

CHAPTER 9 CIVIL SERVICE

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CHAPTER 9 CIVIL SERVICE

SECTION 9.01 **Purpose and Intent; Equal Opportunities Policy; Affirmative Action.**

- (a) **Intention.** This chapter is intended to provide security for employees by assuring them of employment in an environment which is free from political considerations, partisanship, or favoritism in the selection and advancement of employees. This chapter is formulated to establish a merit system of fitness and efficiency as the basis of employment and advancement, to protect employees from arbitrary and capricious actions, and to prevent discrimination of any nature from influencing employment decisions within the Village of Cross Plains.
- (b) **Equal Opportunities Policy.** In achieving the purpose and intention of this chapter, it shall be the policy of the Village of Cross Plains to provide equal opportunity in Village employment regardless of age, race, creed, religion, color, handicap, marital status, sex, national origin, ancestry, sexual preference, political affiliation (unless such discrimination is required by law), physical appearance, arrest record or conviction record. All employees shall be treated equally with respect to compensation, training, layoff, and recall as well as opportunities for advancement, including upgrading, promotion, and transfer, and selections of apprenticeship insofar as it is within the Village's control.
- (c) **Affirmative Action.** To further the Village's equal opportunities policy, the Village will take affirmative action to achieve the following goals: to reach a workforce balance which will reflect the representation of women, minorities, and individuals with disabilities in the labor market, to increase the subcontracting opportunities of companies owned by women, minorities, and individuals with disabilities, and to encourage similar efforts from those companies with which the Village does business.

SECTION 9.02 **Definitions.**

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

- (a) **Department.** Any division of employment within the Village of Cross Plains, including but not limited to Administration, Public Facilities, Police, and Parks. In addition to this chapter, the Librarian will also be subject to the specific provisions of the state statutes which govern librarians.
- (b) **Department Head.** Those employees with supervisory responsibilities, such as the Director of Public Facilities, the Police Chief, the Village Administrator/Clerk-Treasurer, and the Park and Recreation Director.

- (c) **Employee's Immediate Family.** The employee's parents, stepparents, spouse, children, stepchildren, grandchildren, parents-in-law, brothers, sisters, stepbrothers, stepsisters and grandparents.
- (d) **Fiscal Year.** That period from the first day of January through the 31st day of the following December, unless otherwise defined by the Village Board.
- (e) **Full-Time Employee.** One who, based on the job description, normally works 40 hours a week, year round.
- (f) **Part-Time Employee.** One who, based on the job description, normally averages less than 24 hours a week.
- (g) **Position.** An employment placement or post which, upon request of the appropriate commission, is created or affirmed by the Village Board.
- (h) **Probationary Employee.** A newly hired employee who has not yet successfully completed a probationary period as described in Section 9.07.
- (i) **Regular Employee.** A full-time or three-fifths-time employee who has satisfactorily completed the probationary period and has received an appointment to a position. Part-time, seasonal, temporary and special employees shall not be considered regular employees.
- (j) **Regular Rate.** The rate per hour for normal non-overtime work. For employees paid a weekly salary, the regular rate is determined by dividing the salary by the number of hours which the salary is intended to compensate. The regular rate for employees paid a monthly salary is computed by multiplying the salary by 12, dividing the result by 52 and dividing that result by the number of hours per week the salary is intended to compensate.
- (k) **Seasonal Employee.** One who works full time for a period of less than one year and whose services can be anticipated as needed and likely to recur on a seasonal basis.
- (l) **Special Employee.** One whose services are engaged as a result of a program which is funded by the state, federal or county government and whose employment is subject to and contingent upon the continuation of such funding.
- (m) **Temporary Employee.** One who works for a period of six months or less on an urgent-need basis.
- (n) **Three-Fifths-Time Employee.** One who, based on the job description, generally works 24 hours or more but less than 40 hours a week.
- (o) **Work Period.** For police, fire and seasonal employees, 28 consecutive days.
- (p) **Workweek.** For employees other than police, fire or seasonal employees, seven consecutive twenty-four-hour periods commencing at 12:01 a.m. Monday and ending at 12:00 midnight Sunday.

SECTION 9.03 Applicability.

The provisions of this chapter shall apply to all employees of the Village. If the terms of a collective bargaining agreement provide different rights or benefits than those set forth in this Chapter, the terms of the collective bargaining agreement shall apply.

SECTION 9.04 Notice of Job Openings.

Whenever there is an opening for a full-time position within the Village, notice thereof shall be posted in the Village Municipal Building for two calendar weeks. The notice shall also be published at least once in the official Village newspaper and/or other appropriate media. The notice shall contain the job title, a description of the general area of employment and type of work to be performed, the desirable or minimum qualifications for the position, the rate or range of pay, a statement that Cross Plains is an equal opportunity employer and complies with the requirements of the Americans with Disabilities Act (ADA), and such other information as the Village deems appropriate. This hiring practice shall apply to all full-time Village hires but shall not supersede statutory requirements for the hiring of sworn police officers.

SECTION 9.05 Written Applications.

Individuals who indicate an interest in a job opening shall be required to submit a written application therefore and shall be considered for the position on the basis of qualifications, education, training and experience.

SECTION 9.06 Selection Procedure.

- (a) **Full-time Positions.** The Village Board, acting in conjunction with the appropriate commission, shall determine the most qualified applicants for positions using job-related criteria and shall, by majority vote, select the applicants to fill the positions. Whenever required by law, veterans' and other preferences shall be applied to the selection process.
- (b) **All Other Positions.** Three-fifths time, part-time, seasonal, special and temporary employees shall be approved by the appropriate department head.

SECTION 9.07 Probationary Employees.

- (a) **Probation Period Required.** Any person who is appointed to fill a full-time position, whether newly hired or hired from within the existing work force, shall serve a twelve-month probation in the new position. Any person who is appointed to fill a three-fifths-time position, whether newly hired or hired from within the existing workforce, shall serve a twelve-month probation in the new position. Persons hired as Law Enforcement Officers shall serve an eighteen-month probationary period, which shall begin upon successful completion of the field training program.
- (b) **Periodic Performance Reviews.** The department head shall strive to provide written performance reviews of each probationary employee just prior to the end of the third, middle and final month of the employee's probationary period. The department head may provide more frequent reviews, if desired.

- (c) **Unsatisfactory Performance During Probation.** If a probationary employee does not perform the job requirements satisfactorily, the department head may discharge the new employee, or return a promoted employee to their former position. In lieu of such a discharge or demotion, the department head may extend the employees probation for an additional period of not more than six (6) months without any right of appeal.

SECTION 9.08 Part-time, Seasonal, Special and Temporary Employees.

Part-time, seasonal, special and temporary employees are not required to serve a probationary period. However, they are subject to the summary discharge and demotion provisions established under Section 9.07(c) for probationary employees. Part-time, seasonal and temporary employees are not entitled to any fringe benefits. Special employees are entitled to fringe benefits only in accordance with the contract agreed upon with the compensatory agency.

SECTION 9.09 Disciplinary Action for Regular Employees.

- (a) **Cause Required.** No full-time or three-fifths time employee shall be suspended with or without pay, discharged, or demoted without cause. This provision is not intended to curtail the Village Board's authority to cut, modify or consolidate positions.
- (b) **Right to Discipline.** Each department head shall, subject to the provisions of this section, be allowed full freedom with respect to disciplinary action, it being the intent and spirit of this chapter to provide a fair and just approach to municipal employment but in no sense to curtail responsible administrative officers in securing efficient service. Accordingly, each regular employee of the Village of Cross Plains shall be subject to suspension, suspension without pay, discharge, demotion or other disciplinary action for misconduct, incompetency, carelessness, negligence, insubordination, unsatisfactory performance, inefficiency, or failure to perform job duties or observe the rules and regulations of the department or of the Village Board.
- (c) **Notice.** Seven days prior to the taking of any disciplinary action against a regular employee, the department head shall provide the employee with a written statement of the discipline to be imposed and the reasons for such intended action, a copy of which shall be filed with the Village Administrator/Clerk-Treasurer.
- (d) **Pre-discipline Hearing.**
 - (1) A hearing on the proposed disciplinary action shall be held by the Village Board if a written hearing request is filed by the employee with the Village Administrator/Clerk-Treasurer within seven days of receipt of the written notice regarding the proposed disciplinary action. Absent such a request, the proposed disciplinary action shall become effective seven days after the employee's receipt of the written notice.

- (2) Upon receipt of a timely and proper hearing request, the proposed disciplinary action is postponed or suspended pending the outcome of the Village Board's review. The hearing shall be held before the Village Board within 14 days of the request.
- (3) At the hearing, the proponent of the disciplinary action shall be represented by the Village Attorney and shall present testimony and evidence first. The employee, who may be represented by a representative of his or her choosing, shall then have the opportunity to present testimony and evidence. Both the proponent of the disciplinary action and the employee shall have the right to cross-examine adverse witnesses and to compel the attendance of witnesses by subpoenas, which shall be issued by the Village President upon request.
- (4) The Village Board's written findings and determinations shall be filed with the Village Administrator/Clerk-Treasurer within 10 days after completion of the hearing. The findings shall state the reasons for the disciplinary action and shall state the effective date of the discipline imposed, if any. The Administrator/Clerk-Treasurer shall promptly forward a copy thereof to the proponent of the disciplinary action and to the employee either by personal service or by certified mail with return receipt requested.

SECTION 9.10 Summary Disciplinary Action for Probationary, Part-time, Seasonal, Special and Temporary Employees.

All probationary (full-time or three-fifths), part-time, seasonal, special and temporary employees may be summarily disciplined in accordance with the provisions of Section 9.07(c) above.

SECTION 9.11 Layoffs and Reemployment.

- (a) **Need for Layoff.** The need to lay off Village employees shall be determined directly by the Village Board, acting in conjunction with the department head.
- (b) **Reductions in Higher Positions.** When it becomes necessary for economic reasons, lack of work, or other just cause to reduce the number of employees in the higher positions or offices, or to abolish or modify any higher positions or offices in the department, the employee or employees affected thereby shall be placed in a less responsible position or office in the department thereby requiring the laying off of lower-level employees in the department.
- (c) **Order of Layoff.** When it becomes necessary to reduce the number of employees, temporary employees and part-time employees shall be laid off first. Thereafter employees shall be laid off as recommended by the department head and as approved by the Village Board. Layoffs shall be in the order of the shortest length of service with the Village unless other good reasons, such as the need for

specialized knowledge, skills, experience or credentials, justify a different order of layoff.

- (d) **Reemployment Preference.** The name of any regular employee laid off for any reason shall be placed on a reemployment list for a period of 12 months after the date of layoff. If any position opens during said period, persons on such list, if then competent for the job, shall be given first preference for any such position in the inverse order of their layoff. Any rights of preferential reemployment cease 12 months after the date of layoff.

SECTION 9.12 Compensation Plan.

- (a) **Salary Schedule.** Employees shall be compensated in accordance with the relevant provisions of the annual Village budget and applicable provisions of state and federal law.
 - (1) The probation rate shall be paid to an employee during the initial probation period. However, the Village Board may authorize appointment at any level in the pay range for the job classification, if special circumstances exist.
 - (2) Upon receiving a regular appointment, the employee's compensation shall be increased to the then applicable pay level.
 - (3) The step increase is the maximum increment by which the compensation of an employee may be increased at any one time. Step increases for meritorious service may be given, from time to time, upon recommendations of the department head and approval of the Village Board.
- (b) **Overtime Compensation.** All department heads shall authorize and monitor all overtime worked. Compensation for overtime hours worked may be in the form of compensatory time off or overtime pay, subject to the adopted department budget and at the discretion of the department head. All compensatory time off shall be granted at a time mutually agreed to between the employee and department head. The maximum amount of accrued compensatory time off shall not exceed the maximum number of allowable hours as established under the federal Fair Labor Standards Act. All overtime compensation will be paid on the regular payday for the period in which the overtime work occurred; provided, however, that overtime compensation may be delayed one pay period if it cannot be timely calculated. When employment is terminated, the employee shall be paid for all accrued compensatory time at the higher of either the employee's average regular rate over the last three years or the employee's regular rate at the time of termination. Nonexempt employees as defined under the federal Fair Labor Standards Act shall be compensated at a rate equal to 1 1/2 times their regular rate of pay for compensatory time worked in excess of 40 hours during the work week, or in excess of the allowable hours for police and fire employees during the defined work period as provided by federal law. Exempt employees as defined under the

federal Fair Labor Standards Act may be compensated for overtime in accordance with policies and procedures recommended and approved by the Village Board.

SECTION 9.13 Fringe Benefits.

- (a) **Eligibility.** Employees are eligible for fringe benefits as set forth in this section or pursuant to a relevant collective bargaining agreement. In the event of a conflict between the provisions of this chapter and a collective bargaining agreement, the terms of the bargaining agreement shall apply.
- (b) **Regular Employees.** All full-time and three-fifths-time employees are entitled to vacation, holidays, sick leave, health insurance, retirement, and life insurance benefits as set forth herein. All department heads shall also have these benefits at a rate equal to or greater than the benefits provided in this section or a relevant collective bargaining agreement.
 - (1) **Vacation.** Full-time employees of the Village are entitled to vacation benefits as follows:
 - a. Employees who first commence full-time employment with the Village on or after January 1, 1995, with zero through eight years of employment with the Village shall be granted 10 working days annually of paid vacation. No vacation shall be taken prior to completion of any probationary period; provided, however, that an employee earns vacation time during probation which may be carried over and used during the next anniversary year. Police officers completing their eighteen-month probationary period may carry over five vacation days from their first year to be used following the completion of probation. After completion of eight years of employment, paid vacation shall be earned at the rate of 15 working days annually. After completion of 16 years of employment, paid vacation shall be earned at the rate of 20 working days annually. After completion of 25 years of employment, paid vacation shall be earned at the rate of 25 working days annually. For purposes of computation of vacation, “working day” means eight hours per day for full-time employees.
 - b. Employees who were employed full time by the Village prior to January 1, 1995, with one through five years of employment with the Village shall be granted 10 working days annually of paid vacation. No vacation shall be taken prior to completion of any probationary period; provided, however, than an employee earns vacation time during probation which may be carried over and used during the next anniversary year. After completion of five years of employment, paid vacation shall be earned at the rate of 15 working days annually. After completion of 10 years of employment, paid vacation shall be earned at the rate of 20 working days annually. After

completion of 15 years of employment, paid vacation shall be earned at the rate of 25 working days annually. For purposes of computation of vacation, "working day" means eight hours per day for full-time employees.

- c. Vacations shall accumulate on an anniversary-year basis commencing with the date of hire. When employment commences or terminates during the course of a calendar year and after the first full year of employment, the vacation time to which an employee is entitled shall be determined by multiplying the vacation period to which the employee would have been entitled for a full year's service by a fraction, the numerator of which shall be the number of weeks worked during that calendar year and the denominator of which shall be 50.
- d. In computing service for vacation purposes, previous part-time, seasonal, special or temporary employment shall not be counted.
- e. Legal holidays falling within the vacation period shall not be included in determining the period of such vacation.
- f. The vacation schedules for employees shall be approved by each department head. It shall be the policy of each department head to schedule vacations over as wide a period as possible in order to eliminate or reduce the need for temporary personnel. Approval of the department head or Village Board, as the case may be, must be obtained at least two weeks prior to taking any vacation of one week or more.
- g. Upon death or permanent disability, unused vacation shall be added to the last pay due the employee.

(2) **Holidays.**

- a. The following are paid holidays for all full-time and three-fifths-time Village employees: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve afternoon, Christmas Day, New Year's Eve afternoon and a one-day floating holiday to be taken on a day selected by the employee and subject to the approval of the department head or Village Board, as the case may be.
- b. All Village offices, except those performing essential services, shall be closed on paid holidays.
- c. When a full-time or three-fifths-time employee who performs essential services is required to work on a paid holiday, the employee shall be compensated for the hours worked at a rate of 1 1/2 times the regular rate in addition to receipt of holiday pay. Overtime compensation shall be in the form of compensatory time off or overtime pay, subject to the adopted department budget and at

the discretion of the department head. This provision controls whether or not the worked holiday constitutes overtime.

- d. When a holiday listed in Subsection (b)(2)a above falls on a Saturday, the appropriate portion of the preceding Friday will be treated as a holiday. When a listed holiday (except the eves of Christmas and New Year's) falls on a Sunday, the appropriate portion of the following Monday shall be treated as a holiday. When the eves of Christmas and New Year's fall on Sunday, employees shall receive an extra personal holiday.

(3) **Sick Leave.**

- a. All full-time and three-fifths-time employees shall earn paid sick leave at the rate of one day per month.
- b. Sick leave shall begin to accumulate with the first day of employment. Sick leave may be accumulated to a total of not more than 120 working days.
- c. Sick leave shall cover all absences which result from bona fide illness of the employee or the employee's spouse or children, or from the employee's compliance with any imposed quarantine regulations by health authorities, or the keeping of any regularly scheduled doctor or dental appointment.
- d. An employee shall not be permitted to draw paid sick leave prior to the time that it has been earned.
- e. An employee shall be entitled to draw against accumulated paid sick leave upon the reporting of the circumstances warranting sick leave to the department head and upon providing further documentation as is required. Such forms as are required shall be filed with the Village Administrator/Clerk-Treasurer as soon as possible but no later than three days after the employee returns to work. When an employee takes sick leave but fails to report the circumstances thereof to the department head or fails to complete and file the required documentation within the prescribed period of time, such sick leave shall be without pay. Sick leave may not be taken in the form of wages.
- f. Willful misuse of sick leave or the filing of false documentation concerning the circumstances warranting sick leave shall subject the employee to disciplinary action and shall be considered just cause for suspension, discharge, or demotion.
- g. Upon termination of employment for reasons other than death, retirement or permanent disability, any rights or claims to accumulated paid sick leave shall terminate.
- h. Upon termination of employment for reasons of retirement, the employee shall receive compensation for 100% of the value of the accumulated unused sick leave in the form of continued participation

in the Village's group health and/or life insurance plans. The value of the employee's accumulated unused sick leave shall be used to pay the full premium of the continued participation in the Village's group health and/or life insurance plan until the amount of the sick leave is exhausted. Upon exhaustion of such funds, the employee, retains the right to continue in the Village's group health and/or life insurance plan, to the extent and as provided by law, at their own expense.

- i If an employee is not participating in the Village group health insurance plan upon retirement, the employee's sick leave will be paid to the employee by using the following formula: number of sick days multiplied by the average of the employee's rate of pay for the last 3 years, then that sum multiplied by 20%.
- (4) **Health Insurance Benefits.** The Village shall offer a group health insurance benefits plan to all full-time employees and all employees working at least 3/5 time. The precise terms of the plan and level of employer contributions, if any, shall be as periodically established by the Village Board.
- (5) **Retirement Plan.** The Village shall offer all full-time employees and all employees working at least 3/5 time a retirement plan selected by the Village Board. An eligible employee shall participate beginning on January 1 following the first anniversary of employment. The precise terms of the plan and level of employer contributions, if any, shall be as periodically established by the Village Board.
- (6) **Life Insurance.** The Village shall offer all full-time employees and all employees working at least 3/5 time a group life insurance plan with term coverage in an amount equivalent to the employee's then annual salary, to the nearest \$1,000. The premium for each employee shall be based on the group rate divided by the number of participants in the group. The precise terms of the plan and level of employer contributions, if any, shall be as periodically established by the Village Board.
- (7) **Income Continuation Insurance.** The Village shall offer an income continuation insurance benefits plan to all full-time employees and all employees working at least 3/5 time. The precise terms of the plan and level of employer contributions, if any, shall be as periodically established by the Village Board.
- (8) **Specific Benefits and Cost Allocations to be Determined Periodically.** The specific benefits, coverage, conditions of eligibility and the allocation of the costs between the employee and the Village for the retirement plan, group health insurance, group life insurance and group income continuation insurance benefits offered shall be as periodically determined by the Village Board after negotiation between the Village and the employees. Whenever practicable, these negotiations shall take place and be a part of

the Village's annual negotiations on employee wage and salary matters. Except as precluded by specific contract, the Village Board is free to change the plans offered, the terms and conditions thereof and the cost allocations thereunder as the Board deems appropriate.

(9) **Leave of Absence Without Pay.** Leave of absence without pay may be granted with approval of the department head and the Village Board in accordance with the limits contained herein. Employees shall submit written requests containing the reason for and the duration of the requested leave of absence to their department head. The department head shall submit his or her recommendation to the Village Board.

a. Personal leave shall not exceed 30 calendar days during any one calendar year. All applicable fringe benefits shall continue during an approved personal leave period.

b. Medical leave shall not exceed six months and shall only be granted after an employee has exhausted all earned vacation and sick leave. The Village Board may require the employee to submit a physician's statement as to the nature of the illness or injury, the prognosis and whether or not the employee is able to work. Before returning to work from a medical leave, the Village Board may require the employee to submit a physician's statement of release for work. Continuation of fringe benefits and the terms thereof during an approved medical leave is to be determined by the Village Board at the time it approves the requested leave.

c. Upon return from a leave not exceeding six months, the employee shall be reinstated to the position held when the leave began without a reduction in the rate of compensation or any other right or privilege of employment. In the event an employee is unable to return to work at the end of the aforementioned six months, the employee shall be placed in a layoff status for a period not to exceed an additional 18 months and shall be placed on the appropriate reemployment list as provided in Section 9.11(d).

(c) **Initial Probationary Employees.** All initial probationary employees are eligible for fringe benefits only as follows:

(1) Initial probationary employees may accrue paid sick leave during the probationary period but may not draw any paid sick leave until after the probationary period is completed.

(2) Initial probationary employees may participate, at their own expense, in the Village's group health insurance plan.

SECTION 9.14 Jury Service.

All regular full-time and three-fifths time employees shall be paid for regularly scheduled work hours missed while called for jury service. The employee shall report to work, however, for any portion of a regularly scheduled workday not directly occupied by jury duty. The leave granted herein is in addition to all other authorized leaves.

SECTION 9.15 Bereavement Leave.

Where there is a death in a regular employee's immediate family, the employee shall be granted up to three days off without loss of any pay, which time shall be chargeable to the accrued sick leave or vacation time of the employee. Additional time off may be granted at the discretion of the employee's department head.

SECTION 9.16 Annual Adjustments.

Prior to the adoption of any Village budget, the Village Board shall review the salaries and fringe benefits of the Village employees, the recommendations of department heads and the financial position of the Village and make decisions regarding what, if any, adjustments should be made in compensation or fringe benefits for the next fiscal year. All adjustments shall become effective on the first day of the following fiscal year.

SECTION 9.17 Safety and Health Precautions.

All employees must cooperate fully with the Village regarding implementation of a program, policies, or practices designed to assist in safeguarding the health and safety of Village employees. Failure of an employee to follow established safety policies and/or rules may result in disciplinary action.

SECTION 9.18 Grievance Procedure.

(a) **Purpose.** This grievance procedure is intended to comply with the requirements of 2011 Wisconsin Act 10.

(b) **Informal Resolution:**

An employee with a complaint related to employee discipline (except employee termination) or workplace safety should first seek to resolve the issue(s) with his/her immediate supervisor through informal discussion. Informal resolution of discipline complaints shall be initiated within seven (7) days of the date when an employee has been notified of the discipline. An employee complaint about a

workplace safety issue may be raised informally at any time while the safety issue persists. If the employee fails to initiate the informal resolution process with regard to employee discipline within seven (7) days, the employee waives any further entitlement to utilize the grievance process with respect to the discipline (except employee termination).

If the informal discussion does not resolve the employee discipline or workplace safety complaint and the employee is dissatisfied with the response of his/her immediate supervisor, the employee may seek informal resolution by the Village Administrator or his/her designee within seven (7) days after bringing it to the attention of his/her immediate supervisor. This step within the informal resolution process is optional; thus, it is not a necessary step in determining whether the informal resolution process has been exhausted.

If the complaint regarding employee discipline or workplace safety concerns the employee's supervisor, the employee may seek to resolve the complaint directly with the Village Administrator. If the complaint regarding employee discipline or workplace safety concerns the Village Administrator the employee may seek to resolve the complaint directly with the Village President. In cases of such employee discipline, the informal resolution process shall be commenced within seven (7) days of the date when an employee has been notified of the discipline. If the employee fails to initiate the informal resolution process with regard to employee discipline within seven (7) days, the employee waives any further entitlement to utilize the grievance process with respect to the discipline (except employee termination).

Employee termination is not subject to the informal resolution process.

(c) **Time Limits for Filing a Grievance.**

If the informal resolution process does not resolve the complaint, and the employee believes that his/her complaint rises to the level of a grievance, as defined below, the employee may initiate a formal grievance pursuant to the procedures described herein. A grievance involving discipline or an employee termination shall be filed no later than twenty-one (21) days after the employee first receives notice of the discipline or of his/her termination. A grievance involving workplace safety shall be filed no later than twenty-one (21) days after the employee first attempts to resolve his/her workplace safety concerns through the informal resolution process.

In order to process grievances as expeditiously as possible, every effort should be made to handle each step within the specified time period. If the Village official fails to comply with the time periods or other procedures outlined in this grievance

procedure, the grievant may advance the grievance to the next level. There shall be no other consequences or remedies for failure of the Village to meet the time periods outlined in this grievance procedure. If the grievant fails to comply with the time periods or other procedures outlined in this grievance procedure, the grievant waives any further rights of appeal and the grievance will be deemed resolved. However, with the exception of the time period for filing the written grievance, either party may request an extension of any time period provided in this grievance procedure, including the informal resolution process. Such extensions shall be by mutual written agreement.

If no grievance is filed, the decision of the administration shall be considered final, except a decision to terminate an employee shall be final upon ratification by the Board. The grievance may be voluntarily withdrawn at any level. Once a grievance is withdrawn, it cannot be reopened. A former employee or an employee who separates from employment during the course of the grievance may not file or continue a grievance without the written consent of the Village Administrator or designee. If at any time during the grievance process the Village grants the grievant the relief originally requested, the Village Administrator or designee may terminate the grievance at that time. Any party involved may have a representative present at all levels once the grievance has been filed in writing. Facts presented and/or examined at the Level One and Level Two hearings shall be made available to both parties. All parties shall respect the confidentiality of the grievance procedure by holding in confidence the facts and information shared in meetings and written correspondence, to the extent authorized by law.

(d) **Definitions:**

1. **Grievant:** A grievant is an employee whose own substantial interests related to termination, discipline, or workplace safety are adversely affected, denied, or controverted by a final administrative decision. In the case of an employee with a definite term contract, a “final administrative decision” is defined to include, but not be limited to, a Board approved termination based on an informal hearing (See General Considerations, Paragraph C., below).

2. **Grievance:** A grievance is a formal written complaint by an employee that a final decision related to termination, discipline, or workplace safety violated, misapplied, or misinterpreted a Village ordinance, policy, administrative regulation or procedure, or specified federal or State law or rule, or in the case of an employee with a written employment contract, the terms of such written employment contract.

a. **Employee Termination:** The term “employee termination” shall be narrowly construed to mean a separation from employment initiated by the employer, (including, for purposes of an employee with a definite term

contract, a separation from employment initiated by the employer which is effective during the term of the contract), but shall not include, without limitation by enumeration, the following:

1. Layoffs;
2. Workforce reduction activities;
3. Voluntary termination including, without limitation, quitting and resignation;
4. Job abandonment;
5. End of employment due to disability;
6. Retirement;
7. Death;
8. End of employment and/or completion of assignment of limited term, temporary, seasonal, substitute, or part-time employees; or

b. **Employee Discipline:** The term “employee discipline” shall be narrowly construed to mean a suspension without pay, or a demotion or reduction in rank, pay, or other benefits, imposed by the employer for disciplinary reasons, but shall not include, without limitation by enumeration, the following:

1. Termination, layoffs or workforce reduction activities;
2. Adverse employment actions other than a suspension without pay, or a demotion or reduction in rank, pay or other benefits, imposed upon the employer for disciplinary reasons;
3. Lateral transfers or reassignments;
4. Plans of correction or performance improvement;
5. Performance evaluations or reviews;
6. Documentation of employee acts and/or omissions in an employment file;
7. Oral or written reprimands or warnings;
8. Administrative suspension with or without pay pending investigation of misconduct or nonperformance; or
9. Non-disciplinary wage, benefit, or salary adjustments, or reductions in assigned hours.

c. **Workplace Safety:** The term “workplace safety” shall be narrowly construed to refer to (1) an existing condition that substantially endangers an employee’s health and safety; or (2) any workplace policy or procedure established by state or federal law or the Village Board to protect the safety and health of employees in the Village and, as used in this section, is alleged by an employee to have been violated and to have substantially adversely affected the employee’s safety at a Village workplace.

3. **Days:** “Days” mean calendar days.

(e) **General Considerations.**

1. **Impartial Hearing Officer:** The Village Board shall adopt, prior to the beginning of each calendar year or as the need arises, a resolution authorizing an Impartial Hearing Officer appointed by the Village Board to hold a grievance hearing and make a decision regarding the grievance. The Impartial Hearing Officer shall not be an officer, agent or employee of the Village Board at the time of appointment. The Village Board may approve a list of Impartial Hearing Officers, prior to the beginning of each calendar year (or as the need arises), to be called upon under this procedure.

2. **Standard of Review:** The standard of review to be applied by the Impartial Hearing Officer in deciding a grievance shall be based on the following, unless an alternative is provided in applicable policy, law, contract or collective bargaining agreement:

a. The review of a decision to terminate or discipline an employee with a definite term contract or a “cause” standard shall be *de novo* and the decision shall be upheld if it is based on a good and sufficient reason, which shall be any reason that is not wholly frivolous and inconsequential and that has a reasonable basis in fact.

b. The review of a decision to terminate or discipline an employee without a definite term contract or a “cause” standard shall require deference to the decision and the decision shall be upheld if it is made on any basis other than a basis which is “arbitrary and capricious,” which shall be defined as an action which is either so unreasonable as to be without rational basis or the result of unconsidered, willful, or irrational choice.

c. The review of a decision concerning a workplace safety grievance shall require deference to the decision and the decision shall be upheld if it is made on any basis other than a basis which is “arbitrary and capricious,” which shall be defined as an action which is either so unreasonable as to be without rational basis or the result of unconsidered, willful, or irrational choice.

3. **Termination of an Employee with a Contract for a Definite Term, a Cause Standard or Another Basis in Law or Fact, Including Employees Subject to Termination by the Village Board:** The required procedure for terminating an employee where there is an expectation of continued employment because of a contract for a definite term, a “cause” standard or another basis in law or fact, or whose termination of employment is decided by the Village Board, is as

follows:

a. The Village Administrator or his/her designee (or in the case of the termination of the Village Administrator, an individual designated by the Village President) shall notify the employee, in writing, that he/she intends to recommend that the Board terminate the employee at the next regularly scheduled Village Board meeting or a Special Village Board meeting within forty-five (45) days of the date of the written notice.

b. At the Village Board meeting to hear the termination recommendation, the Board shall hold an informal hearing, which means that the Village Administrator or his/her designee (or in the case of the termination of the Village Administrator, an individual designated by the Village President) will present a summary of the evidence and argument in support of the recommendation for termination, to be followed by an opportunity for the employee and his/her representative to present a summary of any evidence and argument in response. An informal hearing, for purposes of this Grievance Procedure, is not a full-blown evidentiary hearing, i.e., there shall be no swearing of witnesses and no direct or cross examination of witnesses; and the rules of evidence do not apply.

c. The Board shall issue its decision, in writing, within seven (7) days of the informal hearing. If the Board accepts the recommendation to terminate the employee, the Board shall inform the employee, in writing, that the Board has terminated the employee's contract/employment and that, if the employee wishes to appeal the termination decision, the employee shall file an appeal at Level Two by filing a completed grievance form with the Village President within twenty-one (21) days of receiving written notice of termination. If no appeal is filed, the Board's decision shall become final.

d. The expiration of a contract for a specific term, and/or the failure to renew or extend such a contract, shall be treated as a termination of employment by the Village Board for the purposes of this Grievance Procedure, and if the employee wishes to appeal the termination, the employee shall file an appeal at Level Two by filing a completed grievance form with the Village President within twenty-one (21) days of receiving written notice of termination. If no appeal is filed, the termination shall become final.

(f) Steps of the Grievance Procedure.

1. Level One

a. The grievant may initiate a formal grievance by obtaining a grievance form from his/her immediate supervisor or designee or from the Village Clerk or

Village Administrator, filling out the form, and providing a copy to his/her supervisor and to the Village Administrator. On the form, the grievant shall (1) identify the category of grievance (i.e., termination of an employee without a contract with a definite term, discipline, or workplace safety), (2) describe the attempts to resolve the complaint informally (if applicable), (3) identify the facts supporting the grievance, (4) specify the policy, rule, regulation, or law alleged to have been violated, and (5) describe the relief requested. In order to be considered, a grievance must be filed in writing, using the appropriate form.

- b. The Village Administrator shall act on the grievance within seven (7) days of the filing of the grievance. If the Village Administrator denies the grievance, he/she shall inform the grievant who shall have seven (7) days to appeal the denial to the Village Board by filing a letter of appeal with the Village President.

2. Level Two

- a. Within ten (10) days after receipt of an appeal from a grievant, the Village President shall appoint an Impartial Hearing Officer as authorized by resolution of the Village Board. The Impartial Hearing Officer shall do the following:

1. Screen the grievance and determine whether it falls within one of the categories subject to the grievance procedure, whether the informal process was exhausted, if applicable, and whether it has been timely filed.
2. Notify the parties of the time and location for the hearing at least two (2) weeks before the hearing.
3. Subpoena witnesses, as necessary to ensure their testimony, when requested by either party.
4. Make evidentiary findings and conclusions. In the case of a grievance related to a termination or discipline, the Impartial Hearing Officer shall determine whether a full evidentiary hearing is needed to afford the employee the requisite due process, and, if so, shall allow the grievant to present evidence, call and question witnesses, cross-examine adverse witnesses, obtain copies of evidentiary materials and argue his or her case. The rules of evidence shall not apply at any hearing, but the Impartial Hearing Officer may exclude or limit irrelevant, repetitive, or redundant evidence or any evidence lacking probative value. The Impartial Hearing Officer, in the conduct of the proceeding, shall be mindful of the desire for a speedy and inexpensive resolution of any appeal brought before him/her.
5. If the grievance is meritorious, in whole or in part, determine what relief is necessary to provide recompense to the grievant in a grievance that

involves discipline or termination, and in a grievance filed over workplace safety, determine what action is necessary to correct the hazardous condition, provided, however, that the Impartial Hearing Officer may not award attorneys fees or litigation expenses against the Village at any time.

6. The Impartial Hearing Officer shall expressly confine himself/herself to consideration of the precise issue(s) submitted on the grievance form and letter of appeal, if applicable, shall apply the applicable standard of review, and shall have no authority to determine any other issue not so submitted or to submit observations or declarations of opinion which are not directly essential in reaching the determination.

7. The Impartial Hearing Officer will be without authority to make any decision which requires the commission of an act prohibited by law.

b. The hearing shall be recorded and the grievant shall be given the opportunity to have the hearing conducted in open session, subject to such other legal requirements relating to confidentiality or privacy which may apply to the subject matter of the hearing. The Impartial Hearing Officer shall consider whether to engage a court reporter in lieu of recording the hearing.

c. The Impartial Hearing Officer shall issue a written decision no more than thirty (30) days after the hearing is concluded, unless the Impartial Hearing Officer notifies the parties that more time is needed and the reasons therefore. The need for post-hearing briefs, as determined by the Impartial Hearing Officer, shall be sufficient reason to extend the deadline.

d. The Impartial Hearing Officer shall inform the parties that an appeal of his/her decision may be taken to the Village Board if filed within ten (10) days of the receipt of the decision of the Impartial Hearing Officer, and that if no timely appeal is filed, the decision of the Impartial Hearing Officer shall become final.

3. Level Three

a. If either party is aggrieved by the decision rendered by the Impartial Hearing Officer, either party has the right to file a written appeal with the Village Board within ten (10) days of receiving the Impartial Hearing Officer's decision. If no timely appeal is filed, the decision of the Impartial Hearing Officer shall become final.

b. Except for grievances involving an employee termination (regardless of whether the employee has a contract for a definite term), the Village Board may, in its sole discretion, assign an appeal panel of at least three members of the Board, for the purpose of considering appeals under the grievance procedure.

c. The Board or appeal panel shall make every reasonable effort to meet,

consider and decide the appeal within sixty (60) days after receipt of the appeal.

d. The Village President shall give ten (10) days notice to the parties of an appeal hearing before the Board or appeal panel, if such a hearing is necessary.

e. The Board or appeal panel shall review the grievance on the record established by the Impartial Hearing Officer unless it determines that additional information is needed. Each party may make a brief oral presentation to the Board or appeal panel to summarize his/her position. The appeal hearing shall be recorded and shall be held in closed session, unless the parties are allowed to present additional information, in which case the grievant shall be given the opportunity to have the evidentiary portion of the appeal hearing conducted in open session, subject to such other legal requirements relating to confidentiality or privacy, which may apply to the subject matter of the hearing.

f. The Board or appeal panel may affirm, reverse, or modify the decision of the Impartial Hearing Officer. The Impartial Hearing Officer's decision will be reversed or modified if the decision was:

1. In violation of constitutional provisions;
2. In excess of the statutory authority or jurisdiction of the Village;
3. Made upon unlawful procedure or in contravention of this Grievance Procedure;
4. Affected by other error of law;
5. Based upon improper application or interpretation of Village policies;
6. Unsupported by substantial evidence in view of the entire record as submitted (as used in this grievance procedure, *substantial evidence* means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion), or otherwise erroneous;
7. Arbitrary or capricious;
8. Affected by the inappropriate application of the standard of review by the Impartial Hearing Officer; or
9. In contravention of public policy considerations.

g. Procedural errors, which do not have a substantial effect on the rights of the parties, shall not be grounds for reversal of any decision.

h. The decision of the Board or appeal panel shall be final. The Board or appeal panel shall make every effort to send to the grievant and the Village

Administrator a written statement of its decision within a reasonable time after hearing the appeal.

(g) **No Retaliation.**

No reprisals of any kind shall be taken by the Board or by an employee of the Village against any party in interest or other employee on account of his/her filing a grievance or participating in a filed grievance.

(h) **Request for Reconsideration of Village Board Decision.**

This grievance procedure establishes a procedure for employees to grieve certain decisions of Village officials. The grievance procedure does not grant employees the right to appeal decisions of the Board itself, other than a termination by the Board. Nonetheless, an employee may file, in writing to the Board President, a request that the Board reconsider one of its own decisions. The request shall be filed within fifteen (15) days of the Board's decision and shall state the reasons why the Board should reconsider its decision. The Board may exercise its discretion whether to grant the requested reconsideration.

Judicial review of a Board or appeal panel decision made at Level Three of this grievance procedure, if any, shall be as prescribed by law.