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**ARTICLE I. IN GENERAL****Section 28-1. Authority.**

The policies and procedures set out in this chapter and in attachments A, B, and C to Ordinance No. 263 are adopted by the Governing Body pursuant to NMSA 1978, § 3-13-4 et seq.

*History: Ord. No. 251, § 2(1), adopted 3-9-93; Ord. No. 263, adopted 10-26-93.*

**Section 28-2. Purpose.**

The policies and procedures set out in this chapter are prescribed for the purpose of providing a personnel system which promotes efficiency in the conduct of public business and assures fair and impartial treatment of all applicants for employment and all employees of the village.

*History: Ord. No. 251, § 2(3), adopted 3-9-93.*

**Section 28-3. Coverage.**

This chapter applies to permanent employees, probationary employees, full-time employees, part-time employees, hourly employees, salaried employees, and temporary or seasonal employees. Those on professional services contract shall not be covered by this article.

*History: Ord. No. 251, § 2(4), adopted 3-9-93.*

**Section 28-4. Compliance required.**

All persons operating under the provisions of the personnel policies and procedures shall conform to, comply with, and aid in all proper ways in carrying out the provisions of this chapter.

*History: Ord. No. 251, § 2(2), adopted 3-9-93.*

**Section 28-5. Chain of command.**

Under normal circumstances, when it becomes necessary for an employee to officially communicate with an elected official, the village administrator, the village clerk, a department head, or a supervisor, personnel will use the proper chain of command. During an emergency, personnel may bypass their immediate supervisor, but will notify him as soon as possible.

*History: Ord. No. 251, § 2(5), adopted 3-9-93.*

**Section 28-6. Personnel officer.**

The personnel officer for the village shall be the village clerk until such time as the Governing Body designates another person to act in that capacity. The personnel officer will maintain all employee records, prepare 1-9 forms and perform other tasks as designated in this article.

*History: Ord. No. 251, § 2(6), adopted 3-9-93.*

**Section 28-7. Department regulations.**

Additional personnel regulations not in conflict with this article may be drafted by department heads to meet specific needs of their areas of responsibility, but must be filed with the personnel officer and approved by the Governing Body. Such rules must be distributed to employees so that they may familiarize themselves with the regulations which apply to them. Each employee shall sign an acknowledgment that he has received, read and understood this chapter.

*History: Ord. No. 251, § 2(7), adopted 3-9-93.*

**Section 28-8. Violations.**

Any employee who violates any provision of the village personnel policy, in addition to any other penalty imposed for such violation is subject to discipline.

*History: Ord. No. 251, § 2(8), adopted 3-9-93.*

### **Section 28-9. Equal employment opportunity policy.**

(a) The village is an equal employment opportunity employer. It is the policy of the village to provide equal employment opportunity to all qualified persons, consistent with federal, state, and municipal equal employment opportunity law. The village complies with the New Mexico Fair Labor Standards Act and the Americans with Disabilities Act. This policy shall apply to all phases of the employment relationship, including the hiring, upgrading, promoting, transferring, laying off, terminating, compensating, and recruiting of personnel.

(b) Any employee found to have acted in violation of the policy stated in this section shall be subject to appropriate corrective disciplinary action, up to and including discharge from employment.

(c) All complaints of discrimination or harassment in violation of the village equal employment opportunity policy should be directed to the Village Administrator or Mayor. The Village Administrator or Mayor has the full responsibility to receive and investigate complaints involving violations of this policy as confidentially as possible.

*History: Ord. No. 251, § 2(9), adopted 3-9-93.*

### **Section 28-10. Nepotism.**

It shall be unlawful for any person elected or appointed to any public office or position within the village to employ as a clerk, deputy or assistant, persons related by consanguinity or affinity within the third degree to the person giving such employment in such office or position, whose compensation is to be paid out of public funds, unless such employment shall first be approved by the Governing Body, whose duty it is to approve the bond of the person giving such employment, and provided that the compensation of such clerk, deputy or assistant shall be at the rate of \$600.00 or less a year (see NMSA 1978, § 10-1-10, 10-1-11).

*History: Ord. No. 251, § 2(10), adopted 3-9-93.*

### **Section 28-11. Sexual harassment.**

(a) It is the policy of the village to maintain a working environment free of all forms of sexual harassment or intimidation. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are serious violations of village policy and will not be condoned or permitted. Not only is sexual harassment a violation of policy, but it may also violate title VII of the Capital Civil Rights Act. Any employee who is subject to harassment or intimidation should immediately contact their immediate supervisor. If the complaint involves an employee's immediate supervisor, employees are authorized to file their complaint with someone of higher authority in the village. All complaints of sexual harassment will be promptly and confidentially investigated.

(b) Any employee who violates the sexual harassment policy as described in this section will be subject to appropriate disciplinary action, up to dismissal of employment.

*History: Ord. No. 251, § 2(11), adopted 3-9-93.*

### **Section 28-12. Drug policy statement.**

The village will provide a drug-free workplace for all employees. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol is prohibited in the village workplace.

*History: Ord. No. 251, § 2(12), adopted 3-9-93.*

### **Section 28-13. Personnel records; confidentiality.**

Personnel evaluations, being matters of opinion, are not open to public review. They are protected as confidential documents under NMSA 1978, § 14-2-1C, as amended. However, since performance evaluations are considered a necessary part of each employee's employment history, such documents may be reviewed by appropriate supervisory personnel.

*History: Ord. No. 251, § 2(13), adopted 3-9-93.*

### **Sections 28-14 to 28-35. Reserved.**

## **ARTICLE II. RECRUITMENT AND SELECTION**

### **Section 28-36. Recruitment.**

(a) When a vacancy occurs and the department head wishes to fill the vacancy, he shall provide the personnel officer with a notification containing the title of the position, the location and hours of the work and any special requirements of the position. Normally the village will promote from within, but when no suitable candidates are available, the village will recruit from the outside.

(b) Recruiting, selecting, and advancing employees will be on the basis of their relative ability, knowledge and skill, including open consideration of qualified candidates for initial employment, with first preference being given to village residents. Final selection of a candidate will be based on the most qualified person to do the job.

(c) Employees will be retained on the basis of the adequacy of their performance and provisions will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

(d) All applicants for positions in the service of the village may be subject to competitive examination. When administered, examinations shall be confined to those matters that are directly job related and that fairly, validly, and reliably test the capacity and fitness of the applicant to successfully discharge the duties of the class for which the examination is held. Examinations may be written, oral, physical performance tests, rating of training and experience, or a combination of these. The department head will be responsible for determining the need for testing, subject to the approval of the Governing Body.

(e) The personnel officer shall advertise the opening in a newspaper of general circulation within the village and post notice in the official posting places of the village unless the position has been filled from within. The posting shall remain in place for at least five days. Each announcement shall state that the village is an equal employment opportunity employer and notify applicants that they are subject to a background investigation and will be required to sign an authorization for such an investigation.

*History: Ord. No. 251, § 3(1), adopted 3-9-93; Ord. No. 295, adopted 11-12-96.*

### **Section 28-37. Application procedure.**

(a) All applicants for positions shall obtain an application form available in the office of the personnel officer, shall complete such application, and shall return such application together with proof of education completed, licenses or certificates held, or other appropriate supporting documents, to the personnel officer on or before the closing date for recruitment.

(b) No person may be hired unless he completes an application for employment, which will remain under active consideration for a three-month period. Should a second like position become open within the three months, it may not be necessary to readvertise the open position in question.

(c) The personnel officer shall check personal references and other information provided by the applicant. Applicants shall be advised on the application form that they are subject to such reference checks and data verification. All such inquiries, whether made in person, by telephone, or in writing, shall be documented and made a part of the applicant's file. All such responses that constitute personal statements which are a matter of opinion shall be held confidential and not be open to public inspection.  
*History: Ord. No. 251, § 3(2), adopted 3-9-93.*

### **Section 28-38. Ineligibility of applicants.**

Applicants will be considered ineligible for a position for any of the following reasons, including but not limited to:

- (1) Any fraudulent or false statement on an application, or fraudulent or false statement given during any step of the selection process.
- (2) Failure to complete or pass the medical examination or fingerprinting and photographing, as directed by the personnel officer, the department head or hiring supervisor.
- (3) Failure to appear for processing or for work after notice of appointment as directed by the personnel officer, department head or the hiring supervisor.

*History: Ord. No. 251, § 3(3), adopted 3-9-93.*

### **Section 28-39. Physical and/or mental examinations.**

Where physical condition or mental stability are bona fide requirements for the job, as indicated in the job description, the applicant may be required to undergo a physical and/or psychological examination, at the village's expense, by a doctor approved by the village prior to appointment.  
*History: Ord. No. 251, § 3(4), adopted 3-9-93.*

### **Section 28-40. Qualifications and selection.**

(a) Qualifications are the primary consideration in filling any position. Experience, education, training, skills, and other abilities are carefully considered in appraising individual qualifications. The records of those who are most appropriately qualified are referred to the hiring supervisor, or head of the department where the vacancy exists, who selects a person to fill the position.

(b) The head of the department in which the vacancy exists shall review all applications received with the personnel officer, and shall interview the top five applicants who meet the qualifications listed in the job announcement. The department head shall then submit the names of the top three applicants, with his recommendation, to the Village Administrator. The Village Administrator will review applicants and submit a recommendation to the Mayor, who shall then appoint the recommended applicant or request to review all applications submitted.

(c) Any applicant for employment with the village may be disqualified from gaining such employment and any village employee's employment may be terminated if any of the following violations have been committed by that person:

- (1) Lack of minimum qualifications;

- (2) Below the legal minimum age for employment in the position applied for;
- (3) Does not complete the application;
- (4) The applicant is unwilling to undergo a background and reference check if required;
- (5) They fail to meet statutory requirements on clearance from infamous or felonious crimes;
- (6) They are not bondable and the position requires a bond;
- (7) They are shown to have provided false information on an employment application;
- (8) There is shown to have been fraudulent conduct in connection with an employment examination;
- (9) They refuse to submit to, cooperate with or complete any medical examination duly authorized to be administered by a licensed physician; or
- (10) Is not legally entitled to employment in this country.

(d) Applications and results of personnel investigations will be retained for a period of one year. A candidate disqualified under subsections (c)(1) through (c)(6) of this section will not necessarily be disqualified from seeking or filling other village positions for which they are qualified. A candidate disqualified under subsections (c)(7) through (c)(10) of this section may not be considered for employment in another village position.

(e) Applicants who have been disqualified shall be promptly notified by the personnel officer, except where insufficient address makes such contact impractical. Applications, whether accepted or disqualified, will be retained for a period of one year.

(f) After the deadline for the submission of applications, the department head shall evaluate the applications and rank them in order of estimated fitness for the position in question. In making this evaluation, any combination of written or oral performance, as well as analysis of work history and previous employment, together with such other techniques of evaluation as deemed appropriate may be used. All candidates for a vacant position shall be evaluated against the same qualification requirements. After ranking, candidates will be set up for interview and selection. Once a candidate is selected, if the position requires it, a physical agility test or medical examination may be administered.

*History: Ord. No. 251, § 3(5), adopted 3-9-93.*

#### **Section 28-41. Background investigations.**

For the positions required by state statutes to be clear of felonious or infamous crimes, to be bondable, or where professional integrity is imperative, an examination of a candidates arrest and conviction record and a background investigation will be conducted. Recruitment for such positions will require applicants to sign an authorization for a background investigation.

*History: Ord. No. 251, § 3(6), adopted 3-9-93.*

#### **Sections 28-42 to 28-60. Reserved.**

### **ARTICLE III. CONDITIONS OF EMPLOYMENT**

**Section 28-61. Medical examinations.**

(a) Where physical condition or mental stability are bona fide requirements for continued employment with the village, the employee may be required to undergo a physical and/or psychological examination at the expense of the village. A complete medical examination may be required for the following reasons:

- (1) Prior to an applicant or employee becoming a permanent village employee;
- (2) Prior to promotion;
- (3) When requested by a supervisor who has reason to believe the employee is not physically or mentally capable of performing the duties of his position, and such request is approved by the Mayor;
- (4) In the event of any injury, illness, or surgical treatment of an employee;
- (5) Before an employee, who has been on leave with or without pay for more than three working days, returns to work;
- (6) Before an employee leaves the employment of the village for any reason;
- (7) Any purpose deemed necessary by the Mayor or the Governing Body.

(b) No employee may refuse to complete a medical examination. No request for an employee to appear for medical examination, either physical or psychological, is cause for a grievance. Classified employees who are in a pay status at the time of the examination will be paid at their regular rate for the time spent being examined and for a reasonable amount of travel time to and from the place of examination.

(c) Should a physical examination reveal that the employee is not able to continue his present job, he will be placed on sick leave and/or vacation. Once vacation and sick leave have been exhausted, the employee will be placed on physical layoff status or leave without pay.

*History: Ord. No. 251, § 4, adopted 3-9-93.*

**Section 28-62. Probationary period.**

(a) All new employees hired to fill a permanent position shall serve a probation period. All employees hired in the village shall serve a one-year probationary period. During this period, the employee's performance will be evaluated in written form every six months. If the employee's performance is not up to standards, he may be terminated at any time. Upon submission of a satisfactory job performance evaluation from the department head to the personnel officer at the end of the employee's probationary period, the employee will obtain permanent status.

(b) Annual and sick leave will be accrued by the employee during his probationary period (refer to article IX of this chapter).

(c) The employment date of all municipal employees for the computation of FICA deductions, worker's compensation, and any other benefits provided, shall be the employee's first day of work.

(d) An employee who is retained at the completion of the probationary period may only be terminated for just cause, and will be entitled to a hearing before the Mayor and/or Governing Body, as

described in the grievance procedure (refer to article VIII of this chapter).

*History: Ord. No. 251, § 4(1), adopted 3-9-93.*

### **Section 28-63. Performance evaluation.**

(a) The overall work performance of each permanent employee will be evaluated by the immediate supervisor on an annual basis and will become due by February 15. Informal evaluations will be done every six months. A memo will be filed in the employee's personnel file stating the overall discussion. The performance evaluation will be on a form provided by the Village Administrator, which will be on file in the village offices as Attachment B of Ordinance No. 263. Each employee shall be given a final, signed copy of the performance evaluation and the original shall be given to the personnel officer for inclusion in the employee's personnel file.

(b) A department may prepare performance appraisals and development plans for its employees whenever it is deemed appropriate, such as when a supervisor wishes to make an employee's performance a matter of record, upon change of supervisors, or promotion.

(c) Acknowledgement of performance evaluations shall be made by having the employees sign the form, stating that they have received the performance evaluation. In instances where an employee declines to sign such acknowledgement, the personnel officer shall verify this by affixing his signature on the proper place on the form indicating that the employee received the performance evaluation. Employees may sign rebuttal statements to performance appraisals, which will be attached to and become a part of the performance evaluation, and a matter of record.

(d) Any employee who receives an overall "needs improvement" on any regularly scheduled performance appraisal will be re-evaluated three months later to verify fulfillment of the goals outlined in the performance appraisal. Failure to meet established criteria at the end of the three-month period will result in placing the employee on probation for a six-month period. The employee's immediate supervisor will meet with the employee on a monthly basis during the probationary period to evaluate and guide the employee toward the goals outlined. Documentation of these meetings will be made a part of the employee's personnel file.

*History: Ord. No. 251, § 4(2), adopted 3-9-93; Ord. No. 263, adopted 10-26-93; Ord. No. 295, adopted 11-12-96.*

### **Section 28-64. Public employee as a public trust.**

Village employees away from the job shall exercise the same rights and privileges as other private citizens insofar as their actions do not interfere with their performance on the job or undermine the public confidence in themselves, other village employees or the village government as a whole.

*History: Ord. No. 251, § 4(3), adopted 3-9-93.*

### **Section 28-65. Hours of work.**

(a) The standard working hours for the employees of the village with the exception of the police department shall be eight hours per day, with one hour off for lunch. The standard workdays for all departments with the exception of the police department shall be Monday through Friday, commencing at 8:00 a.m. each morning and ending at 5:00 p.m. each afternoon with an hour off for lunch. Lunch hours may vary if the needs of the department require it. The Mayor may change the commencement and ending of the workweek and workday as shall best serve the needs of the village and may arrange schedules for day, swing, and graveyard shifts if needed. Employees of the police department shall work the hours set by the chief of police, in compliance with the Federal Fair Labor Standards Act (29 U.S.C. section 207(a)).

(b) Each employee shall be entitled to one 15-minute break during the middle of the first half of the

work shift and one 15-minute break during the middle of the second half of the work shift. Failure to observe the time limits may be cause for disciplinary action.

*History: Ord. No. 251, § 4(4), adopted 3-9-93.*

### **Section 28-66. Outside employment.**

Employment by the village shall constitute the primary employment for any full-time employee. Employees may engage in off-duty employment subject to the following limitations:

- (1) The secondary employment shall not interfere with village employment and will not exceed 24 hours per week.
- (2) The employee shall submit a written request specifying the kind and hours of work for the Mayor's approval prior to engaging in such employment.
- (3) Approval may be withheld if it appears that the other employment might:
  - a. Physically or mentally exhaust the employee to the point where village work is affected;
  - b. Create a possible conflict of interest for the employee between the other employment and village employment.
- (4) Certain types of outside employment may be denied to certain departments or classes of employees because of a potential conflict of interest or because of potential damage of public trust of the department.

*History: Ord. No. 251, § 4(5), adopted 3-9-93.*

### **Section 28-67. Political participation.**

(a) No village employee shall campaign, distribute literature, or solicit political contributions while on the job. No village employee shall prohibit the right of another employee to have and express a personal choice of political commitment. No village employee shall be expected, required or coerced to contribute to any campaign. No village employee shall represent or allow himself to be inferred as officially representing the village at any political meeting or in any political publicity. No one shall prohibit any village employee from voting or exercising his political rights as a private citizen during nonworking hours.

(b) A village employee who chooses to run for public office within the village shall take vacation leave or leave without pay during the campaign period. An employee elected to a village post shall terminate his employment with the village upon taking the oath of office for the elected position.

*History: Ord. No. 251, § 4(6), adopted 3-9-93.*

### **Section 28-68. Campaign activities.**

Employees may participate in any federal, state, county, or local political campaign, provided such participation is conducted away from any village office or village worksite and is not conducted during working hours. Any employee whose position is funded by a federal program and/or monies shall be subject to the provisions of 5 U.S.C. section 1501 et seq., as amended, commonly known as the "Hatch Act." Revenue sharing funds are not considered to be federal loans or grants for purposes of this section.

*History: Ord. No. 251, § 4(7), adopted 3-9-93.*

### **Section 28-69. Dress and appearance.**

While it is not the village's intention to dictate the personal wardrobe of employees, the appearance

and dress of employees is important in creating a favorable image supportive of public confidence. Employees shall dress appropriately for the task at hand as determined by their supervisor.

*History: Ord. No. 251, § 4(9), adopted 3-9-93.*

#### **Section 28-70. Leave to vote.**

(a) All employees who are registered electors may be granted two hours with pay for purposes of voting. The supervisor may schedule this time off for voting, if requested by employees, so that offices remain open during normal working hours.

(b) Time off with pay for voting will not be granted to any employee whose normal workday begins more than two hours after the opening of the polls, or ends more than three hours prior to the closing of the polls. Time taken off for voting can be used for no other purpose.

(c) The Village Administrator may require an employee to prove that he is a registered and eligible voter. Abuse of voting leave is considered just cause for disciplinary action up to and including dismissal.

*History: Ord. No. 251, § 4(8), adopted 3-9-93.*

#### **Section 28-71. Telephone usage.**

(a) Employees are expected to use rules of everyday courtesy in using village telephones, including the following:

(1) Employees should always identify themselves and their department when answering calls.

(2) If the inquiry has been misdirected, every reasonable effort should be made to direct the call to the proper person and department.

(3) The village telephone is installed for business purposes and local personal calls should be kept to an absolute minimum. Long distance calls should be limited to extreme emergencies.

(b) Illegal or unauthorized use of the village telephone shall subject the employee to disciplinary action.

*History: Ord. No. 251, § 4(10), adopted 3-9-93.*

#### **Sections 28-72 to 28-90. Reserved.**

### **ARTICLE IV. CLASSIFICATION OF EMPLOYEES**

#### **Section 28-91. Types of positions.**

There are three types of positions of village employment, defined as follows:

*Full-time regular position* means a position established with the expectation of indefinite continuity which requires performance of forty hours or more of work per week.

*Part-time regular position* means a position established with the expectation of indefinite continuity which requires performance of at least eight hours of work per week.

*Temporary or seasonal employees* means an employee appointed to a full-time or part-time position for a period of less than six months. A temporary or seasonal employee has no right to appeal dismissal and is not eligible for employee benefits.

*History: Ord. No. 251, § 5(1), 3-9-93; Ord No.317, adopted 10-27-98.*

### **Section 28-92. Employment status.**

An employee shall have one of the following statuses:

- (1) *Classified employees.* A classified employee is an employee appointed or hired to a regular position either full-time or part-time that has successfully completed a probationary period. A classified employee cannot be removed from a position without just cause and has the right to appeal.
- (2) *Probationary employees.* A probationary employee is an employee appointed to a regular position who has not completed a probationary period. A probationary employee has no right to appeal dismissal.
- (3) *Temporary or seasonal employees.* A temporary or seasonal employee is an employee appointed to a full-time or part-time position for a period of less than six months. A temporary or seasonal employee has no right to appeal dismissal and is not eligible for employee benefits.
- (4) *Special classified employees.* A special classified employee is an employee appointed or hired to a permanent regular position, hired to 40 hours or more, full-time, that has successfully completed a probationary period. A special classified employee cannot be removed from a position without just cause and has the right to appeal. This employee will be compensated at a special hourly rate and this employee is not eligible for employee benefits other than ability to participate in retirement. This employee can be exempt or non-exempt position.
- (5) *Change in Classification.* A special classified employee can request a change in classification to classified employee, but that change will result in a change to a lower pay scale with benefits. A classified employee can request a change in classification to a special classified employee but that change will result in a change to a higher pay scale with retirement benefits only. Such requests can only be made once a year during the insurance benefits open enrollment period. A classified employee who changes to a special classified employee shall receive in a one-time lump sum payment of their entire allowed accumulated leave in accordance with the existing sections 28-237 and 28-182 of this code..

*History: Ord. No. 251, § 5(2), adopted 3-9-93; Ord. 339, adopted 8-14-01.*

### **Section 28-93. Grade specifications.**

(a) All positions shall be grouped into grades and each grade shall include those positions sufficiently similar in character or work, required performance and level of responsibility so that:

- (1) An equivalent level of training, experience, knowledge, ability and other qualifications may be required of incumbents;
- (2) Comparable tests of such qualifications may be used to select incumbents; and
- (3) The same salary range will apply with equity under substantially equal working conditions.

(b) Each grade of positions shall be described by a composite or generic grade specification which shall include the title, significant duties and responsibilities, and minimum or desirable qualifications applicable to all positions in the grade. The grade specification as a whole shall be considered in determining the classification of any individual position. The listing of examples of work typical of a position in the grade is intended to be descriptive only, not limiting. All work performed by each position

is not described, nor do all examples apply to each position in the grade. Supervisors may alter the detailed tasks involved in the duties of a position without necessarily affecting its grade.

(c) Pay plan. The personnel officer shall maintain and publish the pay plan, which shall consist of the written grade specifications for all grades in a competitive service, arranged in logical sequence by occupational or departmental groups, and by level of skill or responsibility. The establishment of new or revised grades shall be recommended by the department head for approval or denial as deemed appropriate by the Governing Body with the recommendation of the Village Administrator.

*History: Ord. No. 251, § 5(3), (4), adopted 3-9-93; Ord. No. 295, adopted 11-12-96.*

#### **Section 28-94. Position classification studies.**

The personnel officer shall make position classification studies of individual positions as needed or upon request by department heads. Job descriptions will be done in compliance with the Americans with Disabilities Act guidelines.

*History: Ord. No. 251, § 5(5), adopted 3-9-93.*

#### **Section 28-95. New positions.**

In order to establish a new position, the department head shall submit a written job description setting out in detail the duties of the position. The personnel officer shall investigate the proposed duties and shall recommend a grade proportionate to the duties of other employees in that grade. The position shall be established by the department head only after review by the Village Administrator and approval of the Governing Body.

*History: Ord. No. 251, § 5(6), adopted 3-9-93.*

#### **Section 28-96. Changes in duties.**

Department heads shall notify the personnel officer promptly in writing of each permanent change of duties, responsibilities or work assignments for positions under their supervision. If the new duties are being removed from one employee and assigned to another, both positions shall be reviewed and may be reclassified to a grade requiring comparable skills. All such changes shall be approved by the Governing Body.

*History: Ord. No. 251, § 5(7), adopted 3-9-93.*

#### **Sections 28-97 to 28-120. Reserved.**

### **ARTICLE V. EMPLOYEE COMPENSATION**

#### **Section 28-121. Compensation plan.**

The compensation plan includes the basic pay schedule adopted by the Governing Body, together with the assignment of each class or position to a pay range in the schedule. The pay scale, as revised from time to time, is available and on file in the village offices as Attachment A to Ordinance No. 263.

*History: Ord. No. 251, § 6(1), adopted 3-9-93; Ord. No. 263, adopted 10-26-93.*

#### **Section 28-122. Pay range.**

Each pay range consists of ten (10) steps. An employee will be eligible for a step increase after completing a satisfactory probationary period and having been employed by the village in his or her current position for at least one year. Department supervisors must ensure pay increases are budgeted for and final authorization is given by the Village Administrator. When an employee is reclassified, the

employee shall be paid at the comparable step within the pay range of the new classification and shall retain the same performance review date.

*History: Ord. No. 251, § 6(2), adopted 3-9-93; Ord. No 295, adopted 11-12-96; Ord. 379, adopted 2-10-04.*

### **Section 28-123. Pay rate is total compensation.**

(a) The pay rate assigned to the employee class shall constitute total remuneration of the employee for the regular hours of work, exclusive of employee benefits, overtime, and compensatory time.

(b) Salaried employees shall not receive pay from the village in addition to the pay rate authorized under the pay plan for any services rendered by them either in the discharge of their ordinary duties, or for any additional duties which may be imposed upon them or which they may volunteer to perform. No reward, gift or other form of remuneration in addition to regular compensation shall be received from any source other than the village by an individual employee.

*History: Ord. No. 251, § 6(3), (4), adopted 3-9-93.*

### **Section 28-124. Revision of compensation plan.**

(a) When the pay range assignment of a class is changed, the rates of all employees in that class shall be adjusted in the same manner. When the pay schedule as a whole is changed, the rates of all employees in the compensation plan shall be adjusted by the same method, formula, or percentage. Cost of living adjustments, if approved by the Governing Body, are revisions to the pay schedule as a whole,

(b) The Governing Body may from time to time as it deems appropriate revise or amend (increase or decrease) the pay plan for the village as a whole, in keeping with current trends including cost of living, inflation, area economy or municipal appropriations.

*History: Ord. No. 251, § 6(5), (6), adopted 3-9-93.*

### **Section 28-125. Paydays.**

(a) A pay period consists of two calendar weeks from Sunday midnight to Sunday midnight. Paychecks will be issued every other Thursday following the end of a pay period and will be distributed by the department heads to employees. When the payday falls on an approved village holiday, the checks will be issued the day prior to the holiday. Employees shall be paid biweekly on alternate Thursdays by 4:00 p.m.

(b) Department heads shall report all hours worked and all absences, paid or unpaid, for each employee during the pay period to the treasurers office by noon on the third day prior to payday.

*History: Ord. No. 251, § 6(7), adopted 3-9-93.*

### **Section 28-126. Exempt positions.**

(a) Certain positions are designated as salaried positions on the basis of administrative, executive or professional duties performed. Such positions are considered exempt employees.

(b) Exempt employees generally accomplish their work within the regular workweek. When necessary, they may adjust their schedule to accommodate the requirements of the job. However, it is recognized that in time of peak work load, an individuals schedule may not be flexible enough to accommodate the demands of the job within the usual work week. In recognition of these situations, exempt employees shall accrue "personal administrative leave (PAL)" hours in lieu of all other compensation for their extended work schedule.

(1) PAL hours will be credited to the employee at a rate of eight hours per month, not to exceed 96 hours per year. PAL time accrual for new employees will be credited a full eight hours for the

month the employee is hired.

- (2) Requests for use of PAL hours shall be in the same manner as for the use of vacation.
- (3) On December 31 of each calendar year, any outstanding balance of PAL hours will be converted to sick leave hours at a six-to-one rate. In other words, six hours of PAL time shall be converted to one hour of sick leave. Upon termination, PAL hours will be forfeited.
- (4) In cases where a position requires overtime of a significant nature, the Village Administrator may authorize additional PAL hours. The Mayor may authorize the Village Administrator additional PAL hours.

*History: Ord. No. 251, § 6(8), adopted 3-9-93; Ord. No. 295, adopted 11-12-96.*

### **Section 28-127. Nonexempt positions.**

The majority of village positions are nonexempt. Employees in such positions shall be paid for each hour worked on straight-time or overtime. Nonexempt employees shall not be paid for unauthorized absences or unauthorized hours worked or for time on approved leave without pay.

*History: Ord. No. 251, § 6(9), adopted 3-9-93.*

### **Section 28-128. Overtime.**

(a) Any employee, except those designated by the Mayor to be professional or supervisory, who is authorized and required to work in excess of the normal workweek of 40 hours, shall be compensated for such excess time at 1 ½ times the employee's hourly rate or unless otherwise specified in the Fair Labor Standards Act. Employees engaged in fire protection or law enforcement activities with a work period of 28 consecutive days are entitled to 1 ½ times their regular rate of pay if they work excess hours. For fire protection employees, overtime must be paid for hours worked beyond 212 during the 28-day work period; for law enforcement employees, working more than 171 hours during the 28-day work period triggers the overtime premium.

(b) Such compensation shall be paid overtime unless the employee elects to receive compensatory time in lieu of paid overtime, excluding the fire protection and law enforcement personnel. Such compensatory time shall be accrued at time and one-half.

(c) Fire protection and law enforcement employees can be compensated with compensatory time for hours worked over 80 hours at straight time to 212 hours for fire protection or 171 hours for law enforcement employees. Any hours over the 212 hours or 171 hours will be accrued at time and one-half.

(d) Compensatory time can be accumulated to a maximum limit of 40 hours. If compensatory time cannot be taken within 180 days of accrual, then the employee shall be paid for compensatory time. Work in excess of the standard assigned hours and final overtime payment must be authorized by the department head. Paid time off and unpaid time off are not hours worked for purposes of computing overtime.

*History: Ord. No. 251, § 6(10), adopted 3-9-93; Ord. No. 295, adopted 11-12-96.*

### **Section 28-129. Holiday pay.**

(a) *Nonexempt, full-time employees.* Nonexempt, full-time employees that are scheduled or required to work on a day observed by the village as a holiday will receive holiday pay at a rate equal to eight hours of straight time pay, in addition to their regular hours worked. A nonexempt, full-time employee may be given the option of receiving compensatory time at a later date instead of holiday pay with department head approval.

(b) *Nonexempt, part-time employees.* Nonexempt, part-time employees that are scheduled or required to work on a day observed by the village as a holiday will receive holiday pay at a rate equal to four hours of straight time pay in addition to their regular hours worked. Nonexempt, part-time employees that are not scheduled to work will receive four hours of holiday pay.

*History: Ord. No. 251, § 6(11), adopted 3-9-93.*

#### **Section 28-130. Continuous service required.**

Eligibility for salary increases, leave accrual, and similar provisions specified in this chapter shall be based upon the requirement of continuous service. In calculating such service, leaves of absence with pay, and leaves without pay for 30 days or less, do not constitute breaks in service and are creditable time.

Leave without pay of more than 30 days or unauthorized absences is break in service and is not creditable time. A break in employment caused by a layoff, resignation or other termination is not creditable service.

*History: Ord. No. 251, § 6(12), adopted 3-9-93.*

#### **Section 28-131. Travel expenses.**

Village employees required to travel on village business will be reimbursed for expenses within limits described in the state's traveling expense regulations.

*History: Ord. No. 251, § 6(13), adopted 3-9-93; State law reference: Per diem and mileage, NMSA 1978, § 10-8-1 et seq.; State administrative code reference: 2.42.2 NMAC.*

#### **Sections 28-132 to 28-150. Reserved.**

### **ARTICLE VI. DISCIPLINE**

#### **Section 28-151. Generally.**

Whenever an employee's performance, work habits or personal conduct falls below a described level, his immediate supervisor shall inform the employee promptly and specifically of such lapses and shall give counsel and assistance. If appropriate and justified, a reasonable period for improvement will be allowed before initiating disciplinary action. In some instances, a specific incident may justify immediate disciplinary action; however, the action taken shall be based upon the seriousness of the incident and the employee's past performance and conduct.

*History: Ord. No. 251, § 7, adopted 3-9-93.*

#### **Section 28-152. Authority to discipline.**

The Village Administrator and/or department heads have the authority to discipline employees under their supervision.

*History: Ord. No. 251, § 7(1), adopted 3-9-93.*

#### **Section 28-153. Causes for discipline.**

Permanent village employees subject to this chapter or any departmental regulations duly promulgated may be disciplined for cause. Cause for disciplinary action includes acts involving unsatisfactory work performance by an employee or employee conduct which would prejudice the public interest, including but not limited to:

- (1) Incompetence; failure or inability to perform adequately the assigned duties of the job.
- (2) Unauthorized absence from work.

- (3) Violation of personnel or departmental rules and regulations or orders.
- (4) Misconduct; conduct or language toward the public or toward village employees which discredits the public service.
- (5) Insubordination; failure to comply with the orders of a supervisor, including refusal to work overtime.
- (6) Abuse of sick leave; claims of illness under false or misleading pretenses.
- (7) Theft, destruction, or negligent use of village money or property.
- (8) Intoxication or use of an illegal drug while working.
- (9) Gifts or gratuities received in exchange for the influence of the employee in the performance of his official village duties; acceptance by the employee of a gift or of preferred consideration.
- (10) Use of official position or authority for personal profit or advantage.
- (11) Disclosure of confidential information from village records or documents to any unauthorized source.
- (12) Falsification, destruction, or unauthorized use of village records, reports or other data belonging to the village.
- (13) Conviction of a felony or of a crime involving moral turpitude.
- (14) Distribution of literature, vending, soliciting or collecting contributions in village offices and public areas without prior authorization of the Village Administrator.
- (15) Other acts or omissions that adversely affect the welfare of citizens, other employees, or the effective operation of the village.

*History: Ord. No. 251, § 7(2), adopted 3-9-93.*

#### **Section 28-154. Types of discipline.**

A department head with the approval of the Village Administrator may suspend, demote, reprimand, place on probation, dismiss or discharge any probationary or permanent employee employed by the village under his supervision, for disciplinary purposes, inefficient work performance or for cause.

*History: Ord. No. 251, § 7(3), adopted 3-9-93.*

#### **Section 28-155. Methods of discipline.**

Consistent with the type and severity of cause for disciplinary action, the disciplinary authorities designated in this article may take the following disciplinary actions:

- (1) *Verbal reprimand.* Counseling session with the supervisor and employee.
- (2) *Written reprimand.* A supervisor may reprimand an employee for cause. Such reprimand shall be in writing and shall be submitted to the employee. A copy of the reprimand shall be kept in the employee's personnel file.

- (3) *Suspension.* An employee may be suspended from employment without pay for cause as follows:
- a. The Village Administrator after receiving a recommendation from the department head or designee thereof may suspend an employee for cause without pay for a period of up to ten working days. The cause for such suspension shall be documented in writing and shall be submitted to the employee and to the Village Administrator ten days prior to the date of the suspension.
  - b. Upon review by the Village Administrator of the facts and with the concurrence of the Mayor, the department head may suspend an employee for cause without pay for a period of up to 25 working days. The cause for such suspension shall be documented in writing and shall be submitted to the employee and to the Village Administrator ten days prior to the date of the suspension.
- (4) *Demotion.* Upon review by the Village Administrator, with concurrence of facts, the department head may demote an employee for cause to a lower classification. The cause for such a demotion shall be documented in writing and shall be submitted to the employee, personnel officer and Village Administrator at least ten working days before the effective date of the demotion.
- (5) *Dismissal.*
- a. A probationary employee may be dismissed at any time without cause. An employee dismissed during probation may not request a hearing pursuant to grievance appeal procedures.
  - b. Any permanent employee may be dismissed at any time for cause. The employee will be given an opportunity to adequately present his side of the issue before the supervisor determines what course of action to take. If the supervisor determines that dismissal is the course of action, the department head or Village Administrator will review the documentation prior to the issuance of the dismissal notice. A copy of the dismissal notice will be furnished to the employee and a copy shall be filed in the employee's personnel file.
  - c. The employee is entitled to a hearing before the Governing Body as outlined in article VIII of this chapter. Unless an authorization and consent form is executed by the former employee at the time information is sought by any potential subsequent employers, the village will provide potential subsequent employers only with information regarding that employee's dates of employment and position held. An employee who is dismissed for cause will not be considered for reemployment with the village.

*History: Ord. No. 251, § 7(4), adopted 3-9-93.*

#### **Section 28-156. Disciplinary probation.**

A permanent employee whose work performance becomes less than satisfactory may be given a specific period of time for improvement not to exceed six months. Any such period exceeding one month shall be a written reprimand with the employee's acknowledgment and filed in the employee's personnel record. If the employee's performance improves to a satisfactory level, a performance evaluation will be prepared by the supervisor, acknowledged by the employee, and filed in the employee's personnel record. A copy shall be given to the employee. If, however, the performance does not return to a satisfactory level by the end of the trial period, the employee shall be dismissed or otherwise disciplined with notification and concurrence by the Village Administrator with the advice and consent of the Mayor.

*History: Ord. No. 251, § 7(5), adopted 3-9-93.*

**Section 28-157. Notification of disciplinary action.**

A written statement of the reasons for disciplinary action shall be submitted to the employee affected at the time the disciplinary action is imposed, and a copy of the statement shall be signed by the employee and placed in his personnel file. The only exception to this would be in the case of a verbal warning and at the department head's discretion who may elect to make a written statement that can be filed in the employee's personnel record indicating such a warning was administered to the employee. It must be understood that prior to any intermediate or major disciplinary action being taken that proper written documentation must be on file to support such action.

*History: Ord. No. 251, § 7(6), adopted 3-9-93.*

**Sections 28-158 to 28-180. Reserved.****ARTICLE VII. TERMINATION****Section 28-181. Return of village property.**

At the time of termination for any reason and prior to final payment of the employee's earnings, the employee shall return all records, uniforms, keys, badges, or other items of village property in the employee's custody to his immediate supervisor. The departing employee shall execute a certificate that all such property known to be in the employees custody had been returned. Where such property has been signed for by the employee, any shortage shall be reimbursed to the village as a lawful deduction from the employee's final paycheck.

*History: Ord. No. 251, § 8(1), adopted 3-9-93.*

**Section 28-182. Termination pay.**

Permanent employees who terminate in good standing shall receive payment for all earned wages (less deductions), for unused accrued annual leave to a maximum of 20 working days, and for unused accrued compensatory time to a maximum of 20 working days. Salaried employees will not receive payment on unused compensatory time upon termination. Probationary, temporary, or seasonal employees shall receive all wages earned (less deductions) but no annual leave pay. Final payment shall be no later than the fifth day after the employee's last day of work.

*History: Ord. No. 251, § 8(2), adopted 3-9-93.*

**Section 28-183. Termination in good standing.**

Any employee wishing to terminate his employment with the village in good standing shall submit a written statement setting forth the date the resignation will become effective and the reason for such separation at least two weeks or ten working days prior to the date it is to become effective. Failure of an employee to comply with this procedure may be deemed justifiable cause to deny him future employment with the village, as well as a poor employment reference. An employee may use accrued, unused vacation time in lieu of, or in conjunction with, termination notification. Upon receipt of a resignation submission in good standing, the village may, upon request of the department head, with the approval of the Village Administrator, elect to conclude the resignee's employment immediately by paying the employee for the two-week notice given and all other accrued benefits as provided for in this chapter.

*History: Ord. No. 251, § 8(1), adopted 3-9-93.*

**Section 28-184. Layoff.**

A layoff may occur when one or more positions must be discontinued or abolished because of lack of

funds, lack of work, reorganization or change of duties. No permanent employee shall be laid off while there is a temporary, probationary, or provisional employee in any position for which the permanent employee is minimally qualified for such position. Permanent employees who must be laid off shall be notified in writing at least two weeks prior to the effective date or shall be granted the equivalent severance pay. Applications of employees who are laid off shall, upon request, be added to the active file of candidates for employment.

*History: Ord. No. 251, § 8(4), adopted 3-9-93.*

#### **Section 28-185. Abandonment.**

An employee who is away from the job for two days or more without authorized leave shall be considered to have voluntarily resigned not in good standing. Notice of termination shall be sent by a certificate of mailing to the last known address of the employee along with notice of when the final pay check will be available.

*History: Ord. No. 295, adopted 11-12-96.*

#### **Sections 28-186 to 28-205. Reserved.**

### **ARTICLE VIII. GRIEVANCE AND APPEAL PROCEDURES**

#### **Section 28-206. Purpose of grievance procedure.**

The purpose of the grievance procedure is to secure, in an atmosphere of courtesy and cooperation, a prompt and equitable resolution at the lowest possible administrative level for any employee grievance which may arise within the course of employment with the village.

*History: Ord. No. 251, § 9(1), adopted 3-9-93.*

#### **Section 28-207. Scope of grievances; records.**

(a) Grievances are formal written complaints of an employee concerning letters of reprimand, suspensions, demotions, or dismissals imposed as discipline by the immediate supervisor, department head and/or Village Administrator. All records related to the grievance filed shall be kept in the employees personnel file, including the stated grievance, the concerns of the involved parties and the agreement and remedied actions between the involved parties.

(b) Grievances shall be limited to those matters which fall exclusively within the purview of the implementation of the personnel policies. The grievance resolution procedure shall pertain to:

(1) Management actions questioned by the employee which result in the dismissal, demotion, or suspension of the employee for more than ten working days;

(2) All other management actions complained of by the employee which fall within the definition of grievance.

*History: Ord. No. 251, § 9(2), (3), adopted 3-9-93.*

#### **Section 28-208. Grievance resolution procedures.**

Grievances are subject to the following grievance resolution procedures:

(1) Any employee who feels that he has been aggrieved by the action or omission of a fellow employee, supervisor or official of the village may request a meeting before the Mayor. The employee must discuss the problem first with his supervisor or department head. However, if the

grievance resulted from an action or omission by the supervisor or department head, or if the employee is not satisfied after discussion with the department head, the employee may within ten days of the action or omission or within ten days of the discussion with the department head, whichever is later, request in writing a meeting with the Mayor. The Mayor shall arrange such a hearing within ten working days of receipt of the request. The Mayor may require whatever persons are germane to attend the meeting and may request whatever records are appropriate. The Mayor shall take whatever action he deems appropriate.

- (2) Once the Mayor has determined that he has sufficient facts to make a decision, he should do so and shall provide written notice of that decision to the employee. If the employee is unsatisfied with the decision of the Mayor, he may request in writing that the Governing Body provide him a full hearing on the matter. The employee must file this request with the personnel officer within ten calendar days of receipt of such notice.
- (3) After receiving the written request from the employee, the personnel officer shall schedule a full hearing on the merits before the Governing Body. The Governing Body may hire a hearing officer to conduct a hearing and make a recommendation to the Governing Body. The Governing Body shall promulgate rules of procedure for such hearings. The Governing Body shall conduct this hearing and accept documentary and testimonial evidence in accordance with such rules of procedure and in accordance with the following:
  - a. The Governing Body shall have a chairperson who shall preside over the hearing. The mayor pro tern shall be the chairperson. Should the mayor pro tern be absent, the Governing Body shall select a chairperson.
  - b. The Governing Body shall then hear the appeal in such a manner that all parties to the action are assured the opportunity to present testimony upon the action at hand, to confront the other parties to the case, and to respond to other testimony presented. The presiding chairperson shall request such files and other documents and call such witnesses as are germane to the matter at hand.
  - c. The hearing shall not be bound by formal rules of evidence but shall use such rules as a guide. The hearing may be formally transcribed by use of tape recorder or other manual/mechanical devices should the Governing Body deem it appropriate.
- (4) Upon completion of the hearing, the Governing Body shall decide to approve, modify or disapprove the adverse action of the Mayor by simple majority vote. Certified, written notification of the decision shall be given to the appellant employee within five calendar days of the formal action. The decision of the Governing Body shall be the final remedy available from the village.

*History: Ord. No. 251, § 9(4), adopted 3-9-93; Ord. No. 295, adopted 11-12-96.*

#### **Section 28-209. Reinstatement from suspension.**

If an employee is reinstated by the Governing Body after his period of suspension, pay for the suspension period shall be granted if the grounds for suspension were found to be unreasonable, or of a nature which was not caused by the misconduct or neglect of duty by the employee. If the employee is reinstated pending correction of previous grounds for suspension, his salary will resume on the day he is reinstated.

*History: Ord. No. 251, § 9(5), adopted 3-9-93.*

#### **Section 28-210. Reversal of disciplinary action.**

Where an administrative or disciplinary action is reversed through the grievance appeal process, a copy of the reversal shall be made a part of the employees file.

*History: Ord. No. 251, § 9(6), adopted 3-9-93.*

**Sections 28-211 to 28-230. Reserved.**

**ARTICLE IX. EMPLOYEE BENEFITS**

State administrative code reference: Public employees retirement, NMAC, § 2.80.1.

**Section 28-231. Paid holidays.**

(a) It is the policy of the village to ensure that all regular employees are provided ten paid holidays per year. These holidays shall be set by an annual resolution adopted no later than December of the year preceding the calendar year during which such resolution is effective.

(b) For the convenience of operating the village offices, these full day holidays shall be observed as designated in the annual holiday schedule resolution.

(c) Employees who are on any leave with pay on a designated holiday will be credited with holiday time rather than leave time.

(d) Holiday pay compensation for regular employees required to work on designated holidays shall be as provided in section 28-129.

(e) A floating holiday may be taken on any business day of the calendar year, at the request of the employee and with the approval of the employee's supervisor.

(f) Failure to take the floating holiday within the calendar year shall result in the loss of the unused floating holiday at the end of the calendar year. Upon termination, no payout will be made for unused floating holidays unless the employee has attempted to take them and has been denied.

(g) All full-time and part-time employees shall have holiday benefits.

*History: Ord. No. 251, § 10, adopted 3-9-93, Ord. No. 10-010, adopted 12-07-10.*

**Section 28-232. Leave defined.**

(a) *Leave* means any authorized absence, with or without pay, during regularly scheduled work hours, that is approved by proper authority

(b) *Unauthorized leave* is subject to disciplinary action or dismissal.

(c) Floating Holiday is a variable work holiday: a paid holiday from work taken at a time chosen by the employee with prior approval by the Administrator.

*History: Ord. No. 251, § 10(1), adopted 3-9-93, Ord. No. 10-010, adopted 12-07-10.*

**Section 28-233. Authorized leave with pay.**

Leave with pay shall be authorized prior to utilization for employees, in the following categories:

(1) Annual leave (vacation).

(2) Sick leave.

- (3) Emergency leave.
- (4) Annual military training.
- (5) Jury duty.
- (6) Official meetings.
- (7) In-service training.
- (8) Other events where the good of the village services are involved.
- (9) Election official work.
- (10) Shortterm educational leave.
- (11) Maternity/paternity leave.

*History: Ord. No. 251, § 10(2), adopted 3-9-93.*

#### **Section 28-234. Authorized leave without pay.**

Leave without pay may be authorized in the following categories:

- (1) Personal matters.
- (2) Extended military service.
- (3) Temporary disability beyond sick leave.
- (4) Court appearance as a private citizen.

*History: Ord. No. 251, § 10(3), adopted 3-9-93.*

#### **Section 28-235. Leave approval.**

(a) Leave shall be granted in accordance with this article on the basis of the work requirements of the department and, whenever possible, the personal wishes of the employee.

(b) Requests for leave that are anticipated shall be requested sufficiently in advance to permit scheduling and work reassignment by the department head. Requests for leave shall be submitted in writing for approval by the department head, and submitted to the personnel director.

(c) If a conflict exists between leaves requested by two or more employees, seniority shall be the governing factor.

*History: Ord. No. 251, § 10(4), adopted 3-9-93.*

#### **Section 28-236. Annual leave.**

Regular full-time employees will earn annual leave with pay at the rate of 1 ¼ days per month (ten hours), which may be taken after six months of employment with the village. Part-time employees that are budgeted for twenty-four hours or more, will earn annual leave with pay at the rate of four hours per month. No more than 20 days of total leave may be accumulated. Annual leave accumulated in excess of 20 days will be forfeited. Employees who have accumulated 150 hours of annual leave will be notified in writing by the employee responsible for payroll. At least two weeks notice must be given to an employee's supervisor for annual leave of more than five consecutive days so vacation time may be scheduled. Employees may apply to take annual leave only up to 20 working days in any four-month period. Time on paid leave is creditable time for leave accrual.

*History: Ord. No. 251, § 10(5), adopted 3-9-93; Ord. No. 295, adopted 11-12-96), Ord. No. 317, adopted 10-27-98.*

**Section 28-237. Sick leave.**

(a) Sick leave pay shall be provided to regular full-time employees at the rate of eight hours for each month worked in service to the village and may be used as soon as it is accrued. Part-time employees that are budgeted for twenty-four hours or more, shall be provided four hours sick leave for each month worked.

(b) Sick leave may be authorized for personal illness or injury, or for exposure to contagious diseases which would endanger the health of other employees or the public. It can also be used for medical, dental and eye treatment examinations.

(c) Hours worked in addition to a regular workweek, such as overtime or holiday hours, shall not entitle an employee to additional sick leave accumulation.

(d) Sick leave may not be authorized for reasons unrelated to illness or injury.

(e) Any employee taking sick leave who makes a false claim and refuses to be examined by a doctor selected by the village or who otherwise fails to cooperate in any investigation by the village of his claim for sick leave, or who signs a certificate containing false information, shall not be entitled to leave with pay and shall be subject to such disciplinary action as may be deemed appropriate by the Mayor with respect to the circumstances involved.

(f) Any sick leave payments made by the village to one of its employees shall be reduced by the amount received by the employee from worker's compensation.

(g) Employees returning to work from an extended medical leave with or without pay must submit a written statement from a physician listing the date the employee is able to return to work and any limitations imposed on the work that can be performed by the employee.

(h) The village may elect not to allow an employee to return to work until such time that there are no limitations or restrictions placed upon the employee's work ability if in the village's opinion such restrictions would adversely affect the employee's ability to perform his assigned duties or reasonable accommodations cannot be provided.

(i) An employee in good standing may receive compensation for his sick leave at the time of termination when the employee has accumulated at least 240 hours of sick leave. The rate of payment will be one day's pay for each three days of sick leave. When the employee has accumulated at least 480 hours of sick leave, the rate of payment will be one day's pay for each two days of sick leave. An employee who has accumulated over 240 hours of sick leave may choose each year in December or at times designated by the Village Administrator to receive payment for sick leave hours in excess of 240 hours at a rate of one day's pay for two days' sick leave. The village may choose to pay one lump sum in the case of subsection (a)(8)a of this section. In the case of subsection (a)(8)b of this section, the village may pay one lump sum or make payments every two weeks for a total of three pay periods.

(j) Employees who are unable to come to work because of one of the reasons set forth under subsection (b) of this section shall promptly notify their immediate supervisor so that duties may be reassigned or temporary help may be engaged. A formal application for sick leave shall be submitted for post-approval upon return to work. Failure to submit an application for approval is cause for disciplinary action.

(k) Sick leave may be accrued to a maximum of 60 working days. If a period of leave without pay or break in employment exceeds one month, additional sick leave will not be accrued during such a period. Sick leave continues to accrue during paid leave. Use of sick leave shall be charged only in multiples of

one hour.

(l) An employee who has used all accrued sick leave may use accrued annual leave for sick leave purposes until paid leave is exhausted. Employees may voluntarily donate any amount of their unused sick leave to another employee who has used all of his sick and vacation leave to avoid leave without pay for the absent employee. The hours donated will be hour for hour, not dollars per hour. The donating of sick and vacation leave will be authorized by the Village Administrator only after the employee uses up all of his sick and vacation hours. Subsequent approved absences for sick leave purposes for such employee will be leave without pay.

*History: Ord. No. 251, § 10(6), adopted 3-9-93; Ord. No. 295, adopted 11-12-96; Ord. No. 317, adopted 10-27-98.*

#### **Section 28-238. Emergency leave.**

Emergency leave may be granted, for short periods, in cases of serious illness, injury or death in the immediate family of the employee or the immediate family of the employee's spouse. Emergency leave will be charged to accumulated sick leave and will be granted at the discretion of the department head. Up to three days may be granted in the event of the death and/or serious illness of any immediate family member of the employee or the employee's spouse. Up to five days may be granted by the department head if an out-of-town trip is necessary, or because of extenuating circumstances.

*History: Ord. No. 251, § 10(7), adopted 3-9-93.*

#### **Section 28-239. Military leave.**

(a) A full-time regular employee who is ordered to active duty for training with an organized unit of the United States armed forces reserve or the state National Guard shall be granted leave with pay for not more than 15 calendar days per year.

(b) For leaves of absence granted a village employee for temporary military duty on an annual basis, the employee will be compensated in an amount necessary to make up the difference between total military pay, subject to income tax, and the employee's normal base pay, up to and including ten working days. A holiday which occurs during these ten days will not be considered as one of the ten days granted for performance of annual temporary military duty but will be compensated as a holiday. Upon return from military leave the employee must furnish properly endorsed documentation of earnings derived from military training.

(c) Temporary or part-time employees ordered to active duty as stated in this section shall be granted leave without pay with the same time limitations.

*History: Ord. No. 251, § 10(8), adopted 3-9-93.*

#### **Section 28-240. Court leave.**

An employee who is subpoenaed or directed by authority to appear in an official capacity as a witness for the federal government, the state or a political subdivision, shall be compensated at his regular rate of pay. An employee subpoenaed to testify not in an official capacity but as a private individual in private litigation brought by a party other than as specified above shall take annual leave or leave without pay for the time absent from duty. An employee who is called to jury duty shall be paid at the straight-time rate for work time missed to perform such duty.

*History: Ord. No. 251, § 10(9), adopted 3-9-93.*

#### **Section 28-241. Short-term educational or personal leave.**

(a) An employee may be granted leave with pay at the straight-time rate for short terms to engage in

formal education or training directly related to the job and intended to improve the quality of service within the village. Such leave must be recommended by the department head and approved by the personnel director. Such leave shall be creditable service toward seniority, salary increases, and benefits.

(b) A leave of absence without pay may be granted any permanent employee for a period not to exceed one year for a reason considered to be in the best interests of the village.

(c) An employee not returning to work on the scheduled day of return will be considered to have voluntarily resigned his employment with the village. If an employee is able to return earlier than the expectation date of the granted leave of absence, five working days' notice is required.

(d) An employee granted a leave of absence for personal, educational, or medical reasons shall be allowed to maintain group health, life and dental insurance coverage during the period of leave granted. An employee on leave of absence who accepts other employment without first obtaining written permission from the village will be automatically terminated.

*History: Ord. No. 251, § 10(10), adopted 3-9-93.*

### **Section 28-242. Training.**

(a) *Conditions for payment by village.* Training required by the village shall be paid by the village in full.

(b) *Conditions for village contribution.* An employee may request in advance village contribution toward any training which is not required by the village but which is job related. The Mayor may authorize village contribution toward such training based on the job relatedness of the training and on the availability of funds.

(c) *Amount of village contribution.* If advance authorization for training is granted by the Mayor, the village shall pay, upon adequate documentation of successful completion of training, a minimum of 50 percent of the cost of any job related training.

(d) *Obligation of employee.* As a condition to receiving the village contribution for training, the employee must:

(1) Provide adequate documentation that he has completed the training with a passing grade; and

(2) Sign an agreement with the village which states that in the event the employee terminates his employment with the village for any reason within one year of the completion of training, the village's contribution toward the training will be deducted from the employee's final paycheck.

*History: Ord. No. 251, § 10(11), adopted 3-9-93.*

### **Section 28-243. Parental leave.**

An employee who takes parental leave must notify his supervisor of an estimated date when leave will begin and an estimated date of return. An employee may take sick leave, annual leave, and leave without pay to care for his children.

*History: Ord. No. 251, § 10(12), adopted 3-9-93.*

### **Section 28-244. Leave without pay; temporary disability leave.**

(a) Leave without pay will normally be granted only when the accrued annual and sick leave is exhausted, or in the case of probationary and temporary employees, where such leave is unavailable. All requests for leave without pay must be approved by the department head and Village Administrator.

(b) Leave without pay does not constitute a break in service; however, leave without pay in excess of 30 days is not creditable toward salary increase eligibility, seniority, or change in leave accrual rate and sick leave.

(c) Temporary disability leave is leave of absence without pay, following exhaustion of accrued sick leave and annual leave, for a period during which an employee is actually physically or emotionally unable to work due to job related activities.

(d) Full-time permanent employees who have exhausted all accrued paid leave are eligible for temporary disability leave for an agreed upon period not to exceed six months. Requests for such leave must be accompanied by a physician's statement estimating the amount of leave needed and the date of the last day upon which the employee is (or was) able to work.

(e) The Village Administrator may authorize temporary disability leave not to exceed ten working days; requests in excess of ten working days must be approved by the Mayor.

(f) An employee who returns from temporary disability leave within the specified time period shall be reinstated to the same position and salary, provided the employee is physically and mentally capable of performing the duties of the position involved. A statement from the employee's treating physician shall be required as set forth in section 28-237(6).

*History: Ord. No. 251, § 10(13), adopted 3-9-93.*

#### **Section 28-245. Group health insurance.**

All regular employees are eligible to join the Village health insurance plan providing coverage for the employee and the employee's dependents. Participation is on a voluntary basis and the employee may join or withdraw from the plan at any time. Specific details of the plan and the cost to the employee are available in the finance office. Employee's positions must be budgeted for a minimum of 30 hours of work per week to be eligible for group health insurance benefits. Employees can be eligible for insurance coverage after they have been employed for 30 days. The elected officials shall also be eligible for this benefit.

For purposes of eligibility for group health insurance only, the Mayor, each member of the Governing Body and the Municipal Judge are deemed to be regular employees. The 30-hour work per week requirement is not applicable to elected officials exercising an option under this section.

*History: Ord. No. 251, § 10(14), adopted 3-9-93; Ord. 329, adopted 8-22-00.*

#### **Section 28-246. Workers' compensation insurance.**

(a) All employees are covered under a workers' compensation insurance policy at the village's expense for job related accidents. The village should be notified immediately of accidents of any nature, whether or not a claim will be made under the policy.

(b) For assistance regarding the submission of workers' compensation claims to the village's insurance carrier, the employee should contact the Village Administrator. If the employee has questions regarding a claim, the village will direct the employee to the insurance carrier so that such questions can be answered.

*History: Ord. No. 251, § 10(15), adopted 3-9-93.*

#### **Section 28-247. Unemployment compensation.**

The purpose of unemployment compensation is to replace part of the employee's income if the

employee is laid off or terminated through no fault of his own. The village pays the full cost of unemployment compensation, but it does not decide who is eligible for benefit payments or how much such payments should be. In its discretion, eligibility for benefits may be challenged by the village because its tax contribution may increase for all employees according to its account with the state unemployment compensation division. However, final eligibility determination is decided by the state job service in accordance with state law.

*History: Ord. No. 251, § 10(16), adopted 3-9-93.*

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