

BATAVIA PARK DISTRICT

ORDINANCE NO. 410

ETHICS ORDINANCE

WHEREAS, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act 5 ILCS 430/101 et seq., effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

WHEREAS, the Act requires all units of local government and school districts, within six months after the effective date of Public Act 93-615, to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act; and

WHEREAS, it is the clear intention of the Act to require units of local government and school districts to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations; and

WHEREAS, it is the clear intention of the Act to provide units of local government with all authority necessary to implement its requirements on the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable; and

WHEREAS, because the Act provides for the imposition of significant penalties for violations of said local regulations, it is necessary to adopt the required regulations by Ordinance rather than by Resolution.

NOW, THEREFORE, THE BOARD OF PARK COMMISSIONERS OF THE BATAVIA PARK DISTRICT, KANE COUNTY, STATE OF ILLINOIS, HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The foregoing recitals are hereby incorporated into this Ordinance herein as findings of the Board of Park Commissioners of the Batavia Park District.

SECTION 2: The Board of Park Commissioners hereby repeals and replaces its current Code of Ethics, enacted by Ordinance No. 339, adopted on July 15, 2014, with the new Code of Ethics, substantially in the form of *Exhibit A*, attached and hereby incorporated into this Ordinance by this reference.

SECTION 3: This Ordinance shall be in effect upon its passage, approval and publication as provided by law.

Adopted this 21st day of February, 2023 by roll call vote of the members of the Board of Park Commissioners, as follows:

Roll Call:

Ayes: Tilmon, Gray, Riley, Connolly, Callahan

Nays: Ø

Absent: Ø

Abstain: Ø



President, Board of Park Commissioners

ATTEST:



Secretary, Board of Park Commissioner

CODE OF ETHICS

Section 1. Code of Ethics--Declaration of policy and purpose.

- A. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsive to the people they serve; government decisions and policy be made in the proper channels of the governmental structure; public office not be used for personal gain or to unfairly and improperly advance the interests of family or relatives; and the public have confidence in the integrity of its government. In recognition of such goals, there is established a code of ethics for all Park District public officials, whether elected or appointed, paid or unpaid, and for Park District employees. The purposes of this Code of Ethics are to establish ethical standards of conduct for all such public officials and public employees by setting forth the acts or actions which are incompatible with the best interests of the Park District and its residents and by requiring disclosure by public officials and public employees of private financial or other interests in matters affecting the Park District.
- B. This Code of Ethics is founded upon the principle that no individual shall receive any impermissible financial or other gain by reason of their serving as a public official or public employee of the Park District, and that no private person or taxpayer, including public officials or public employees, should receive any benefits from Park District action beyond that which is available to any other private person or taxpayer due to their relation to or as a result of privileged information or support provided by any public official or public employee.
- C. It is the legislative intent of the Board of Park Commissioners for this policy to be liberally construed to accomplish the purposes herein expressed to the greatest extent permitted by law.

Section 2. Definitions.

The following words, terms and phrases, when used in this Code of Ethics, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business entity means any business, proprietorship, firm, partnership, person in a representative or fiduciary capacity, association, venture, trust or corporation.

Campaign for elective office means 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:

1. Relating to the support or opposition of any executive, legislative, or administrative action,

2. Relating to collective bargaining, or
3. That are otherwise in furtherance of the person's official duties.

Candidate means 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 10 ILCS 5/1-3.

Collective bargaining has the same meaning as that term is defined in the Illinois Public Labor Relations Act, 5 ILCS 315/3(b).

Compensated time means, 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 public 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 means 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 the Illinois Election Code, 10 ILCS 5/9-1.4.

Doing business means engaging in an activity for profit or gain, or that requires a license or permit by an agency.

Employer means the Batavia Park District.

Family member means a spouse, children and grandchildren, and their spouses, parents and the parents of a spouse, and brothers and sisters and their spouses. All relations which arise by action of law, civil union or marriage shall be included within the meaning of Family Member, including step relatives, adoptees and half siblings. For the purpose of this Chapter the word spouse shall include a life partner.

Gift means 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 given without consideration or expectation of return.

Interest

means any material direct or indirect benefit accruing to a public official or employee, whether in the public official's or employee's own name, or the name of any person from which the official or employee is entitled to receive any financial benefit as a result of a contract or transaction which is or which is known will become the subject of an official act or action by or with the Park District, except for such contracts or transactions which, by their terms and the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other citizens of the Park District. Notwithstanding anything to the contrary, any interest permitted or prohibited under the Public Officer Prohibited Activities Act, 50 ILCS 105/3, shall be permitted or prohibited under the same circumstances and conditions as therein set forth.

Interest in real property

Includes, but is not limited to, the following:

1. Legal or equitable title;
2. A beneficial interest in any trust, including a land trust;
3. Any assignment of any interest from a beneficiary or any other party of an interest;
4. A power to direct conveyance;
5. A right to receive rents or proceeds from property;
6. The obligation to pay rent;
7. A lien;
8. A tax sale certificate;
9. An option; or
10. Any other financial interest, real or personal, direct or indirect, in such property, including status as a nominee or undisclosed principal.

Intergovernmental gift

means any gift given to a public official or public employee by a public official or public employee of another governmental entity.

Intragovernmental gift

means any gift give to a public official or public employee from another public official or public employee.

Leave of absence

means any period during which an employee does not receive:

1. Compensation for employment, nor
2. Service credit towards pension benefits.

Lobbyist

means any person:

1. Who, for compensation or on behalf of any person other than himself, undertakes to influence any legislative or administrative action; or
2. Any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

Official act or action

means any legislative, administrative, appointive or discretionary act of any public official or public employee of the Park District, or any agency, board, committee or commission thereof.

Person

means any individual, entity, corporation, proprietorship, partnership, joint venture, firm, association, trade union, syndicate, committee, trust, estate or group, as well as any parent or subsidiary of any of such entities, whether or not operated for profit, doing business with or participating in a transaction with or before the Park District or any commission or agency thereof.

Political activity

means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:

1. Relating to the support or opposition of any executive, legislative, or administrative action;
2. Relating to collective bargaining; or
3. That are otherwise in furtherance of the person's official duties.

Political organization

means 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 a county clerk under Section 9-3 of the Election Code, 10 ILCS 5/9-3, but only with regard to

those activities that require filing with the State Board of Elections or a county clerk.

**Prohibited
political activity**

means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event;
2. Soliciting contributions, including but not limited to purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event;
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution;
4. Planning, conducting, or participating in a public opinion poll 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;
5. 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;
6. 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;
7. 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;
8. 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;
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;
10. Preparing or reviewing responses to candidate questionnaires;

11. 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;
12. Campaigning for any elective office or for or against any referendum question;
13. Managing or working on a campaign for elective office or for or against any referendum question;
14. Serving as a delegate, alternate, or proxy to a political party convention; or
15. Participating in any recount or challenge to the outcome of any election.

Public employee means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of the Employer with regard to the material details of how the work is to be performed.

Public official means any person elected or appointed to the Park District Board or persons appointed to any other Park District board or committee.

Transaction means any matter upon which a public official or public employee performs an official act or action including, but not limited to, contracts, work or business with the Park District, the sale or purchase of real estate by the Park District and any requests for zoning amendments, variations, planned development approval or special permits pending before the Park District.

Section 3. Conflict of interest.

- A. No public official or public employee shall perform or participate in an official act or action with regard to a transaction in which he has or knows he will thereafter acquire an interest for profit, without full public disclosure of such interest.
- B. Whenever the performance of an official act or action of a public official or public employee shall include deliberation, voting or the rendering of a decision on his part on any matter in which he has or knows he may acquire an interest, he shall publicly disclose the nature and extent of such interest and disqualify himself from participating in the deliberation and the decision-making process, as well as participating in the voting. In order to avoid the appearance of impropriety, the public official or public employee who has disqualified himself from participation under this subsection shall not be present in the same room during which the decision-making process, the deliberations or voting on the issue may occur.

- C. No public official or public employee, , or paid consultant of the Park District shall represent any person in any action or proceeding against the interests of the Park District in any litigation in which the Park District is a party.
- D. Any contract entered into or other official action of the Park District Board applied for or in any other manner sought, obtained or undertaken in violation of any of the provisions of this Code of Ethics may be declared void by the Board or may be ratified as the Board shall determine to be in the best interests of the District.

Section 4. Gift ban.

- A. Except as permitted in subsection (b), no public official or public employee, as the case may be, and no family member, shall solicit or accept any gift from any person.
- B. Subsection (a) is not applicable to the following exceptions which are mutually exclusive and independent of every other exception:
 - 1. An award publicly presented in recognition of public service;
 - 2. Commercially reasonable loans made in the ordinary course of the lender's business;
 - 3. Complimentary copies of trade publications;
 - 4. Holiday greeting cards;
 - 5. Opportunities, benefits, and services that are available on the same conditions as for the general public;
 - 6. Anything for which the public official or public employee or family member pays the fair market value;
 - 7. Any (i) contribution that is lawfully made under the Election Code, 10 ILCS 5/1-1, *et seq.*, or (ii) activities associated with a fundraising event in support of a political organization or candidate;
 - 8. Educational materials;
 - 9. 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, party to a civil union, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse or partner in a civil union and the individual's fiancé or fiancée;
 - 10. 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 or her 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:

- a. 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;
 - b. 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
 - c. 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 public officials or public employees or family members;
11. 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 a public official or public employee), if the benefits have not been offered or enhanced because of the official position or employment of the public official or public employee, and are customarily provided to others in similar circumstances;
 12. Intragovernmental and intergovernmental gifts;
 13. Bequests, inheritances, and other transfers at death; or
 14. Reasonable hosting, and food or refreshments not exceeding \$75.00 per person in value on a single calendar day, furnished to the public official or public employee in connection with official Park District business, if furnished by the sponsor of the event relating to the official Park District business and the hosting, and food or refreshments are consumed on the premises from which they were purchased, prepared, or catered.
 15. Any item or items from any one person during any calendar year having a cumulative total value of less than \$100.
- C. The foregoing regulations in this Section are intended to be no less restrictive than the State Gift Ban Act, 5 ILCS 430/10-10, *et seq.*, and represent the rules required to be adopted thereby, 5 ILCS 430/70-5.
 - D. If the State Supreme Court declares the State Gift Ban Act, 5 ILCS 430/10-10, *et seq.*, unconstitutional in its entirety, then this section shall be repealed as of the date that the Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This section shall be deemed repealed without further action by the corporate

authorities of the Park District if the Act is found unconstitutional by the State Supreme Court.

If the State Supreme Court declares part of the State Gift Ban Act, 5 ILCS 430/10-10, *et seq.*, unconstitutional, but upholds the constitutionality of the remainder of the Act or does not address the remainder of the Act, then the remainder of the Act as adopted by this section shall remain in full force and effect; however, the part of this section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Park District.

- E. Any mandatory amendment to the State Gift Ban Act, 5 ILCS 430/10-10 *et seq.*, that becomes effective after the passage of the ordinance(s) from which this Code of Ethics is derived shall be incorporated into this Code of Ethics by reference and shall be applicable to the solicitation and acceptance of gifts. However, any amendment that makes its provisions optional for adoption by park districts shall be incorporated into this Code of Ethics by reference only after formal action by the corporate authorities of the Park District.

Section 5. Disclosure of information.

No public official or employee, with respect to any transaction which is actually or is reasonably expected to become the subject of an official act or action, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Park District or use such information to advance the interest of such public official or employee, or their family members.

Section 6. Private use of public property.

No public official or employee shall request or permit the use of Park District-owned vehicles, equipment, materials or property for personal use or convenience except as allowed by administrative order of the Park District Executive Director or to the extent the same opportunity is available to other residents of the Park District.

Section 7. Special consideration, treatment or advantage of others.

No public official or public employee shall grant any special consideration, treatment or advantage to any person or business entity beyond that which is available to every other citizen.

Section 8. Prohibited political activities.

- A. No officer or employee shall intentionally perform any prohibited political activity during any compensated time. No officer or employee shall intentionally use any property or resources of the Park District 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 or her 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 or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this section.
- E. The foregoing regulations in this Section are intended to be no less restrictive than the Section 5-15 of the State Officials and Employees Ethics Act, 5 ILCS 430/5-15, and represent the rules required to be adopted thereby, 5 ILCS 430/70-5.
- F. If the State Supreme Court declares Section 5-15 of the State Officials and Employees Ethics Act, 5 ILCS 430/5-15, unconstitutional in its entirety, then this section shall be repealed as of the date that the Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This section shall be deemed repealed without further action by the corporate authorities of the Park District if the Act is found unconstitutional by the State Supreme Court.

If the State Supreme Court declares part of the State Officials and Employees Ethics Act, 5 ILCS 430/5-15, unconstitutional, but upholds the constitutionality of the remainder of the Act or does not address the remainder of the Act, then the remainder of the Act as adopted by this section shall remain in full force and effect; however, the part of this section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Park District.

- G. Any mandatory amendment to the Section 5-15 of the State Officials and Employees Ethics Act, 5 ILCS 430/5-15, that becomes effective after the passage of the ordinance(s) from which this Code of Ethics is derived shall be incorporated into this Code of Ethics by reference and shall be applicable to the solicitation and acceptance of gifts. However, any amendment that makes its provisions optional for adoption by park districts shall be incorporated into this Code of Ethics by reference only after formal action by the corporate authorities of the Park District.

Section 9. Whistleblower protection.

- A. No public official, employee or agency shall discharge, threaten or otherwise discriminate against a complainant, or public official or employee acting on behalf of a complainant, regarding compensation, terms, conditions, location or privileges of employment because:

1. The complainant, or public official or employee acting on behalf of the complainant, reports or is about to report, verbally or in writing, a violation or a suspected violation of this Code of Ethics; or
 2. A complainant, or public official or employee acting on behalf of the complainant, has opted or is requested to participate in an investigation, hearing or inquiry, or any related court action.
- B. This section shall not apply to a complainant, or public official or employee acting on behalf of a complainant, who knowingly makes a false report.

Section 10. Disclosure of interest.

Any public official or employee who has, or whose family members have, an interest in a transaction which is the subject of an official act or action shall disclose on the record of the board or commission which performs such official act or to the Park District Executive Director, in the case of public employees, the nature and extent of such interest. Nothing herein shall be construed to permit the Park District, any public official or employee to participate in any transaction or do business with the Park District following such disclosure if it is otherwise prohibited by law.

Section 11. Annual disclosure statements.

All public officials and public employees required to file a disclosure of economic interests with the county clerk in conformance with the Illinois Governmental Ethics Act, 5 ILCS 420/1-101, *et seq.*, shall file a statement of economic interests with the Park District Secretary before entering upon the duties of office or employment and annually thereafter at the same time that the public official is required to file a disclosure of economic interests with the county clerk, or at such time as may otherwise be established by the Park District Secretary.

Section 12. Incompatible employment; Prohibited Employee Relationship.

- A. No public official or public employee shall engage in private employment with, or render services for, any private person who has business transactions with the Park District unless such public official shall first make full public disclosure of the nature and extent of such employment or services.
- B. Except as otherwise provided herein, the Park District shall enforce a policy prohibiting the hiring for employment:
1. Current elected officials;
 2. Family members of public employees in the same division or department of the District where the family member reports to or is supervised by him or herself or his or her family member; and
 3. Family members of Department Directors and/or the Executive Director.

4. The provisions of this Section 12.B shall not apply to any full-time or regular part-time employee of the Park District hired before the effective date of the Ordinance adopting this Code of Ethics (February 21, 2023).

Section 13. Accounting for benefits obtained in violation of article.

Any current or former public official or employee shall, upon demand of the Park District Executive Director, account for all benefits accruing to such public official or employee as a result of any violation of this Code of Ethics.

Section 14. Ethics Advisor.

- A. The Board President, with the advice and consent of the Board of Park Commissioners, shall designate an Ethics Advisor for the Park District. The duties of the Ethics Advisor may be delegated to a disinterested officer, employee or agent of the Park District.
- B. The Ethics Advisor shall provide guidance to the officers and public employees of the Park District concerning the interpretation of and compliance with the provisions of this Code of Ethics and State ethics laws. The Ethics Advisor shall perform such other duties as may be delegated by the Park District Board.

Section 15. Complaints.

All complaints for violations of this Code of Ethics shall be processed and adjudicated in the same manner as like crimes, offenses and ordinance violations, as may be applicable.

Section 16. Severability.

If any provision of this Code of Ethics or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity does not affect other provisions or applications of this Code of Ethics which can be given effect without the application of the invalid provisions, and, to this end, each such invalid provision or invalid application of this Code of Ethics is severable, unless otherwise provided by this Code. It is hereby declared to be the legislative intent of the Park District that this Code of Ethics would have been adopted had any such unconstitutional or otherwise invalid provision or application not been included.

Section 17. Violations; penalties.

- A. A person who is found guilty of intentionally violating any provision of Section 8 (Prohibited Political Activities) of this chapter shall be guilty of a Class A misdemeanor.
- B. A violation of Section 4 (Gift Ban) shall be prosecuted as a quasi-criminal offense by the Park District attorney. A person who is found guilty of intentionally violating any provision of Section 4 shall be guilty of a business offense and may be fined an amount of no less than \$1,000.00 and up to \$5,000.00.
- C. Any person who is found guilty of intentionally making 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 shall be guilty of a Class A misdemeanor.

- D. In addition to any other penalty that may be applicable hereunder, a public official who is found guilty by a court of competent jurisdiction of violating any provision of Section 4, Section 8, or subsection (c) herein, after due notice and a hearing before the Park District Board, may be subject to discipline, or removal from office as otherwise may be authorized by law.
- E. In addition to any other penalty that may be applicable hereunder, a public employee who is found guilty by a court of competent jurisdiction of violating any provision of Sections 4, Section 8, or subsection (c) herein, may be subject to discipline and/or dismissal as may otherwise be determined by the Park District Executive Director.

The penalties provided in subsections (A) through (E) are not exclusive and are in addition to any other regulations relating to public official or public employee sanctions or disciplinary procedures as may otherwise be authorized in the Park District Code for violation of the Code of Ethics or analogous statutory provisions.