursuant to the gross receipts utility tax ordinance as it existed prior to the effective date

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1. 65 ILCS 5/8-11-2.

hereof. (Ord., 4-26-1999; amd. 2009 Code)

## CHAPTER 10

## UTILITIES TAXES

**ARTICLE C. MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

## SECTION:

- 1-10C-1: Tax Imposed; Rate  
1-10C-2: Collection Of Tax By Retailers

**1-10C-1: TAX IMPOSED; RATE:**

- A. A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village at the rate of 3% of the gross receipts from these sales made in the course of that business.
- B. The imposition of this tax is in accordance with the provisions of Section 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22). (Ord. 2019-10-28(A), 10-28-2019)

**1-10C-2: COLLECTION OF TAXES BY RETAILERS:**

- A. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.
- B. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article. (Ord. 2019-10-28(A), 10-28-2019)

## CHAPTER 11

### PERSONAL PROPERTY REPLACEMENT TAX

#### SECTION:

1-11-1: Remittance to Flewellin Memorial Library

1-11-1: **REMITTANCE TO FLEWELLIN MEMORIAL LIBRARY:** The village treasurer shall remit to the Flewellin Memorial Library fifteen percent (15%) of the personal property replacement tax it receives from the State of Illinois within thirty (30) days from the date the money is received by the village. (Ord., 3-27-2017)