

**ADDENDUM NO. 1 TO VILLAGE OF OLYMPIA
FIELDS PERSONNEL MANUAL**

Section 5, “Equal Employment/Nondiscrimination”, subsection **5.02, Definitions**, is hereby amended as follows:

5.02 Definitions

For the purposes of this Policy, the following definitions shall apply:

- 5.02.1 “Minority” shall mean American Indians, Asian, Afro-Americans or Hispanics, or such protected classes as youth, elderly, women or persons with disabilities.
- 5.02.2 “Unlawful discrimination” shall mean discrimination against a person because of his/her actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

Subsection **22.03, “Military Leaves of Absence”**, of Section 22, “Unpaid Leaves of Absence”, is hereby replaced in its entirety, and amended as follows:

22.03 Military Leaves of Absence

This Policy shall apply to full-time employees.

- 22.03.1 **Definitions**. The following definitions shall apply to this Policy:

- (1) “Active Duty” means any full-time military service regardless of length or voluntariness including, but not limited to, annual training, full-time National Guard duty, and State active duty. Active duty does not include any form of inactive duty service such as drill duty or muster duty. Active duty, unless otherwise provided, includes active duty without pay.
- (2) “Active Service” means all forms of active and inactive duty regardless of voluntariness including, but not limited to, annual training, active duty for training, initial active duty training, overseas training duty, full-time National Guard duty, active duty other than training, state active duty, mobilizations, and muster duty. Active service, unless otherwise provided, includes active duty without pay. “Active service”, unless provided otherwise, includes active service without pay. “Active service” includes:
 - (i) Reserve component voluntary active service means service

under one of the following authorities:

- (a) any duty under 32 U.S.C. 502(f)(1)(B);
- (b) active guard reserve duty, operational support, or additional duty under 10 U.S.C. 12503 or 32 U.S.C. 502(f)(1)(B);
- (c) funeral honors under 10 U.S.C. 12503 or 32 U.S.C. 115;
- (d) duty at the National Guard Bureau under 10 U.S.C. 12402;
- (e) unsatisfactory participation under 10 U.S.C. 10148 or 10 U.S.C. 12303;
- (f) discipline under 10 U.S.C. 802(d);
- (g) extended active duty under 10 U.S.C. 12311; and
- (h) reserve program administrator under 10 U.S.C. 10211.

(ii) Reserve component involuntary active service includes, but is not limited to, service under one of the following authorities:

- (a) annual training or drill requirements under 10 U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a);
- (b) additional training duty or other duty under 32 U.S.C. 502(f)(1)(A);
- (c) pre-planned or pre-programmed combatant commander support under 10 U.S.C. 12304b;
- (d) mobilization under 10 U.S.C. 12301(a) or 10 U.S.C. 12302;
- (e) presidential reserve call-up under 10 U.S.C. 12304;
- (f) emergencies and natural disasters under 10 U.S.C. 12304a or 14 U.S.C. 712;
- (g) muster duty under 10 U.S.C. 12319;

- (h) retiree recall under 10 U.S.C. 688;
- (i) captive status under 10 U.S.C. 12301(g);
- (j) insurrection under 10 U.S.C. 331, 10 U.S.C. 332, or 10 U.S.C. 12406;
- (k) pending line of duty determination for response to sexual assault under 10 U.S.C. 12323; and
- (l) initial active duty for training under 10 U.S.C. 671.

(iii) Reserve component active service not listed in paragraphs (ii) or (ii) shall be considered involuntary active service under paragraph (ii).

- (3) “Active Service Without Pay” means active service performed under any authority in which base pay is not received regardless of other allowances.
- (4) “Annual Training” means any active duty performed under Section 10147 or 12301(b) of Title 10 of the United States Code or under Section 502(a) of Title 32 of the United States Code.
- (5) “Base/Basic Pay” means the main component of military pay, whether active or inactive, based on rank and time in service. It does not include addition of conditional funds for specific purpose such as allowances, incentive and special pay. Base pay can be determined by referencing the appropriate military pay chart covering the time period in question located on the federal Defense Finance and Accounting Services website (www.dfas.mil) or as reflected on a federal Military Leave and Earnings Statement.
- (6) “Benefits” means the terms, conditions, or privileges of employment, including wages or salary for work performed, that accrues by reason of an employment contract or agreement or Village policy, plan or practice and includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.
- (7) “Differential Compensation” means pay due when the employee’s daily rate of compensation for military service is less than his/her daily rate of compensation as a Village employee.

- (8) “Inactive Duty” means inactive duty training, including drills, consisting of regularly scheduled unit training assemblies, additional training assemblies, periods of appropriate duty or equivalent training, and any special additional duties authorized for reserve component personnel by appropriate military authority. “Inactive duty” does not include active duty.
- (9) “Military Leave” means a furlough or leave of absence while performing active service. It cannot be substituted for accrued vacation, annual, or similar leave with pay except at the sole discretion of the employee. It is not a benefit of employment that is requested but a legal requirement upon receiving notice of pending military leave.
- (10) “Military Service” means:
 - (i) Service in the Armed Services of the United States, National Guard of any state or territory regardless of status, and the State Guard. “Military service”, whether active or reserve, includes service under U.S.C. Titles 10, 14 or 32, or state active duty.
 - (ii) Service in a federally recognized auxiliary of the United States Armed Forces when performing official duties in support of military or civilian authorities as a result of an emergency.
 - (iii) A period for which an employee is absent from employment for the purpose of medical or dental treatment for a condition, illness, or injury sustained or aggravated during a period of active service in which treatment is paid by the United States Department of Defense Military Health System.
- (11) “Reserve Component” means the reserve components of Illinois and the United States Armed Forces regardless of status.
- (12) “State Active Duty” means full-time state-funded military duty under the command and control of the Governor and subject to the Military Code of Illinois.

22.03.2 Basic Protections: Sections 4304, 4312, 4313, 4316, 4317, and 4318 of the Uniformed Services Employment and Reemployment Rights Act (Title 38 of the United States Code), and as may be amended from time to time, including case law and regulations promulgated under said Act, subject to the following:

- (a) All employment rights shall be extended to an employee in military service unless otherwise provided.
- (b) Although an employee is not required to get permission for military service, the employee is required to give advance notice of pending service unless it is a military necessity.
- (c) The Village may not impose conditions for military leave, such as work shift replacement unless the employee requests scheduling options in lieu of paid military leave.
- (d) An employee is not required to accommodate the Village's needs as to the timing, frequency, or duration of military leave; however, the Village may bring concerns over the timing, frequency, or duration of military leave to the attention of the appropriate military authority.
- (e) An employee who is absent on military leave shall, minimally, for the period of military leave, be credited with the average of the efficiency or performance ratings or evaluations received for the 3 years immediately before the absence for military leave. The rating shall not be less than the rating the employee received for the rated period immediately prior to the employee's military leave. In computing seniority and service requirements for promotion eligibility or any other benefit of employment, the period of military duty shall be counted as civilian service. This subsection does not apply to probationary periods.

22.03.3

Calculation of Differential Compensation:

- (a) Differential compensation. As used in this subsection, "work days" are the actual number of days the employee would have worked during the period of military leave but for the service member's military obligation. "Work days" are tabulated without regard for the number of hours in a work day. Work hours that extend into the next calendar day count as 2 work days.
- (b) Differential compensation is calculated on a daily basis and only applies to days in which the employee would have otherwise been scheduled or required to work. Differential compensation shall be paid to all forms of active service except active service without pay. Differential compensation is calculated as follows:
 - (i) To calculate differential compensation, the daily rate of compensation for military service is subtracted from the daily rate of the employee's compensation from the Village.

- (ii) The daily rate of Village compensation is calculated by dividing the employee's regular Village compensation during the pay period by the number of work days in the pay period.
- (iii) The daily rate of compensation for military service is calculated by dividing the employee's base pay for the applicable military service by the number of calendar days in the month the service member was paid by the military. For purposes of inactive duty, the daily rate of compensation for military is calculated in accordance with the applicable drill pay chart issued by Defense Finance and Accounting Service.

A copy of the military voucher shall be submitted prior to authorization for payment to the employee for the period of such leave.

22.03.4

Additional Benefits:

- (a) Concurrent compensation. During period of military leave for annual training, an employee shall receive full compensation for up to 30 days per calendar year and military leave for purposes of receiving concurrent compensation may be performed nonsynchronously.
- (b) Differential compensation. During periods of military leave for active service, an employee shall receive differential compensation subject to the following:
 - (i) An employee may elect the use of accrued vacation, annual or similar leave with pay in lieu of differential compensation during any period of military leave.
 - (ii) Differential compensation for voluntary service is limited to 60 work days in a calendar year.
 - (iii) Differential compensation shall not be paid for active service without pay.
 - (iv) An employee who has exhausted concurrent compensation under subsection (a), above, in a calendar year, shall receive differential compensation when authorized under subsection (b)(ii) above, in the same calendar year.

(c) Village's Health Plan. The Village's share of the full premium and administrative costs shall continue to be paid by the Village for active duty.

(d) Pension. The period of active duty shall not be considered a break in service for vesting and accrual purposes. If an employee elects to continue making pension contributions while on military duty, the Village shall make its proportionate share for that time period. The employee shall be given a grace period of up to five (5) years after returning to make up the contributions.

22.03.5 Re-employment. A full-time employee who is called to active duty or who leaves the employ of the Village to enter military service, shall, upon discharge, be entitled to return to the position of employment which he/she left with the same increases in status, seniority and wages that were earned during his/her term of military service by employees in like positions who were on the job during the time of such returning employee, or to a position of like seniority, status and pay unless the Village's circumstances have so changed as to make it impossible or unreasonable to do so, provided:

- He/she receives a certificate or other evidence of honorable discharge or satisfactory completion of military service*;
- Is, at the time of discharge or completion of military service, still qualified to perform the duties of the position of employment which he/she left;
- Makes an application for re-employment within the following time limits:
 - (i) **Less than 31 days service**: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight (8) hour rest period. If this is impossible or unreasonable, then as soon as possible.
 - (ii) **31 to 180 days**: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
 - (iii) **181 days or more**: The employee must apply for reemployment no later than 90 days after completion of military service.

(iv) **Service-connected injury or illness:** Reporting or application deadlines are extended for up to two (2) years for persons who are hospitalized or convalescing.

If the employee is not qualified to perform the duties of his/her former position by reason of disability sustained during military service, but is qualified to perform the duties of another position, he/she shall be restored to such other position with like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his/her case.

*State active duty ineligible discharge. For purposes of state active duty, a disqualifying discharge or separation will be the state equivalent under the Military Code of Illinois for purposes of ineligibility of reemployment under the Uniformed Services Employment and Reemployment Rights Act as determined by the appropriate state military authority. A retroactive upgrade of a disqualifying discharge or release will restore reemployment rights providing the service member employee meets the Act's eligibility criteria.

Subsection 22.04, “**Victims’ Economic Security and Safety Act Policy (“VESSA”)**”, of Section 22, “Unpaid Leaves of Absence”, is hereby replaced in its entirety, and amended as follows:

22.04 Victims’ Economic Security and Safety Act Policy (“VESSA”)

22.04.1 Definitions. The following definitions shall apply to this subsection:

- (a) “Course of conduct” shall mean a course of repeatedly maintaining a visual or physical proximity to a person or conveying oral or written threats, including threats conveyed through electronic communications, or threats implied by conduct.
- (b) “Domestic violence, sexual violence, or gender violence” shall mean domestic violence, sexual assault, gender violence or stalking.
- (c) “Electronic communications” shall mean communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, pager, online platform (including, but not limited to, any public-facing website, web application, digital application, or social network).
- (d) “Employee benefits” shall mean all benefits provided or made

available to employees by the Village, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether benefits are provided by practice or written policy or through an “employee benefit plan”.

- (e) “Family or household member” for employees with a family or household member who is a victim of domestic violence, sexual violence, or gender violence, shall mean a spouse, parent, son, daughter, or other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household. The child who is a victim must be under the age of eighteen (18) or, if eighteen (18) years or older, the child is mentally or physically disabled and incapable of self-care.
- (f) “Gender violence” shall mean:
 - (i) One or more acts of violence or aggression satisfying the elements of any criminal offense under the laws of Illinois that are committed, at least in part, on the basis of a person’s actual or perceived sex or gender, regardless of whether the acts resulted in criminal charges, prosecution, or conviction;
 - (ii) A physical intrusions or physical invasion of a sexual nature under coercive conditions satisfying the elements of any criminal offense under the laws of Illinois, regardless of whether the intrusion or invasion resulted in criminal charges, prosecution, or conviction; or
 - (iii) A threat of an act described in subsections (f)(i) or (ii) causing a realistic apprehension that the originator of the threat will commit the act.
- (g) “Perpetrator” shall mean an individual who commits or is alleged to have committed any act or threat of domestic violence, sexual violence, or gender violence.
- (h) “Repeatedly” shall mean on 2 or more occasions.
- (i) “Sexual assault” shall mean any conduct proscribed by : (i) Article 11 of the Illinois Criminal Code of 2012, except Sections 11-35 and 11-45; (ii) Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Illinois Criminal Code of 2012; or (iii) a similar provision of the Illinois Criminal Code of 1961.

- (j) "Stalking" shall mean any conduct proscribed by the Illinois Criminal Code of 1961 or 2012 in Sections 12-7.3, 12-7.4, and 12-7.5.
- (k) "Victim" or "survivor" shall mean an individual who has been subjected to domestic violence, sexual violence, or gender violence.
- (l) "Victim services organization" shall mean a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual violence, or gender violence, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through legal process.

22.04.2 Employee Entitlement. All employees may take up to twelve (12) weeks of unpaid VESSA leave during each consecutive twelve (12) month period for which eligibility criteria have been met. The initial 12-month period is measured forward from the date the employee first takes VESSA leave. The next 12-month period begins the first time VESSA leave is taken after completion of any previous 12-month period. VESSA leave shall be granted to enable an employee or a family or household member who is a victim of domestic, sexual, or gender violence to maintain financial independence necessary to leave abusive situations and to protect the civil and economic right of an employee or a family or household member who is a victim of domestic, sexual, or gender violence.

22.04.3 Employee Eligibility. To be eligible for VESSA leave, an employee must:

- (a) Currently be an employee in active status;
- (b) Be a victim of domestic or sexual violence or have a family or household member who is a victim whose interests are not adverse to the employee as it relates to the domestic, sexual or gender violence.

22.04.4 Reasons for Leave. An eligible employee may take VESSA leave for the following reasons:

- (a) To seek medical attention for, or recover from, physical or psychological injuries caused by domestic, sexual violence or gender violence;
- (b) To obtain services from a victim services organization for the employee or the employee's family or household member;

- (c) To obtain psychological or other counseling for the employee or the employee's family or household member;
- (d) To participate in safety planning, seek temporary or permanent relocation, or take other actions to increase the safety of the victim from future domestic, sexual or gender violence or ensure economic security; or
- (e) To seek legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any legal proceeding related to or resulting from domestic, sexual, or gender violence.

If an employee misrepresents facts in order to be granted a VESSA leave, the employee will be subject to immediate termination.

22.04.5 Notice of Leave. The employee must provide the Village with at least forty-eight (48) hours prior notice of the employee's intention to take the leave, unless advance notice is not practicable under the particular circumstances. When an unscheduled absence occurs, the employee must provide notice and the required certification required under subsection 22.04.5, within a reasonable period of time after the absence. Failure to provide the required notice and certification may result in treatment of the absences as unexcused.

22.04.6 Certification. An employee requesting VESSA leave must provide the following documents for all absences: The certification must show that: (1) the victim for whom the leave is requested is the employee, a covered family member, or a covered household member; (2) the victim was subjected to an act or threat of domestic, sexual, or gender violence; and (3) the leave is to seek assistance for one or more of the purposes enumerated in subsection 22.04.4 above.

- (a) The employee must provide two types of written documentation as certification: (1) a sworn statement by the employee showing the leave qualifies for a purpose covered by VESSA; and (2) written documentation from a source from whom assistance was sought or who could otherwise verify the nature of the leave, such as documentation from: (a) a representative of a victim services organization, an attorney, member of the clergy, or a medical or other professional, from whom the employee has sought services on behalf of a covered victim to address domestic, sexual, or gender violence or the effects of the violence; (b) a police or court record; or (c) other corroborating evidence.
- (b) FMLA medical certification issued by the victim's health care

provider shall be required to support a request for unpaid VESSA leave for a serious health condition in accordance with the Village's Family and Medical Leave Policy.

- (c) The Village may require an employee to obtain subsequent recertification on a reasonable basis.
- (d) It is the employee's responsibility to ensure that the Village receives the proper certification. If the Village does not receive adequate certification within a reasonable time period after leave is requested, or if the certification does not confirm a VESSA-qualifying purpose, the employee's absences may instead be processed under other applicable leave policies and the employee shall be held accountable for time taken under the Village's attendance standards.

22.04.7 Reporting While on Leave. The employee may be required to contact his/her supervisor on a regular basis regarding the status of his/her leave and the employee's intention to return to work.

22.04.8 Confidentiality. The Village shall maintain an employee's written certification and other documentation regarding requests for VESSA Leave in a confidential file. The Village shall not disclose the nature of an employee's VESSA leave and such documentation except to the extent the disclosure is: (1) requested or consented to in writing by the employee; or (2) otherwise required by applicable federal or state law.

22.04.9 Use of Paid or Unpaid Leave. VESSA leave is unpaid leave. However, the employee has the option to take VESSA leave with or without pay. An employee may request to apply accrued vacation or sick leave (sick leave may only be used for medical reasons in accordance with the Village's sick leave policy) which would otherwise apply to the circumstances of the leave. For instance, if the leave is for the employee, because the employee is temporarily disabled due to domestic, sexual, or gender violence, the employee may use accrued sick time for that portion of the leave. The employee may use accrued vacation or other personal time for any of the purposes allowed in subsection 22.04.4 above. Any portion of the twelve-week period for which accrued leave is not applied shall be without pay. The substitution of paid leave time for unpaid leave time does not extend the 12-week leave period.

22.04.10 FMLA Leave. VESSA does not create a right for an employee to take a leave that exceeds the leave time allowed under, or in addition to, the leave time permitted by the FMLA. For employees on VESSA leave who are also eligible for FMLA leave, VESSA leave time is not in addition to the FMLA entitlement when the reason for VESSA leave also qualifies under FMLA, but depletes the FMLA leave entitlement when used. An employee who

may have exhausted all available leave under FMLA, for the purpose other than what which is available under VESSA, remains eligible for leave under VESSA.

22.04.11

Return from VESSA Leave. An employee who has taken VESSA leave shall be restored to the position of employment held by the employee when the leave commenced or an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. However, the employee shall have no greater right to reinstatement or other benefits and conditions of employment than if the employee had not taken leave. The employee must return to work immediately after the expiration of his/her approved VESSA leave in order to be reinstated to the employee's position or an equivalent position.

- (a) If an employee takes leave because of his/her own medical or psychological condition, the employee shall be required to provide medical certification that he/she is fit to resume work, according the Village's usual policies.
- (b) An employee on leave may be required to report periodically to his/her supervisor or department head on his/her status and intention to return to work.

22.04.12

Medical and Other Benefits. During an approved VESSA leave, the Village shall maintain the employee's health benefits, as if the employee continued to be actively employed. If paid leave is substituted for unpaid leave, the Village will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the leave is unpaid, the employee must pay his/her portion of the premium during the leave. An employee's health care coverage may cease if the employee fails to make timely payments of his/her share of the premiums. If the employee does not return to work at the end of the leave period, the employee shall be required to reimburse the Village for the cost of the premiums paid by the Village for maintaining coverage during the employee's unpaid leave, unless the employee cannot return to work because of the continuance, onset or recurrence of domestic, sexual, or gender violence, or other circumstances beyond the employee's control. If that is the case, the employee shall be required to produce written certification to confirm the circumstances beyond the employee's control.

- (a) Vacation, sick time, seniority, or other benefits shall not accrue while the employee is on unpaid VESSA leave. The employee shall remain entitled to all of his/her benefits which accrued prior to leave.

22.04.13

Intermittent and Reduced Schedule Leave. VESSA leave may be taken intermittently (in separate blocks of time) or on a reduced leave schedule (reducing the usual number of hours the employee works per workweek or

workday). If leave is unpaid, the Village shall reduce the employee's salary based on the amount of time actually worked.

22.04.14 Reasonable Accommodation in the Workplace. The Village will consider making reasonable accommodations to an employee or job applicant for a known limitation resulting from domestic, sexual, or gender violence, unless the accommodation would cause the Village an undue hardship. If an employee is an otherwise qualified individual who can perform the essential functions of his/her job, but needs such an accommodation, the Village may provide an adjustment to the job structure, workplace facility, work requirements, or the employee's telephone number, seating assignment, or physical security of the employee's work area in response to a need covered by VESSA. The Village will also consider a request for transfer, reassignment, or modified work schedule if needed due to a known limitation caused by an act or threat of domestic, sexual, or gender violence. Other safety measures may also be appropriate. Any employee covered by VESSA may make a request for leave or for a reasonable accommodation to his/her supervisor, department head or the Village Administrator.

22.04.15 The Village strictly forbids any of its employees, department heads, Village Administrator or other representative from discriminating, retaliating, or otherwise treating an employee unfavorably for requesting or taking VESSA leave or exercising any other rights under VESSA. If an employee feels that he/she has been denied his/her VESSA rights or if the employee feels that he/she has been treated unfavorably for having exercised any VESSA rights, the employee should immediately report such action to his/her supervisor, department head or Village Administrator. The Village will investigate the employee's concerns and take corrective action if it determines that someone has violated the Village's VESSA policy.

Section 28, “Drug and Alcohol Free Workplace Policy”, is hereby replaced in its entirety, and amended as follows:

SECTION 28

DRUG AND ALCOHOL FREE WORKPLACE POLICY

Apart from any other rules and regulations determined to be necessary for the safe and efficient operation of Village Departments, the following policy shall apply.

28.01 Purpose

It is the policy of the Village that the public has the right to expect all persons employed by the Village to be free from drug use and alcohol abuse. The unlawful manufacture, distribution, dispensation, possession or use of alcohol or a controlled substance in a Village workplace, or while performing the duties of a Village employee, is strictly prohibited. All facilities owned by

or leased to the Village and all sites where the Village is performing work on its own behalf are subject to this policy.

Employees are expected and required to report to work on time and in an appropriate mental and physical state for work. An employee under the influence of alcohol or controlled substances while at work, may impair the well-being of other employees, the public-at-large, or may cause damage to Village property. It is the Village's intent and obligation to provide and maintain a drug and alcohol free, healthful, safe and secure work environment.

The Village recognizes drug and alcohol dependency as serious health problems. It affects an employee's physical and mental capabilities, thus inhibiting the employee from functioning productively on the job. The employee in need of help in dealing with such problems is encouraged to use the Village's health insurance plan, as appropriate. Conscientious efforts to seek such help will not jeopardize an employee's job and will not be recorded in any Village personnel file.

All employees of the Village, whether full-time, part-time, temporary or paid-on-call, and those contractors and subcontractors who are engaged in the performance of a contract subsidized in full or in part by a federal or state grant shall be given a copy of this policy. Each employee agrees that as a condition of employment with the Village, the employee will abide by the terms of this Drug and Alcohol Free Workplace Policy as set forth below.

28.02 Drug and Alcohol Policy

28.02.1 Employee Rules and Regulations Employees who are required to have a Commercial Drivers' License for employment with the Village are subject to the rules and regulations for the use of drugs and alcohol provided by the Village's Commercial Drivers' License ("CDL") Policy. Members of the Police Department who are covered by a collective bargaining agreement shall abide by the drug and alcohol provisions of the agreement, except as otherwise provided in subsection 28.11, "Use of Cannabis by Village Employees". All employees not otherwise covered by a collective bargaining agreement shall be subject to the following rules and regulations.

An employee who is in violation of this Drug and Alcohol Policy will be subject to disciplinary action up to and including immediate discharge, and, if applicable, may be subject to prosecution to the extent possible under the law. Disciplinary action taken will be in accordance with established policies set forth in the Personnel Manual and rules and regulations promulgated by department heads.

(a) Employees shall not manufacture, distribute, dispense, possess, or use controlled substances and/or alcohol on Village premises or while conducting Village business off premises. All illegal substances (as defined by the Illinois Criminal Statutes) discovered on an employee's person, property, or work area will be given to the appropriate law enforcement agency and may result in criminal prosecution.

- (b) An employee shall not report to work when under the influence of alcohol and/or controlled substances, not prescribed for medical or medicinal purposes.
- (c) An employee shall not use alcohol and/or drugs while in Village buildings, vehicles, on Village property or while in Village uniform.
- (d) An employee shall be required to immediately submit to appropriate tests for the detection of alcohol and/or controlled substances when the employee's supervisor, department head, or Village Administer has reasonable suspicion to believe that such employee is under the influence of drugs and/or alcohol. An employee who refuses to participate in any mandatory alcohol or drug testing is subject to disciplinary action.
- (e) An employee shall not abuse legal drugs, *i.e.*, over-the-counter drugs, which may affect the performance of one's duties.
- (f) An employee may not operate any Village owned or leased vehicle while under the influence of alcohol or controlled substances.
- (g) An employee shall not use any alcoholic beverages or possess any open containers of alcoholic beverages on any street, sidewalk or public place within the Village while on duty. This shall not prohibit the consumption of alcohol at Village-related social or civic events. For the purposes of this subsection, "within the Village" shall include, but not be limited to streets, sidewalks, Village buildings, Village vehicles and Village property.

28.02.2 Violation of a Criminal Drug Statute.

- (a) An employee is required to notify the Village if he/she has been arrested and convicted of any criminal drug statute occurring in the workplace or performing any job-related duty while not on Village-owned property within five (5) days after such conviction. Failure to notify the Village within five (5) working days after conviction may subject the employee to immediate discharge. For the purposes of this policy, the following definitions shall apply:
 - (i) "Conviction" shall mean a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes; and
 - (ii) "Criminal drug statute" shall mean a criminal statute involving manufacture, distribution, dispensation, use or possession of any

controlled substances.

- (b) The Village shall notify the appropriate federal and/or state agency responsible for the grant of funds to the Village within ten (10) days after receiving notice of a conviction required under this policy from an employee or otherwise receiving actual notice of such conviction.
- (c) Within thirty (30) days after receiving notice from an employee of a conviction, the Village shall:
 - (i) Impose an appropriate sanction;
 - (ii) Take appropriate personnel action against such employee up to and including termination; and/or
 - (iii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, state, local health, law enforcement, or other appropriate agency.

28.02.3 Prescribed Medical Treatment.

- (a) The use of a controlled substance as part of a prescribed medical treatment by a duly licensed physician will not subject an employee to disciplinary action or denial of employment if that treatment will not/does not adversely affect job performance.
- (b) Prescribed use must be substantiated by a physician's report or statement.
- (c) Prior to the start of a workday, an employee who is taking medications or drugs, whether or not it is prescription or non-prescription, shall notify his/her department head or supervisor that such medication or drug may interfere with the safe and effective performance of duties or operation of Village equipment.
- (d) If the use of prescription or non-prescription drugs adversely affects an employee's job performance and/or is detrimental to the public trust or safety of other employees or citizens, in the best interest of the employee and the Village, such employee will be placed on a leave of absence. Employees are required to substitute any unused accrued paid leave, *i.e.*, vacation, personal and sick leave, during such leave. At the discretion of the department head, the employee may be reassigned to other duties.
- (e) Leaves of absence will be used in accordance with current policies.

(f) Upon request, an employee shall provide a current, valid prescription in the employee's own name for any drug or medication identified in a positive test for controlled substances within twenty-four (24) hours of the Village receiving notification of a positive drug test.

28.03 Mandatory Testing

All applicants for employment with the Village of Olympia Fields and all employees who are subject to mandatory testing shall sign the Village's consent form (*see* subsection 28.09, below). Any employee who refuses to participate in any mandatory testing will be subject to disciplinary action, up to and including termination. Drug or alcohol testing will include a urinalysis, breath analysis and/or blood sample testing, or other approved methods.

28.03.1 Pre-Employment Testing. All applicants for any Village position shall be required to submit to and pass a drug test as a condition of employment. The substances tested for are set forth in subsection 28.05(a) of this Section 28. The drug test shall be given to applicants with conditional offers of employment. Applicants shall be disqualified from employment with the Village for refusal to submit to a required drug test or for a confirmed positive drug test. Applicants who have completed a rehabilitation program will be subject to drug screening prior to being considered for employment.

28.03.2 Probationary Employees. A confirmed test result that is positive for alcohol or drugs during the probationary period will result in termination.

28.03.3 Traffic Accidents.

- (a) Any Village employee who, while operating a Village-owned or leased vehicle is involved in an accident will be subject to post-accident testing when there is reasonable suspicion that the employee is under the influence of alcohol or controlled substance(s).
- (b) Alcohol Tests. The employee must be tested at the earliest opportunity but in no case beyond eight (8) hours following the accident.
- (c) Controlled Substance Tests. The employee must be tested for controlled substances within thirty-two (32) hours following the accident.
- (d) Employee's Responsibility. Following any accident, the employee must contact the Village as soon as possible. An employee who has been advised that he or she is subject to post-accident testing must remain available for testing, or the Village will consider the employee as having refused to submit to testing. The employee must refrain from consuming alcohol for eight (8) hours following the accident, or until he/she submits to an alcohol test, whichever comes first. Nothing in this subsection shall be construed to require the delay of necessary medical

attention for injured individuals following an accident or to prohibit the employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

- (e) In the event the employee is so seriously injured that he/she cannot provide a sample of urine or breath at the time of the accident, the employee must provide necessary authorization for the Village to obtain hospital records or other documents that would indicate whether or not there was the presence of controlled substances or alcohol in the employee's system at the time of the accident.
- (f) Based on the results of the aforementioned drug and/or alcohol test, the employee may be subject to disciplinary action in accordance with departmental or Village guidelines for various infractions.
- (g) An employee's fitness to continue in his/her current position while enrolled in a rehabilitation program will be determined on a case-by-case basis.
- (h) Employees who have completed a rehabilitation program will be subject to drug and alcohol screening prior to returning to work.

28.03.4. On-the-Job Incidents. Any Village employee who is involved in a reportable incident (any personal injury or property damage involving a Village employee that occurs on or off Village property during assigned work hours, and/or any time an employee is wearing a Village uniform) that results in injury to persons or property will be subject to an investigation conducted by the department head or immediate supervisor. As part of the investigation, the department head or immediate supervisor shall evaluate the employee's appearance and behavior. The department head, with input from the immediate supervisor, shall direct the employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee was under the influence of drugs and/or alcohol at the time the incident occurred.

- (a) Based on the results of the investigation and drug and/or alcohol tests, the employee may be subject to mandatory participation in a rehabilitation program as provided by the Village's health insurance carrier and/or disciplinary action in accordance with departmental or Village guidelines for various infractions.
- (b) An employee's fitness to continue in his/her position while enrolled in such a rehabilitation program will be determined on a case-by-case basis.

(c) Employees who have completed a rehabilitation program will be subject to alcohol and drug screening prior to returning to work.

28.03.5 Leaves of Absence. Any employee who has been on a leave of absence, whether paid or unpaid, for thirty (30) or more consecutive days, may, at the discretion of the Village, be asked to submit to a drug test prior to returning to his/her work assignment. Leaves of absence includes personal, medical, FMLA or disciplinary leaves.

28.03.6 Reasonable Suspicion.

(a) An employee, at any level, shall be required to immediately submit to appropriate tests for the detection of alcohol and/or controlled substances when the Village Administrator, department head, or the employee's supervisor has reasonable suspicion to believe that such employee is under the influence of drugs and/or alcohol.

(i) If more than one (1) employee has reasonable suspicion that a supervisor/department head is under the influence of drugs or alcohol, their observation should be reported, when possible, to the supervisor's/department head's immediate superior.

(ii) If employees feel that reporting their observations in this manner would adversely affect their working conditions, the report may be made to the Village Administrator or designee.

(iii) Employees must identify themselves to the Village Administrator or designee, who will keep their names confidential; however, employee names may be released, when necessary, if the supervisor/department head is disciplined and a grievance procedure or litigation results.

(b) Reasonable suspicion exists when at least two (2) individuals, or a professionally trained law enforcement officer or agent, observe specific, contemporaneous, articulable observations concerning the following:

(i) Overall appearance and/or behavior including, but not limited to: slurred, rambling, incoherent speech; agitated, aggressive or passive demeanor; bloodshot, dilated, closed or moist eyes; alcohol on breath; marijuana odor; fumbling, jerky, slow reacting

coordination; talkative, threatening, erratic behavior; sweaty, flushed, pale, clammy, skin; disorientation; inability to walk a straight line or unsteady, staggering, swaying movements, indication of chronic and withdrawal effects of controlled substances.

- (ii) An accident where the conduct of the employee gives rise to such reasonable suspicion.
- (iii) Possession of alcohol and/or drugs.
- (iv) Erratic operation of equipment.
- (v) Confirmed reports from police, citizens or other employees of drug and/or alcohol use or abnormal, potentially dangerous behavior or distributing drugs and/or alcohol on Village-owned property (An employee suspected of having drugs and/or alcohol on Village premises is subject to having his/her work area searched by the Village Administrator, department head or other Village official).
- (vi) Medical or physical information such as "track marks", unauthorized absenteeism or tardiness.

(c) Any supervisor/department head who determines that reasonable suspicion exists for an employee to submit to a drug and/or alcohol test must immediately notify his/her immediate superior and/or the Village Administrator or his/her designee. Should the department head (immediate superior) and /or Village Administrator conclude that reasonable suspicion exists that an employee is impaired, testing procedures shall commence immediately. If the supervisor/department head is unable to contact the department head (immediate superior) and/or the Village Administrator within one (1) hour, the supervisor/department head may order the employee to submit to a drug and/or alcohol test. The results of the test(s) will be held by the laboratory until its release is approved by the department head (immediate superior) and /or Village Administrator.

(d) A written record shall be made of the observations leading to an alcohol and/or controlled substances reasonable suspicion test and signed by the person who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the test(s) are released, whichever is earlier.

28.04 Supervisor/Department Head Responsibilities

The supervisor/department head shall be responsible for enforcing this Policy at all times and is required to perform the following duties in conjunction with this Policy:

- (a) Enforce this Policy at all times. Any supervisor/department head who knowingly permits a violation of this policy by any employee under his/her direct supervision shall be subject to disciplinary action.
- (b) Take appropriate action to protect Village personnel and Village property by removing from the work premises or site any individual who is not in condition to perform assigned work in a normal and safe manner.
- (c) Not permit an employee to drive any vehicles if it appears that the employee is under the influence of drugs or alcohol.
- (d) Request that an employee submit to a drug and/or alcohol test when reasonable suspicion exists that such employee is under the influence of drugs and/or alcohol.
- (e) Receive at least sixty (60) minutes of training on alcohol misuse and receive an additional sixty (60) minutes of training on controlled substance use. Training will include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

28.05 Testing Procedures

- (a) An employee shall be tested for the following substances:
 - Alcohol
 - Amphetamines
 - Barbiturates
 - Cocaine/Metabolite
 - Methaqualone
 - Phencyclidine (PCP)
 - Opiates
 - Benzodiazepines
 - Cannabinoids (THC)
- (b) The above drug groups were selected on the ability of each drug to adversely affect physical/mental performance. As new or existing drugs develop into abuse problems, they shall be included in the screening process when technically and financially feasible.
- (c) All mandatory testing for alcohol and/or controlled substances shall be conducted under the following conditions:

- (i) All alcohol and drug testing shall be conducted in a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory Act and that has or is capable of being accredited by the National Institute of Drug Abuse (NIDA), or by the medical group(s) responsible for administering conditional offer of employment physical examinations if properly licensed to conduct drug testing. The employee's supervisor/department head shall accompany the employee to the designated testing facility.
- (ii) The laboratory or facility selected to conduct the test(s) must conform to NIDA standards.
- (iii) In regard to alcohol testing, an employee who has a confirmed test result showing an alcohol concentration level of 0.04 or greater shall be considered to have tested positive for under the influence of alcohol and subject to disciplinary action. This standard does not preclude the Village from removing from his/her job-related duties, an employee who has a confirmed alcohol concentration level of 0.02 or greater, including the operation of Village-owned equipment.
- (iv) All positive urine and blood samples will be retained by the laboratory for one (1) year or longer if an appeal or court action is in process.

(d) Appeal Process.

- (i) Upon receipt of a positive test, the employee or applicant will be notified of the test results.
- (ii) As part of the notification, the employee or applicant whose test results are positive, shall be provided an opportunity to explain the positive results and may request to have the additional reserved sample tested by a clinical laboratory or hospital facility of the employee's own choosing and at the employee's own expense; provided the employee notifies the department head and/or Village Administrator within twenty-four (24) hours of receiving the test results; and provided that the clinical laboratory or hospital facility selected to perform the testing meets the criteria set forth above.
- (iii) If the second test is negative, the Village will pay for the retesting.

28.06 Effect of Positive Tests for Alcohol and/or Controlled Substances

- (a) An employee who tests positive for alcohol and/or controlled substances shall be subject to the following:
 - (i) An employee who has a confirmed test result showing an alcohol

concentration level of 0.04 or greater shall be considered to have tested positive for under the influence of alcohol.

- (ii) An employee who has a confirmed test blood/urine alcohol concentration of 0.02 or greater may be removed from his/her job-related duties pending further investigation and/or disciplinary action or until ordered to report for duty.
- (iii) An employee who has a confirmed test blood/urine alcohol concentration of 0.04 or greater shall be immediately removed from his/her job-related duties pending further investigation and/or disciplinary action or until ordered to report for duty.
- (iv) An employee who tests positive for controlled substances shall be immediately removed from his/her job-related duties until such time as he/she tests negative in a mandatory return-to-work controlled substances test.
- (v) If an employee has a confirmed positive test for alcohol and/or controlled substances, the Village Administrator or designee will:
 - 1. Immediately institute disciplinary proceedings, including possible termination; or
 - 2. Allow the employee at his/her expense to voluntarily enter an appropriate treatment program sponsored by a private or governmental institution. However, referral to a program will not exempt an employee from discipline for less than acceptable job performance.
- (vi) If the employee agrees to voluntarily enter an appropriate treatment program under paragraph (a)(v)(2) above, the employee must agree to participate and complete the treatment program as determined by the attending physician or substance abuse professional. (SAP).
 - 1. At the Village Administrator's discretion, the employee may be given a leave of absence, without pay, to complete the treatment program.
 - 2. Upon completion of the treatment program, the employee may return to such duties as are assigned by the department head.
 - 3. Such employee shall not be allowed to return to work unless:
 - (i) The employee has discontinued his/her use of illegal drugs;

- (ii) The attending physician or SAP certifies that the employee has completed the treatment program and is drug free;
- (iii) The employee agrees to continue in any physician or SAP after care program if recommended by the employee's physician or SAP; and
- (iv) The employee agrees to submit to random testing during work hours for a period of twelve (12) months.

(b) Any employee who uses, distributes or manufactures illegal substances during his/her workday, including lunch hour or breaks, will be separated from Village employment and prosecuted to the extent possible under the law.

28.07 Confidentiality

- (a) Information related to investigations, possible violations and any testing, testing-related documents, and test results will be kept confidential and will only be released to the employee or applicant, or Village Administrator unless otherwise required by law. Disclosure of test results to any other person, agency organization is prohibited unless written authorization is obtained from the employee or applicant or is required by law.
- (b) Test subjects shall not be identified by name on testing forms, but by social security numbers.
- (c) The results of a positive drug test shall not be released until the results are confirmed.

28.08 Implementation

- (a) The Village Administrator will assist department heads in policy implementation, day-to-day administration, and with disciplinary action arising from the implementation of this policy.
- (b) Department heads and supervisors will be trained to identify drug and alcohol use among employees. Training will aid department heads and supervisors to recognize the conduct and behavior that give rise to reasonable suspicion of drug and alcohol use.
- (c) The Village Administrator, or the appropriate department head, will be responsible for scheduling any screening of applicants and employees during normal working hours unless conditions warrant that such testing be done during non-working hours.

28.09 Consent Form

The following consent form shall be executed by all applicants and employees who undergo alcohol and/or drug testing:

"I, _____ hereby consent to allow my blood, breath and/or urine to be tested for drugs and/or alcohol. I further consent to allow the results of such testing to be released to the Village of Olympia Fields, Illinois, or its authorized agents or representatives, who have a need to know".

"I hereby release all physicians, medical facilities, testing facilities, certified BATS, and the Village of Olympia Fields, Illinois, and their employees, agents and representatives from any action that may arise out of such results being released to the Village of Olympia Fields".

Name

Date

Witness

Date

28.10 Counseling and Rehabilitative Services

- (a) The decision to voluntarily seek and accept treatment for any suspected problem is the responsibility of the individual employee.
- (b) The Village recognizes alcohol and drug dependency as an illness and a major health problem. Counseling and rehabilitative services are available to assist employees who may develop alcoholism, drug dependency or related personal problems, and to assist them with treatment programs before employees engage in work-related misconduct related to the use of controlled substances and alcohol. The Village recognizes that alcohol and drug abuse are problems that can often be effectively treated if acknowledged by the employee in the early stages.
- (c) The individual's right to confidentiality and privacy are also recognized. The pertinent information and records of personnel who seek and receive diagnosis, counseling and treatment, will be preserved in the strictest confidence.

28.11 Use of Cannabis by Village Employees

(a) Definitions. The following definitions shall apply to this subsection:

1. “Workplace” shall mean the Village’s premises, including any building, real property, and parking area under the Village’s control or area used by an employee while in the performance of the employee’s job duties, and vehicles, whether leased, rented or owned, and as may be further defined in the Personnel Manual.
2. “On call” shall mean when an employee is scheduled with at least 24 hours’ notice by the Village to be on standby or otherwise responsible for performing tasks related to his/her employment whether at the Village’s premises or other previously designated location by the Village to perform a work-related task.

(b) CDL Employees. CDL employees shall be prohibited from consuming cannabis while on duty or while on call as provided in the U.S. Department of Transportation regulations at 49 CFR 40.151(e), and as may be amended from time-to-time, and the Village’s CDL Policy. CDL employees shall not possess or store cannabis or cannabis-infused substances in the workplace, including in their personal vehicles parked on Village property, or in Village vehicles. CDL employees shall be tested for cannabis as provided by federal law.

(c) Police Officers. Police officers shall be prohibited from consuming, possessing, storing, selling, purchasing or delivering cannabis or cannabis-infused substances while on or off duty. However, the Village may not take disciplinary action against a police officer based solely on the lawful possession or consumption of cannabis or cannabis-infused substances by members of the police officer’s household. To the extent this subsection conflicts with the current collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

(d) Village Employees. All employees shall be prohibited from smoking, consuming, storing, or using cannabis or cannabis-infused substances in the workplace or while on call.

1. No employer shall be under the influence or use cannabis or cannabis-infused substances in the workplace or while performing his/her job duties or while on call.

(e) Reasonable Suspicion of Impairment. A employee shall be considered to be impaired or under the influence of cannabis if the Village has a good faith belief that the employee manifests specific, articulable symptoms while working that decreases or lessens the employee’s performance of duties or tasks of his/her job position, including symptoms of the employee’s speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or

carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; or carelessness that results in injury to the employee or others.

1. If the Village determines that an employer is subject to disciplinary action pursuant to Section 10 of the Personnel Manual on the basis that the employee is under the influence or impaired by cannabis, the employee shall be given a reasonable opportunity to contest the basis of the determination.

Section 29, “Anti-Harassment Policy”, is hereby replaced in its entirety, and amended as follows:

SECTION 29

ANTI-HARASSMENT POLICY

The Village recognizes and advocates the inherent equality of all people, and therefore values human dignity, equality of opportunity and respect for all individual differences as reflected in racial, cultural and ethnic backgrounds, gender, age, economic conditions and other diversities. Motivated by these values and in accordance with federal, state and local laws and regulations, the Village is committed to maintaining a work environment that is free of discrimination.

The Village will not tolerate harassment of Village employees by anyone, including any supervisor, co-worker, vendor, customer or third party. The Village will not tolerate harassing conduct that interferes with an individual's work performance, affects tangible job benefits, or creates an intimidating, hostile or offensive working environment. For purposes of this Section, “working environment” is not limited to a physical location an employee is assigned to perform his/her duties. If warranted, disciplinary action will be taken, up to and including termination of employment.

29.01 Harassment Policy

This subsection covers the Village regulations concerning harassment in general. The Village's sexual harassment policy is set forth in detail in subsection 29.02, below.

29.01.1 **Definition.** Harassment means any unwelcome conduct on the basis of an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protective status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from the military service, or citizenship status that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. Such harassment may include, for example, comments, verbal jokes, printed jokes, kidding, teasing or practical jokes directed at a person, based on his/her protected status.

(a) Harassment shall also include harassment of nonemployees by Village nonmanagerial and nonsupervisory employees if the Village becomes aware of the conduct and fails to take reasonable corrective measures. For the purpose of this Section, “nonemployee” shall mean a person who is not otherwise an employee of the Village and is directly performing services for the Village pursuant to a contract with the Village. “Nonemployee” includes contractors and consultants.

29.01.2 Department Head/Supervisor Responsibility. All Village department heads and supervisors are expected to do the following:

- (a) Monitor the workplace environment for signs that harassment may be occurring.
- (b) Advise all employees of the types of behavior prohibited and the Village's procedures for reporting and resolving complaints of harassment.
- (c) Stop any observed acts that may be considered harassment and take appropriate steps to intervene.
- (d) Notify the Village Administrator immediately of the initial receipt of any complaint or evidence of any harassment.

29.01.3 Employee Responsibility. All Village employees are expected to do the following:

- (a) Refrain from participation in, or encouragement of, actions that could be perceived as harassment as established by this policy.
- (b) Encourage any employee who confides that he/she is being harassed to immediately report the harassment.
- (c) Immediately report any actions personally observed that could be perceived as harassment, as established by this policy. Failure to report may lead to disciplinary action.

29.01.4 Filing a Complaint. If an employee feels that he/she has experienced or witnessed harassment, the employee is to immediately report the act of harassment to his/her immediate supervisor, department head or the Village Administrator.

29.01.5 Corrective Action. All reports describing conduct that is inconsistent with this policy will be promptly and thoroughly investigated. Complaints of harassment shall be investigated and handled as confidentially as possible.

- (a) All harassment is considered misconduct, subject to disciplinary action by the Village. During the investigation of complaints under this policy, the Village may impose discipline for inappropriate conduct without regard to whether the conduct constitutes a violation of the law and even if the conduct does not rise to the level of violating this policy.
- (b) Corrective action, up to and including termination of employment, will be implemented in those situations determined to require such action.
- (c) Upon completion of the investigation, the results will be communicated to the complainant, the complainant's line management and individuals involved in the investigation, as appropriate. Resolutions that aren't accepted by the complainant as completely satisfactory will be reviewed by the Village President.

29.01.6 False Complaints. Employees found to have filed false complaints of harassment will be subject to disciplinary action up to and including termination.

29.01.7 Outside Agencies. An employee may file a complaint with either of the following agencies:

Illinois Department of Human Rights 100 West Randolph Chicago, Illinois 60601	Equal Employment Opportunity Commission (EEOC) 500 West Madison Chicago, Illinois 60661
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29.01.8 Retaliation Protection. Village policy prohibits reprisal or retaliation against an employee for reporting harassment, filing complaints of harassment, supporting or assisting another employee in pursuing a complaint, or for participating in an investigation. Employees wishing to file a retaliation complaint are to be referred to the Village Administrator.

29.02 Sexual Harassment Policy

It is the policy of the Village to preserve, protect and enhance the dignity of all Village personnel and to provide a professional work environment free from sexual intimidation, ridicule, and insults perpetrated upon or by any employee. The Village prohibits sexual harassment of and by its employees. Sexual harassment is inappropriate, offensive and illegal and will not be tolerated by the Village.

29.02.1 Coverage. This Policy prohibiting sexual harassment applies to all officers and employees of the Village, including but not limited to full-time and part-time employees, permanent and temporary employees, exempt supervisory and confidential employees, and elected and appointed officials.

(a) Sexual Harassment shall also include sexual harassment of nonemployees by Village nonmanagerial and nonsupervisory employees if the Village becomes aware of the conduct and fails to take reasonable corrective measures. For the purpose of this Section, "nonemployee" shall mean a person who is not otherwise an employee of the Village and is directly performing services for the Village pursuant to a contract with the Village. "Nonemployee" includes contractors and consultants.

29.02.2 Sexual Harassment Defined. Sexual harassment is behavior with sexual content or overtones that is unwelcome and personally offensive. For the purposes of this policy, "sexual harassment" means unwelcome sexual advances, direct or implied requests for sexual favors, and other verbal and/or physical conduct of a sexual nature:

- (a) When submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, evaluation, advancement or promotion;
- (b) When submission to or rejection of such conduct by an individual is used as the basis or any part of the basis affecting such individual's career, job or employment conditions; or
- (c) Such conduct has the purpose or effect of interfering with an individual's performance, or creating an intimidating, hostile or offensive working environment. For purposes of this definition, "working environment" is not limited to a physical location an employee is assigned to perform his/her duties.

29.02.3 Prohibited Conduct.

- (a) Sexual harassment includes conduct directed by men toward women, conduct directed by women towards men, conduct directed by women towards women, and conduct directed by men towards men. Sexual harassment consists of, but is not limited to, the following:
 - (i) Verbal behavior: sexual innuendoes, negative or offensive comments, jokes, kidding or suggestions about another employee's gender or sexuality, threats related to sexual conduct, repeated unwelcome requests for dates, statements about other employees of a sexual nature, obscene or lewd sexual comments; using slang names or labels that can be considered derogatory or too familiar, such as "honey", "sweetie", "dear", "darling", "boy", "girl", or other terms people may find offensive; or talking about or calling attention to an employee's body or characteristics in a sexually negative or

embarrassing way.

- (ii) Nonverbal behavior: sexually suggestive looks, sexually suggestive or insulting sounds (whistling, catcalls, smacking or kissing noises), leering, or obscene or sexually suggestive bodily gestures.
- (iii) Physical behavior: touching, unwelcome physical contact such as pats, squeezes, hugs, kissing, pinching, purposely rubbing up against another person's body or actual sexual assault or abuse.
- (iv) Visual behavior: displaying pictures, cartoons, posters, pinups, calendars, signs, *etc.*, of a nude or sexual nature.
- (v) Textual/Electronic: "sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communications (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites such as Facebook, Twitter and Instagram).
- (vi) Other behavior that can constitute sexual harassment includes ridiculing an employee who experiences sexual harassment; blaming the victim of sexual harassment for causing the problems; continuing the offensive behavior after a co-worker has expressed objection to the behavior; retaliating against an employee who rejects sexual advances by denying promotions or other job related benefits; or ridiculing a victim or alleged harasser with respect to the alleged harassment; demanding or requesting sexual favors tied to promises of better treatment or threats concerning employment; discriminating against an employee for refusing to "give in" to demands or requests for sexual favors; or rewarding or granting favors to one who submits to demands or requests for sexual favors.

- (b) Each individual employee has the responsibility to refrain from sexual harassment in the workplace. An individual employee who sexually harasses a fellow worker is liable for his/her own individual conduct. No employee shall directly or indirectly:

- (i) Threaten or insinuate that another employee's refusal to submit to sexual advances will adversely affect that employee's relationship with the Village, work status evaluation, wages, advancement, assigned duties, or any other condition of employment;

- (ii) Promise, imply or grant preferential treatment in connection with another employee engaging in sexual conduct; or
- (iii) Abuse the dignity of another employee through insulting or degrading sexual remarks or conduct.

29.02.4 Supervisor/Department Head Responsibility.

- (a) Each supervisor/department head is responsible for maintaining the workplace free from sexual harassment. This is best accomplished by promoting a professional environment and by treating sexual harassment the same as other forms of employee misconduct.
- (b) A supervisor/department head, as well as the Village, may be held liable for damages related to sexual harassment by a supervisor, department head, employee or third party (*i.e.*, contractors).
- (c) Liability is based either on the Village's responsibility to maintain a certain level of order and discipline, or on the supervisor/department head acting as an agent of the Village. As such, a supervisor/department head must act quickly and responsibly, not only to minimize his/her own liability, but also the liability of the Village.
- (d) A supervisor/department head is to address an observed incident of sexual harassment or a complaint with seriousness, take prompt action to investigate it, report and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies where an employee informs a supervisor/department head about behavior considered to be sexual harassment but does not want to make a formal complaint.
- (e) A supervisor/department head is to ensure that no retaliation will result against an employee making a sexual harassment complaint.

29.02.5 Complaints/Reporting.

- (a) Initial step. An employee who believes she or he is being sexually harassed may first identify the offensive behavior to the offending party as directly and as firmly as possible and request that it stop. Employees are encouraged to take this step if they believe that the offensive conduct may be unintentional. However, if the employee does not feel comfortable confronting the offending party, or feels threatened or intimidated by the situation, or if the behavior does not cease after a confrontation with the offending party, the matter should be reported as set forth in subsection 29.02.5(b), below.

(b) Reporting. An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position as quickly as possible, in confidence to an immediate supervisor, department head, Village Administer, Trustee Liaison for Human Relations, or Village President by electronic or direct communication. It is not necessary for sexual harassment to be directed at the person making the complaint. After an initial communication, subsequent communication, if needed shall be in written form and contain the following information:

- (i) Name, department and position of complainant.
- (ii) Name(s) of person(s) alleged to be in violation of this policy, if known.
- (iii) The specific action or series of acts or actions constituting the behavior alleged to be sexual harassment;
- (iv) The length of time that such behavior has transpired.
- (v) The implied or actual employment action (*i.e.*, failure to promote, job assignments, refusal to hire, *etc.*) that may have occurred. [NOTE: Sexual harassment does not necessarily have to be linked to the grant or denial of an economic "quid pro quo." Sexual harassment leading to a non-economic injury is also prohibited].
- (vi) The names of any witnesses or others with knowledge of such behavior.

(c) Documentation of any incident may be submitted with any report (what was said or done, the date, time and place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(d) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Village. Every effort will be made to promptly investigate any allegation of sexual harassment in as confidential a manner as possible. No one making a complaint will be retaliated against even if a complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(e) Disclosure. The complainant shall be assured of confidentiality in the investigation to the extent possible. The complainant should be made aware that in order to investigate the complaint to its fullest extent, it

may be necessary to make his/her name known and/or necessary for the complainant to confront the alleged harasser. Disclosure of the allegation of sexual harassment shall be restricted to individuals who have a "need to know" in order to conduct a proper investigation.

29.02.6 Investigation/Disposition of Complaint.

- (a) The Village Administrator or his/her designated investigator, shall investigate complaints alleging violations of this policy, except in an instance in which the allegations involve directly or by complicity, the Village Administrator, in which event the investigative responsibilities shall be assigned by the Village President to an elected member or members of the Board of Trustees or to an independent investigator acting on behalf of the Village.
- (b) The Village Administrator or his/her designated investigator, shall conduct an interview with the employee registering the complaint. The intent of the interview is to determine a true and complete account of the complaint. The following information should be sought during the interview process:
 - (i) The severity of the conduct;
 - (ii) The number and frequency of acts of alleged harassment;
 - (iii) The apparent intent of the alleged harasser;
 - (iv) The relationship of the parties;
 - (v) The response of the complainant at the time of the incident(s); and
 - (vi) The relevant work environment.
- (c) To the extent practicable, the investigating party shall interview all other individuals who witnessed or may have witnessed the incident or who may have knowledge of the incident.
- (d) The Village Administrator or his/her designated investigator, shall interview the alleged harasser and inform the individual that a complaint has been made against him/her. The individual shall be informed that the incident is not to be discussed with coworkers and that retaliatory action against the complainant will not be tolerated.
- (e) To the extent practicable, the Village Administrator or his/her designated investigator, shall review any other relevant information or

evidence and/or interview any other relevant witnesses.

- (f) A written record of the investigation shall be made, inclusive of all notes made of conversations or verbal responses to questions posed by the investigator to the complainant, witnesses or respondent. The entire written record and report shall be provided to the Village Administrator within ten (10) working days from the date the allegations were first reported in writing.
- (g) The Village Administrator shall, based upon the investigative report, evidence and all known circumstances, make a determination as to whether sexual harassment, as defined by this policy, has occurred.
- (h) If the determination is that sexual harassment has occurred, the Village Administrator shall take immediate and appropriate disciplinary actions consistent with the nature and severity of the offense. Disciplinary action shall be in accordance with the rules and regulations of this Personnel Manual, the Village Code, and if applicable, to the rules of the separate departments.
 - (i) The discipline imposed shall reflect the severity of the improper conduct, taking into consideration the nature of the conduct, the frequency of the conduct, the relationship of the parties involved, the intent of the offending party, and any other relevant matter.
 - (i) Discipline for sexual harassment includes, but is not limited to, verbal reprimand, written reprimand, transfer, reassignment of duties, demotion, suspension or discharge. In most severe and blatant cases of sexual harassment, the offending employee shall be immediately discharged.

29.02.7 Complaints alleging violations of this Policy by:

- (a) The Village Administrator.

If the Village Administrator is found, after appropriate investigation, to have violated this Policy, the Village President shall present the investigative report and findings to the Village Board. If the Board concurs with the findings, the Board shall impose discipline in accordance with the applicable rules and ordinances of the Village.

- (b) An elected official of the Village.

If any elected official of the Village is found to have violated this Policy,

the investigative report and findings shall be presented to the Village President and Board of Trustees, excluding the member alleged to have violated this Policy. If the members concur with the findings, they shall impose appropriate discipline.

(c) Non-employees.

In instances of sexual harassment alleged to have been committed in the work place or in a work-related situation by a non-employee, the Village Administrator and/or department head whose employee is involved shall take all lawful actions to insure the safety and dignity of the employee and to end the incidence of harassment.

29.02.8 Retaliation. In all instances, whether a violation of this Policy is determined to have occurred or to not have occurred, any official, department head or supervisor, the respondent, or any other employee of the Village shall not retaliate in any way against the complainant, witnesses or any other person involved in the investigation. Prohibited retaliatory action includes, but is not limited to, reprimand, discharge, suspension, demotion, or denial of promotion or transfer, or change in the terms or conditions of employment. In addition to the prohibition against retaliation set forth in this policy, any individual reporting sexual harassment or any witness to such action is protected against retaliation under the following state statutes:

- (a) State Officials and Employees Ethics Act (5 ILCS 430/15-10), which provides whistleblower protection from retaliatory action for an employee who:
 - (i) Discloses or threatens to disclose to his/her supervisor, department head, Village Administrator, Trustee Liaison for Human Rights, or the Village President an activity, policy or practice of any elected official, officer, other employee, or Village agency that the employee reasonably believes is in violation of a law, rule or regulation;
 - (ii) Provides information to or testifies before the Village Administrator or his/her designee, Village President, Village Trustee, or an independent investigator acting on behalf of the Village, conducting an investigation, hearing, or inquiry into any violation of a law, rule or regulation by any elected official, officer, employee or Village agency; or
 - (iii) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Act.

- (b) Whistleblower Act (7490 ILCS 174/15 *et seq.*), which provides that the Village may not retaliate against an employee who discloses information in a court, administrative hearing, or before a Village commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule or regulation. In addition, the Village may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule or regulation.
- (c) Illinois Human Rights Act (775 ILCS 5/6-101), which provides that it is a civil rights violation for a person, or for two or more persons to conspire, retaliate against a person because she/he has opposed what she/he reasonably and in good faith believes to be sexual harassment in employment, because she/he has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding or hearing under the Illinois Human Rights Act.

29.03 Other Remedies

The filing of a sexual harassment complaint with the appropriate Village official under this Policy does not limit, extend, replace, or delay the right of any person to file a similar charge or complaint with any federal or state agency having authority to hear matters of sexual harassment complaints. A complaint must be filed with the Illinois Department of Human Rights (IDHR) within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the U.S. Equal Employment Opportunity Commission (EEOC) must be filed within 300 days of the alleged incident(s). An employee may also file a retaliation charge with the IDHR or the EEOC within 300 days of the alleged retaliation.

29.04 False and Frivolous Complaints

False and frivolous charges are cases where the accuser uses a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is considered a severe offense that shall be subject to disciplinary action, up to and including discharge, taken against the accuser.

29.05 Violation of this Policy

In addition to the discipline set forth in subsection 30.02.6(h) above, any person who violates this policy may be subject to a fine up to \$5,000 per offense and any applicable fines and penalties established pursuant to Village ordinance, or state or federal law. Each violation may constitute a separate offense. Any discipline imposed by the Village shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a state or federal agency.

(a) Definitions. The following definitions shall apply to this subsection:

1. “Settlement” means any written commitment or written agreement, including any agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance, or otherwise between an employee or nonemployee and the Village, under which the Village directly or indirectly provides to an individual compensation or other consideration due to an allegation that the individual has been a victim of sexual harassment or unlawful discrimination under the Illinois Human Rights Act.
2. “Adverse judgment or administrative ruling” means any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered in favor of an employee or non-employee and against the Village during the preceding year in which there is a finding of sexual harassment or unlawful discrimination brought under the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, Village law, including any rules, regulations or policies adopted by the Village, or any other federal, state or any other local law prohibiting sexual harassment or unlawful discrimination.

(b) Required disclosures. Beginning July 1, 2020, and by each July 1 thereafter, until January 1, 2020, unless otherwise extended by the Illinois General Assembly, the Village, if an adverse judgment to administrative ruling has been entered against it in the preceding calendar year, shall disclose annually to the Department of Human Rights, the following information:

1. the total number of adverse judgments or administrative rulings during the preceding year;
2. whether any equitable relief was ordered against the Village in any adverse judgment to administrative ruling;
3. how many adverse judgments or administrative rulings are in each of the following categories:
 - (i) sexual harassment;
 - (ii) discrimination or harassment on the basis of sex;
 - (iii) discrimination or harassment on the basis of race, color, or national origin;

- (iv) discrimination or harassment on the basis of religion;
- (v) discrimination or harassment on the basis of age;
- (vi) discrimination or harassment on the basis of disability;
- (vii) discrimination or harassment on the basis of military status or unfavorable discharge from military status;
- (viii) discrimination or harassment on the basis of sexual orientation or gender identity; and
- (ix) discrimination or harassment on the basis of any other characteristic protected under the Illinois Human Rights Act.

(c) Prohibited disclosures. The Village may not disclose the name of a victim of an act of alleged sexual harassment or unlawful discrimination in any disclosure required under this subsection and the Illinois Human Rights Act. The data submitted by the Village to the Illinois Department of Human Rights is confidential and exempt from the Illinois Freedom of Information Act.

(d) Failure to report/penalties. If the Village fails to make any disclosures required under the Illinois Human Rights Act, the Illinois Department of Human Rights may issue a notice to show cause giving the Village thirty (30) days to disclose the required information. If the Village does not comply within thirty (30) days, the Department may petition the Illinois Human Rights Commission for entry of an order imposing a civil penalty.

29.08 Sexual Harassment Prevention Training

The Village shall provide sexual harassment prevention training to all Village employees at least once a year. The program, at a minimum shall include the following:

- An explanation of sexual harassment consistent with Illinois Human Rights Act;
- Examples of conduct that constitutes unlawful sexual harassment;
- A summary of relevant federal and state statutory provisions concerning sexual harassment, including remedies available to victims of sexual harassment; and
- A summary of responsibilities of the Village in the prevention, investigation, and corrective measures of sexual harassment.