

Chapter 2 PUBLIC ETHICS*

*Cross reference(s)--Personnel Code, Ch. 3.

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Sec. 2-1. Short title.

This chapter may be cited as the "Chevy Chase Village Public Ethics Ordinance."

Sec. 2-2. Statement of purpose and policy.

(a) Chevy Chase Village, Chevy Chase, Maryland, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the Village's business is subject to improper influence and even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the Village Board of Managers enacts this chapter to require Village officials and employees to disclose their financial affairs and to set minimum standards for their conduct of Village business.

(d) It is the intention of the Board of Managers that this section, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

Sec. 2-3. Definitions.

The words in this chapter shall have their normal accepted meanings except as set forth below:

- (a) *Business entity*: Any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation or other organization, whether or not operated for profit, or other business entity regardless of form.
- (b) *Child*: Includes a child, adopted child, stepchild, foster child or grandchild, of whatever age.
- (c) *Commission*: The Chevy Chase Village Ethics Commission established pursuant to section 2-5 of this chapter.
- (d) *Compensation*: Any money or thing of value, regardless of form, in amount or value of over one hundred dollars (\$100.00), received or to be received by any individual covered by this chapter from an employer for service rendered. If lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties. For reporting purposes, a prorated amount shall be labeled as such.
- (e) *Doing business with the Village*:
 - (1) Having or negotiating one or any combination of sales, purchases, leases or contracts to, from, or with the Village involving the commitment (either in a single or combination of transactions) of two hundred fifty dollars (\$250.00) or more of Village or Village-controlled funds, involving consideration of two-hundred fifty dollars (\$250.00) or more on a cumulative basis during the calendar year for which a required statement is to be filed. As of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included.
 - (2) Being regulated by or otherwise under the authority of an entity which is doing business with the Village.
 - (3) Being registered as a lobbyist in accordance with section 2-8 of this chapter.
- (f) *Financial interest*:
 - (1) Ownership of any interest as the result of which the owner has received, within the past three (3) years, or is presently receiving, or in the future is entitled to receive, more than one thousand dollars (\$1,000.00) per year.
 - (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than three (3) per cent of a business entity.
- (g) *Gift*: The transfer of anything of economic value regardless of the form without adequate and lawful consideration. "Gift" does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of Article 33, section 26-1 et seq., Annotated Code of Maryland, or any other provision of

state or local law regulating the conduct of elections or the receipt of political campaign contributions.

(h) *Interest:* Any legal or equitable interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly, at any time during the calendar year for which a required statement is to be filed. "Interest" includes an interest in: Any stock or similar security, pre-organization certificate or subscription, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust, or certificate of interest or participation in a profit-sharing agreement or in an oil, gas or other mineral royalty or lease; a certificate or instrument of deposit for any of the foregoing; a certificate or instrument of interest or participation in, or a certificate or instrument convertible, with or without consideration, into, or a guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; A put, call, straddle, or other option or privilege of subscribing to or purchasing any of the foregoing; or any other equity interest, however evidenced, which entitles the owner or holder thereof, directly or indirectly, alone or in concert with others, to receive or direct any part of the profits from, or to exercise any part of the control over, a business entity, as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto. "Interest" also includes an interest in a note, bond, debenture, or any other evidence of a creditor interest. However, "interest" shall not include an interest held solely in the capacity of a personal representative, agent, custodian, fiduciary, or trustee nor an interest in a time or demand deposit in a financial institution, nor an interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period.

(i) *Lobbying:*

- (1) Communicating in the presence of a Village official or employee with the intent to influence any official action of that official or employee.
- (2) Engaging in activities having the express purpose of soliciting others to communicate with a Village official or employee with the intent to influence that official or employee; and,
- (3) Engaging in the activities described in (1) or (2) above for compensation.

Notwithstanding the foregoing, lobbying shall not include communications between residents of the Village or nearby communities and Village officials; provided, that such persons do not provide meals, entertainment or other things of value to any Village official where the purpose is an attempt to influence a legislative or executive decision by a Village official.

(j) *Official and/or employee:* Any person elected or appointed to a Village office not including any nonBoard member of a committee, or employee by the Village, whether or not paid in whole or in part with Village funds and whether or not compensated, and shall include, but not be limited to:

- (1) The Village Manager.
- (2) All persons holding elective office.

- (3) Candidates for elective offices.
- (4) Individuals appointed to fill vacancies in elective office in the Village.
- (k) *Person*: Any natural person, corporation, partnership, trust, unincorporated association, or other organization, entity, or enterprise.

(No. 56-05-84, 5-14-84)

Cross reference(s)--Definitions generally, 1-2; rules of construction generally, 1-3.

Sec. 2-4. Conflicts of laws.

Other provisions of law or regulations relating to conflicts of interest, financial disclosure, or lobbying disclosure shall apply where the provisions of those laws or regulations are more stringent than this chapter.

Sec. 2-5. Administration by Ethics Commission.

(a) There shall be a Village Ethics Commission which shall consist of three (3) members appointed for three-year staggered terms by the Chairman of the Board of Managers, with the concurrence of the Board of Managers. The commission shall be assisted in carrying out its responsibilities by the Village counsel.

(b) The Commission shall be the advisory body responsible for interpreting this chapter and advising persons subject to it as to its application.

(c) The commission shall be responsible for hearing and deciding on advice of the Village counsel (or other Legal Counsel if appropriate), any complaint filed regarding an alleged violation of this chapter by any person.

(d) The commission or an office designated by the commission shall be the custodian of all forms submitted by any person in accordance with this chapter.

(e) Any official or other person subject to the provisions of this chapter may request the commission for an advisory opinion concerning the application of this chapter. The commission shall respond promptly to these requests, providing interpretations of this chapter based on the facts provided or reasonably available to it. Copies of these interpretations, with the identity of the subject deleted, shall be made available to the public in accordance with any applicable state or Village law regarding public records.

(f) Any person may file with the commission a complaint alleging a violation of any of the provisions of this chapter. These complaints shall be written and under oath, and may be referred to the Village counsel or other Legal Counsel, if appropriate, for investigation and review. If after receiving an investigative report, the commission determines that there are insufficient facts upon which to base a determination of a violation, it may dismiss the complaint. If there is a reasonable basis for believing a violation has occurred, then the subject of the complaint shall be afforded an opportunity for a hearing conducted in accordance with the Village's applicable rules of procedure for actions taken on the record. Any final determination resulting from the hearing shall include findings of fact and conclusions of law. Upon a finding of a violation, the commission may take any enforcement action provided for in accordance with section 2-9 of this chapter. After a complaint is filed and until a final determination by the commission, all actions regarding a complaint shall be treated confidentially.

Sec. 2-6. Conflicts of interest.

(a) *Participation prohibitions.* Except as permitted by commission regulation or opinion, an official or employee may not participate in:

- (1) Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to his actual knowledge, he, his spouse, parent, child, brother, or sister has an interest therein.
- (2) Any matter, except in the exercise of an administrative or ministerial duty, when any of the following is a party thereto:
 - a. Any business entity in which he has a direct financial interest of which he may reasonably be expected to know;
 - b. Any business entity of which he is an officer, director, trustee, partner, or employee, or in which he actually knows any of the above-listed relatives has this interest;
 - c. Any business entity with which he or, to his knowledge, any of the relatives listed in paragraph (1) of this subsection is negotiating or has any arrangement concerning prospective employment;
 - d. Any business entity which is a party to an existing contract with the official or employee, or which the official or employee knows is a party to a contract with any of the above-named relatives, if the contract could reasonably be expected to result in a conflict between the private interests of the official or employee and his official duties;
 - e. Any business entity, doing business with the Village in which a direct financial interest is owned by another business entity in which the official or employee has a direct financial interest, if he may be reasonably expected to know of both direct financial interests; or
 - f. Any business entity which the official or employee knows is his creditor or obligee, or that of any of the relatives listed in paragraph (1) of this subsection, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the official or employee of any of the above-named relatives.
- (3) If a disqualification pursuant to paragraphs (1) and (2) of this subsection leaves any body with less than a quorum capable of acting, or if the disqualified official or employee is required by law to act or is the only person authorized to act, the disqualified person shall disclose the nature and circumstances of the conflict and may participate or act.

(b) *Employment restrictions.*

- (1) a. Except when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
 1. Be employed by, or have a financial interest in, any business entity subject to his authority or that of the Village or any business entity which is negotiating or has entered a contract with the Village; or

2. Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee.

b. This prohibition does not apply to:

1. An official or employee who is appointed to a regulatory or licensing authority pursuant to a requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;
2. Subject to other provisions of law, a member of a Board or commission in regard to a financial interest or employment held at the time of appointment, provided it is publicly disclosed to the appointing authority or the commission; or
3. An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the commission.

(2) A former official or employee may not assist or represent another party other than the Village for compensation in a case, contract, or other specific matter involving the Village if that matter is one in which he significantly participated as an official or employee.

(3) An official or employee may not assist or represent a party for contingent compensation in any matter before or involving the Village; provided, however, that nothing herein shall preclude an official or employee from assisting or representing a party for contingent compensation in any matter before or involving entities where fees are established by law.

(c) *Use of prestige of office.* An official or employee may not intentionally use the prestige of his office for his own private gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for an official's or employee's private gain or that of another.

(d) *Solicitation or acceptance of gifts.*

(1) An official or employee may not solicit any gift.

(2) No official or employee may knowingly accept any gift, directly or indirectly, from any person that he actually knows:

a. Is doing business with the Village; or

b. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duty.

(3) Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it or, if of significant value, would give the appearance of doing so, or, if of significant value, the recipient official or employee believes, or has reason to believe, that it is designed to do so, paragraph (2) of this subsection does not apply to:

- a. Meals and beverages;
- b. Ceremonial gifts or awards which have insignificant monetary value;
- c. Unsolicited gifts of nominal value or trivial items of informational value;
- d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
- e. Gifts of tickets or free admission extended to an elected official or employee to attend a professional or intercollegiate sporting event or charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the office;
- f. A specific gift or class of gifts which the Village Board of Managers or the commission exempts from the operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Village and that the gift is purely personal and private in nature;
- g. Gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other relative who shares the official's or employee's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control; or
- h. Honoraria.

(e) *Disclosure of confidential information.* Other than in the discharge of his official duties, an official or employee may not disclose or use for his own economic benefit, or that of another, confidential information which he has acquired by reason of his public position and which is not available to the public.

(f) *Exemptions and waivers.* The commission or, if appropriate, the Village Board of Managers, may, after consultation with the Village counsel, grant exemptions to or modifications of this section when it finds that the application of this section would constitute an unreasonable invasion of privacy and would significantly reduce the availability of qualified persons for public service and if it also finds that the exemption or modification would not be contrary to the purposes of this chapter.

Sec. 2-7. Financial disclosure.

(a) *Persons required to file statements.* The Village Manager and all persons holding elective office, candidates for elective office and those individuals appointed to fill vacancies in elective office in the Village are required to file the statement provided for by this section.

(b) *Manner and method of filing.*

- (1) Each person holding an elective office in the Village on or after the date of enactment of this chapter shall file annually with the commission no later than the fifteenth day of April, a statement as provided for by this section, encompassing the calendar year immediately preceding the year of filing. For the purposes of this section, any statement to be filed on or before April 15, 1982, shall be a statement as of January 1, 1982.

- (2) Each person who is a candidate for elective office in the Village shall file a statement pursuant to this section encompassing the year immediately preceding the year of election. Said statement is to be filed no later than ten (10) days before election day with the commission. The financial statements of unsuccessful candidates shall be returned by the commission within thirty (30) days following the completion of the election tabulations, provided that the unsuccessful candidate was not a candidate to succeed himself.
- (3) The commission, or its designee, shall hold all other financial statements filed pursuant to this section for at least two (2) years from the date of their filing. The statements may be examined by any resident of the Village at the Village office during regular business hours; provided, however, that an individual wishing to examine the statements satisfies the commission or the Village Manager that he or she is in fact a resident of the Village.

(c) *Content of statement.* The statement required to be filed by this section shall disclose any gifts received during the preceding calendar year from any person doing business with the Village. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt.

(d) *[Disclosure of interest or employment required.]* All persons required to file statements pursuant to subsection (a) shall file a statement with the commission disclosing any interest or employment, the holding of which would require disqualification from participation pursuant to section 2-6(a) of this chapter, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

(No. 56-05-84, 5-14-84; Ord. of 9-14-92)

Sec. 2-8. Lobbying disclosure.

(a) Except as provided in subsections (j) and (k), any person who engages in lobbying as defined in section 2-3(i) shall file a lobbying registration with the commission, on or before the beginning of the calendar year in which a person expects to lobby or within five (5) days after engaging in lobbying activities.

(b) The registration filed pursuant to subsection (a) shall be dated and on a form developed by the commission with the assistance of the Village counsel, and shall include the following:

- (1) The lobbyist's full and legal name and permanent address.
- (2) The full and legal name and address, and nature of business of all persons on whose behalf the lobbyist acts.
- (3) The written authorization of all person(s) on whose behalf the lobbyist acts (if this is a corporation, the authorization may be executed by any authorized officer or agent, who is not a lobbyist).
- (4) A statement of whether the person(s) on whose behalf the lobbyist acts is exempt from registration pursuant to subsection (k).
- (5) The identification, by formal designation, if known, of matters on which the lobbyist expects to act.

- (6) Identification of the period of time (to be contained within a single calendar year) during which the lobbyist is authorized to engage in these activities, unless sooner terminated.
- (7) The full legal signature of the lobbyist and, when appropriate, the person(s) on whose behalf he acts, or an agent or authorized officer thereof.

(c) A person who engages in lobbying may terminate his registration by written notice to the commission. Any reports outstanding under subsection (b) must be submitted with this notification. Termination shall be effective thirty (30) days after receipt by the commission of this notice properly filed.

(d) No person may engage in lobbying activities on behalf of another person for compensation the payment of which is contingent upon the passage or defeat of any action by the Village Board of Managers.

(e) Each lobbyist who is required to register shall file with the commission one report covering the period beginning January 1st through June 30th, filed by July 31st, and one report covering the period beginning July 1st through December 31st filed by January 31st. If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form. The report shall include:

- (1) A complete and current statement of the information required to be supplied pursuant to subsection (b).
- (2) Total expenditures on lobbying activities in each of the following categories:
 - a. Total compensation paid to the lobbyist, including salaries, compensation, and reimbursed expenses for the staff of the lobbyist, except expenses reported under subparagraphs (e)(2)(b) through (i);
 - b. Office expenses of the lobbyist not reported in subparagraph (e)(2)(a);
 - c. Professional and technical research and assistance not reported in subparagraph (e)(2)(a);
 - d. Publications which expressly encourage persons to communicate with Village officials or employees;
 - e. Names of witnesses, and the fees and expenses paid to each;
 - f. Meals and beverages for Village officials or employees or their spouses or dependent children;
 - g. Special events, including parties, dinners, athletic events, entertainment, and other functions to which any member of the Village Board of Managers is invited;
 - h. Expenses for food, lodging, and scheduled entertainment of officials or employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
 - i. Other gifts to or for officials or employees or their spouses; and
 - j. Other expenses.

- (3) Except for gifts reported pursuant to subparagraphs (e)(2)(g) and (e)(2)(h) above, the name of each official or employee or his spouse or dependent child who has benefited from gifts from the lobbyist with a cumulative value of seventy-five dollars (\$75.00) or more during the period covered by the report whether or not given in connection with the lobbyist's lobbying activities. When the seventy-five-dollar cumulative value is met or exceeded, all succeeding gifts shall also be itemized by date, beneficiary, amount or value, and nature of the gift. Expenses reported in paragraphs (e)(2)(g) and (e)(2)(h), above, shall be itemized as to date, location, and expense of the event, but allocation to individual officials or employees need not be listed.

(f) (1) If any report filed under subsection (e) contains the name of an official or employee or his spouse or dependent child as required under paragraph (3) thereof, the commission shall notify the official or employee within thirty (30) days. The commission shall keep the report confidential for sixty (60) days following the receipt of it.

- (2) Following notification of the inclusion of his name in a report filed by a lobbyist, an official or employee shall have thirty (30) days to file a written exception to the inclusion of his name.

(g) The commission may require submission of such other reports as it deems necessary.

(h) All registrations and reports filed pursuant to this section shall be maintained by the commission, or an officer designated by it, and shall be made available during normal office hours, for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as may be established by the Board of Managers or by the commission. The forms shall be retained for three (3) years from the date of receipt.

(i) The registrations and reports filed pursuant to this section shall be reviewed by the Village counsel for compliance with the provisions of this section, and persons engaging in lobbying activities shall be notified of any omissions or deficiencies. The Village counsel shall refer evidence of noncompliance with this section to the commission, the Board of Managers, or to the state's attorney for appropriation action.

(j) The provisions of this section do not apply to the following acts:

- (1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending Board of Managers actions when these services do not otherwise constitute lobbying activities.
- (2) Appearances before the Board of Managers upon its specific invitation or request but only if the person engages in no further or other activities in connection with the passage or defeat of Board of Managers actions.
- (3) Appearances as part of the official duties of a duly elected or appointed official or employee of the state or a political subdivision of the state, or of the United States, and not in behalf of any other entity.
- (4) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not, however, engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of himself or his employer.

- (5) Appearances by an individual before the Board of Managers at the specific invitation or request of a registered lobbyist, provided no other lobbying act is undertaken, and provided the witness identifies himself to the Board of Managers as testifying at the request of the lobbyist;
- (6) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization.
- (7) Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not in behalf of any other entity.

(k) A person who would otherwise be required to file a registration and submit reports pursuant to subsections (a) or (e) herein is not required to file if he reasonably believes that all expenses incurred in connection with his lobbying activities will be reported pursuant to subsection (e) by a properly registered person acting on his behalf. The authorization required by subsection (b) herein shall be completed by these individuals as to persons acting on their behalf. Persons exempted herein, however, become subject to the provisions of this section immediately upon failure of the registrant to report any information required by this section.

(l) The commission shall compute and make available a subtotal under each of the nine (9) required categories in paragraph (e)(2), and a subtotal representing the combined total of paragraph (e)(2), subparagraphs (g), (h) and (i). The commission also shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

Sec. 2-9. Enforcement.

(a) Upon direction by the commission or the Board of Managers, the Village counsel may file a petition for injunctive or other relief in the circuit court for Montgomery County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter. The Village counsel may seek to:

- (1) Have the court issue an order to cease and desist from the violation.
- (2) Void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within ninety (90) days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; provided, however, that the court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes or other evidences of public obligation.
- (3) Impose a fine of up to five hundred dollars (\$500.00) for any violation of the provisions of this section.

(b) Any person who knowingly and willfully violates the provisions of Section 2-8 of this chapter is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both. If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.

(c) In addition to any other enforcement provisions in this chapter, a person who is subject to the provisions of this chapter and who is found by the commission, Board of Managers, or a court to have violated its provisions may be subject to termination, such other disciplinary action as may be warranted, or suspension from receiving payment of salary or other compensation by the Board of Managers pending full compliance with the terms of an order of the commission, the Board of Managers, or a court.

(d) Any person who is subject to the provisions of this chapter shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made pursuant to this chapter for three (3) years from the date of filing the report, statement, or record containing these items. These papers and documents shall be available for inspection upon request by the commission or the Board of Managers after reasonable notice.

(No. 56-05-84, 5-14-84)

Sec. 2-10. Severability.

The provisions of this chapter are severable and if any provision, sentence, clause, subsection or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, subsection or parts of the chapter or their application to any other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such an illegal, invalid, or unconstitutional provision or, sentence, clause, subsection or part had not been included therein, and if the person or circumstances to which the section or any part thereof is inapplicable had been specifically exempted therefrom.

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