

SECTION:

FOOTNOTE(S):

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The provisions of 65 ILCS 5/3-14-4 and 50 ILCS 105/3, 105/3.1, 105/3.2 and 105/4, as amended, shall not be applicable to the City, any member of the City Council, the City Manager, any member of several boards and commissions or any officer or employee of the City.

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5 ILCS 430/5-15.† 5 ILCS 430/10-10 through 10-40.

1-13-1: - DEFINITIONS:

The following definitions shall apply to this Chapter:

<p>BUSINESS OR TRANSACTION:</p>	<p>Licenses, permits, approvals, and benefits granted, given, or entered into by the City.</p>
	<p>Business or transaction restrictions shall not apply to those applicants exempted under Section 1-12-5 of this Title, unless specifically hereinafter provided.</p>
<p>CONTRACT:</p>	<p>Any agreement between the City of Naperville and any person, firm, corporation, or entity for the purchase of materials, goods, or services or real estate from the entity. Contract shall also mean any agreement whereby real estate, materials, goods, or services are sold by the City to the entity. Contract shall also mean a deposit of monies, loans, or other financial services provided to the City by banks and other thrift institutions. Contract shall include employment by the City.</p>
<p>EMPLOYMENT INTEREST:</p>	<p>An employment interest exists where a person is an employee or agent of the entity contracting or having any business or transaction with the City, and:</p>
	<p>1. The person is compensated in a manner so that he would receive a commission, bonus, or profit sharing distribution based in whole, or in part, on the contract, business, or transaction with the City, or</p>
	<p>2. The total of all contracts, business, or transactions between the City and the entity, in any calendar year, amount to more than twenty-five thousand dollars (\$25,000.00).</p>
	<p>An employment interest shall not include employment by another unit of</p>

	government.
FAMILY INTEREST:	A family interest exists where a person has a wife, husband, son, daughter, father, mother, brother, or sister who has an ownership or employment interest in a contract, business, or transaction with the City.
OWNERSHIP INTEREST:	An ownership interest exists where a person is the sole proprietor, owner, partner, stockholder, or joint venturer of the entity contracting, or having any business or transaction with the City. (Ord. 87-70, 6-2-1987)

1-13-2: - PROHIBITED INTERESTS:

No member of the City Council or the City Manager shall have an ownership interest, an employment interest, or a family interest in any of the following matters:

1. Any contract, business, or transaction of the City or in the sale of any article to the City where the expense, price, or consideration is paid either from the City's treasury or by an assessment levied by the City;
2. Any purchase of goods, articles, or property belonging to the City;
3. Any purchase of property sold for delinquent taxes or assessments of the City or sold by virtue of legal process at the suit of the City.

The foregoing regulations shall not be applicable if a specific exception is provided for in Section 1-13-3 of this Chapter.

(Ord. 87-70, 6-2-1987)

1-13-3: - EXCEPTIONS TO PROHIBITED INTERESTS:

Members of the City Council may have an ownership, employment, or family interest in any contract, business, or transaction if such interest meets one of the following conditions:

1. The ownership, employment, or family interest is less than a seven and one-half percent (7½%) share of the ownership of the entity and any contract is awarded by competitive bidding, or
2. The ownership, employment, or family interest is five percent (5%) or less of the shares of a publicly held corporation traded on a stock exchange, or
3. The contract awarded by the City is less than ten thousand dollars (\$10,000.00) and is in accord with the procedures of Section 1-9B-7 of this Title, or
4. The ownership, employment, or family interest is less than a seven and one-half percent (7½%) share of any public utility company providing utility services to the City and the utility's rates are approved by the Illinois Commerce Commission or the Federal Energy Regulatory Commission, or
5. The ownership, employment, or family interest is less than a seven and one-half percent (7½%) share of a bank or savings and loan institution which has a contract of deposit of monies, loans, or financial services with the City.

(Ord. 87-70, 6-2-1987)

1-13-4: - DISCLOSURE AND ABSTENTION:

When any member of the City Council has an ownership, employment, or family interest, in a proposed contract, business, or transaction with the City, which interest is allowed by Section 1-13-3 of this Chapter, such Council Member shall file with the City Manager a written disclosure of such interest, a description of such interest, the provision of Section 1-13-3 of this Chapter relied upon, and a description of the applicability of such exception on a form as follows:

*DISCLOSURE OF INTEREST
IN CONTRACT, BUSINESS, OR TRANSACTION*

Name: _____

Position _____ with _____ City: _____
Name of entity contracting with City: _____
Proposed contract, business, or transaction: _____

I have an _____ [] Ownership
[] Employment
[] Family

interest in the proposed contract, business, or transaction as follows: _____

I am entitled to have such an interest under the provisions of Section 1-13-3__ because of the following facts: _____

Dated: _____/_____/_____
Signature _____

1. Such written disclosure shall be filed with the City Manager not later than the call to order of the City Council meeting at which the proposed contract, business, or transaction is to be considered. The City Manager shall bring the written notification to the attention of the City Council in public when the item is called on the agenda for consideration.
2. A member of the City Council having an interest for which a disclosure is required shall leave the chamber where deliberations take place during the discussion and vote on the interested matter and shall not vote on said matter.

(Ord. 87-70, 6-2-1987)

1-13-5: - VOIDANCE OF PROHIBITED CONTRACTS:

No contract which would cause a violation of Section 1-13-2 of this Chapter shall be approved by the City Council and any contract which is approved is void ab initio.

(Ord. 87-70, 6-2-1987)

1-13-6: - BOARDS AND COMMISSIONS:

It shall be lawful for members of the various boards and commissions of the City, established from time to time by the ordinances of the City and the statutes of the state, to have an

ownership, employment, or family interest in any contract, business, or transaction with the City, provided that said member shall file with the City Manager and with the chairman or vice chairman of the member's board or commission, the following disclosure:

*DISCLOSURE OF INTEREST
IN CONTRACT, BUSINESS, OR TRANSACTION*

Name: _____

Position _____ with _____ City: _____
Name of entity contracting with City: _____
Proposed contract, business, or transaction: _____

I have an _____ [] _____ Ownership
[] _____ Employment
[] Family

interest in the proposed contract, business, or transaction as follows: _____

Dated: _____/_____/_____
Signature _____

1. Said disclosure shall be filed before any board or commission (including the member's own) or the City Council considers approval of the proposed contract, business, or transaction.
2. In the event the member's own board or commission is to review or recommend upon such contract, business, or transaction, the member shall leave the chamber where deliberations take place during the discussion and vote on the interested matter and such member shall have no vote upon the matter.
3. The disclosure form filed by said member shall be attached to and made a part of the minutes of the meeting of said board or commission and shall be attached to and made a part of the report or recommendation made by said board or commission to the City Council, the City Manager, or any other board or commission of the City to whom such report or recommendation is rendered. Such disclosure shall be included with the agenda when the matter is proposed for approval by the City Council.
4. Any member of a board or commission who knowingly fails to file a disclosure required by this Section shall be subject to immediate removal from such board or commission by the City Council.

(Ord. 87-70, 6-2-1987)

1-13-7: - CITY EMPLOYEES:

City employees may have an ownership, employment, or family interest in any contract, business, or transaction with the City, provided that the City employee shall file with the City Manager the disclosure required in Section 1-13-6 of this Chapter, prior to approval of said contract, business, or transaction by the City Manager or the City Council. Said disclosure shall be included in the agenda of the meeting at which any such interested matter is to be considered.

1. The City Manager shall reject any proposed contract, business, or transaction which directly affects the department where the employee works or where the employee is in a position to recommend, as part of his official duties, any such contract, business, or transaction.
2. The City Manager may, by administrative directive, establish additional standards for employees who may have an interest in any contract, business, or transaction with the City.

3. Any employee who knowingly fails to file a disclosure required by this Section shall be subject to immediate dismissal from employment with the City.

(Ord. 87-70, 6-2-1987)

1-13-8: - NO DISCLOSURE REQUIRED:

Notwithstanding any other provision of this Chapter, no disclosure is required under Sections 1-13-6 and 1-13-7 of this Chapter where the only interest is five percent (5%) or less ownership of shares of a publicly held corporation traded on a stock exchange.

(Ord. 87-70, 6-2-1987)

1-13-9: - COMPLIANCE WITH THE STATE OFFICIALS AND EMPLOYEES ETHICS ACT:

1. The regulations of Sections 5-15 [\[23\]](#) and Article 10† of the State Officials and Employees Ethics Act, 5 Illinois Compiled Statutes 430/1-1 et seq., ("Act") are hereby adopted by reference and made applicable to the officers and employees of the City of Naperville to the extent required by 5 Illinois Compiled Statutes 430/70-5.
2. The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act by any officer or any employee of the City is hereby prohibited.
3. The offering or making of gifts prohibited to be offered or made to an officer or employee of the City under the Act is hereby prohibited.
4. The participation in political activities prohibited under the Act by any officer or employee of the City is hereby prohibited.
5. For purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in 5 Illinois Compiled Statutes 430/70-5(c).
6. The penalties for violations of this Section shall be the same as those penalties set forth in 5 Illinois Compiled Statutes 430/50-5 for similar violations of the Act to the extent allowed by law.
7. This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 Illinois Compiled Statutes 430/70-5(a).
8. Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities except that any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the Naperville City Council.
9. In the event that the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings at which time this Section shall be deemed repealed without further action by the Naperville City Council.
10. In the event that the Illinois supreme court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Naperville City Council.
11. The City Attorney shall be designated the Naperville Ethics Officer. It shall be the responsibility of the Ethics Officer to provide guidance to the officers and employees of the City of Naperville concerning the interpretation of and compliance with the provisions of this Section and State ethics laws.

(Ord. 04-079, 5-4-2004)