

Employee Policy Manual

Village of Croton-on-Hudson

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DISCLAIMER

This Policy Manual is meant to serve as a guide only, and is not intended to be a contract, either expressed or implied, of employment for any purpose or any duration and does not grant or create any rights. The Village of Croton-on-Hudson (“the Village”) has the right to add to, modify, or eliminate the policies contained in this Policy Manual from time to time as it deems appropriate, in the sole discretion of the Village unless otherwise provided by law, including but not limited to the Public Employees Fair Employment Act.

Unless otherwise stated, this Policy Manual supersedes all prior policies, employee handbooks and memos that may have been issued from time to time on the subjects covered in this Policy Manual.

Unless otherwise provided by law or in a separate written contract or collective bargaining agreement, all employees are terminable at will. Nothing contained in this Policy Manual shall in any way restrict or alter the Village’s right to discipline or terminate any employee, which rights shall be governed solely by the Civil Service Law, State and Federal law and the terms of any collective bargaining agreement, to the extent each is applicable.

In the event that a provision in a collective bargaining agreement between the Village and an employee organization as defined by the Public Employees’ Fair Employment Act (Taylor Law) conflicts with this Policy Manual, the collective bargaining agreement will control. Where a provision of this Policy Manual is not covered by a collective bargaining agreement, this Policy Manual shall apply to the employee(s) to whom the collective bargaining agreement applies. Nothing stated within this Policy Manual is intended to interfere with or supersede negotiations between the Village and any collective bargaining representative or any collective bargaining agreement in effect between the Village and such collective bargaining representative.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Village is an equal opportunity employer. The Village does not discriminate and is strongly committed to making all personnel decisions without regard to age, race, creed, religion, color, sex, national origin, disability, marital or familial status, sexual orientation, citizenship, pregnancy, veteran's status, genetic predisposition or carrier status, status as a victim of domestic violence, sex offenses or stalking, or any other category protected by Federal, State, County or local law or regulation.

The Village actively seeks to employ and advance qualified individuals, regardless of their race, color, religion, age, national origin, citizenship status, ethnicity, marital status, familial status, creed, gender, sexual orientation, disability, veteran status or any other basis prohibited by law. The Village monitors hiring, transfer, promotion, discharge and other personnel actions to identify and address instances of adverse impact caused by discriminatory practices. Additionally, the Village examines its job specifications to eliminate unnecessary barriers to advancement on merit and fitness, and seeks the development of all members of the work force.

If you believe that you have been discriminated against on the basis of any of these characteristics, or if you believe you have been retaliated against for making a complaint of discrimination, you must immediately report the incident to your Supervisor or Department Head. If you feel uncomfortable speaking to your Supervisor or Department Head or if you feel a complaint you previously made has not been adequately addressed, please speak to the Village Manager or the Mayor. Complaints of discrimination and/or retaliation will be handled in accordance with the Complaint Procedure outlined in the Village's Unlawful Harassment Policy, located in this Policy Manual.

OATH OF OFFICE

Every Public Officer, including the Village Mayor, the Village Clerk, the Village Treasurer, the Village Justices, members of the Board of Trustees, members of the Zoning Board, members of the Planning Board and any other Public Officer as defined in the Public Officers Law must take the Oath of Office in accordance with Public Officers Law Section 10, which must be administered prior to commencing the duties of the office. Each official who is re-elected or re-appointed to a subsequent term must take the Oath of Office for each term.

Upon original appointment or upon a new appointment following an interruption of continuous service, each employee (other than an employee in the labor class) must take an oath or alternate affirmation as set forth in Civil Service Law Section 62.

The Oath of Office is filed in the Village Clerk's Office within thirty (30) calendar days of the Public Officer's commencement of the term of office, or upon an employee's appointment.

CODE OF ETHICS

As a Village employee, you are subject to a Code of Ethics. You should be aware that the Village's Code of Ethics prohibits Village employees from accepting certain gifts from the public. Additionally, the Code of Ethics includes information concerning conflicts of interest and disclosure of confidential information. All employees are expected to be familiar with the Code of Ethics and act in accordance with it at all times.

Legislative Intent

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village. These rules shall serve as a guide for official conduct of the officers and employees of the Village. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

Definitions

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

CONFIDENTIAL INFORMATION: Any information which by law or practice is not available to the public.

CONFLICT: When a Village official or employee uses his/her official office or position of employment for the purpose of obtaining a pecuniary and/or other benefit for himself/herself to the detriment of the interests of the Village government and/or impairs the proper discharge of official duties or employment.

INTEREST: A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter a municipal officer or employee shall be deemed to have an interest in the contract of (a) his spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves, (b) a firm, partnership or association of which such officer or employee is a member or employee, (c) a corporation of which such officer or employee is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

OFFICER or EMPLOYEE: An officer, member or employee of the Village, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be an "officer or employee" solely by reason of being a volunteer fireman or civil defense volunteer, except a Chief of the Fire Department or an Assistant Chief of the Fire Department and/or a Chief of the Emergency Medical Services (EMS).

Standards of Conduct

Every officer or employee shall be subject to and abide by the following standards of conduct:

A. Gifts. He/she shall not directly or indirectly solicit any gift or accept or receive any gift having a value of seventy-five (\$75) dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him/her in the performance of his official duties or was intended as a reward for any official action on his/her part. The seventy-five (\$75.00) dollar limit applies to an aggregate total of gifts made over a period of twelve (12) months.

B. Confidential information. He/she shall not disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interest. Further, no officer or employee of the Village shall:

(1) Accept employment or engage in any business or professional activity which will require him/her to disclose confidential information which he/she has gained by reason of his/her official position or authority.

(2) Disclose any confidential information or use confidential information to further his/her personal interests or the personal interests of others.

C. Representation before the Village. He/she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Village agency of which he/she is an officer, member or employee or of any Village agency over which he/she has jurisdiction or to which he/she has the power to appoint any officer or employee.

D. Representation before the Village for a contingent fee. He/she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Village agency whereby his/her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

E. Disclosure of Interests. Any officer or employee who has, or later acquires an interest in or whose spouse, children or immediate family members have, will have, or later acquire an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the Village shall publicly disclose the nature and extent of such interest in writing to his or her immediate supervisor and to the governing body thereof as soon as he/she has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body.

F. Business Transactions and Disclosure. Except as otherwise provided by law, he/she shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction, professional activity or legislation or incur any obligation of any nature, which is in conflict with, or might reasonably tend to conflict with, the proper discharge of his/her duties in the public interest. Any officer or employee who has a direct or indirect financial or other private interest in any matter before any board of the Village shall publicly disclose in writing on the official record of such board the nature and extent of such interest prior to participating in the

discussion or before making a recommendation or giving an opinion to such board on such matter.

G. Investments in conflict with official duties. Except as otherwise provided by law, he/she shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.

H. Representation of Private Interests. He/she shall not represent private interests before any board, department, office or agency of the Village, nor represent private interests in any action or proceeding against the interests of the Village or in any litigation to which the Village is a party. The preceding sentence shall not preclude any such officers or employees from appearing in the performance of public or civic obligations or on their own behalf with respect to matters of a personal nature. All appearing parties before any board of the Village shall make a disclosure as provided under Section 809 of Article 18 of the General Municipal Law. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or Official Map, license or permit pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of the Village in which a Village officer or employee has an interest as defined in this chapter shall state the name, residence and the nature and extent of the interest of any officer or employee of the Village, in the person, partnership or association making such application, petition or request to the extent known to such applicant.

I. Private employment. He/she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.

J. Future employment. He/she shall not, after the termination of service or employment with the Village, appear before any board or agency of the Village in relation to any case, proceeding or application in which he/she personally participated during the period of his/her service or employment or which was under his/her active consideration, unless otherwise required by law to do so.

Claims or Suits by Officers or Employees not Affected

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer or employee of any claim, account, demand or suit against the Village or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Complaint Procedure

Any employee who has knowledge of a violation of the Code of Ethics by any other employee or officer should report such information to the Village Manager. If the incident involves the Village Manager, the employee should contact the Board of Trustees.

Distribution of Copies

The Village Manager shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.

Penalties for Offenses

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law and/or the terms and conditions of any applicable collective bargaining agreement.

AMERICANS WITH DISABILITIES ACT POLICY

The Village is committed to complying with all applicable provisions of the Americans With Disabilities Act (“ADA”) and applicable State and/or local law. It is the Village's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job. The Village will also not discriminate against a qualified applicant or employee who has a known association with an individual with a disability. Consistent with this policy of nondiscrimination, the Village will provide a reasonable accommodation to a qualified individual with a disability, as defined by the ADA or applicable State and/or local law, who has made the Village aware of his or her disability, unless it imposes an undue hardship on the Village and/or the operations of a program or department.

An employee with a disability who believes that he/she needs a reasonable accommodation to perform the essential functions of the job should contact the Village Manager. The Village encourages individuals with disabilities to come forward and request a reasonable accommodation.

Following receipt of an accommodation request, the Village Manager, or his/her designee, may meet with you to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the Village might make to help overcome those limitations.

The Village will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodation and the accommodation's impact on the operations of the Village.

An individual's receipt or denial of a requested accommodation does not prevent the individual from making another request at a later time if circumstances change (for example, but not limited to, if the disability worsens, or the individual is assigned new duties that require an additional or different reasonable accommodation). An individual's receipt or denial of a requested accommodation also does not prevent the Village from re-assessing the individual's need for an accommodation, changing or discontinuing an accommodation that has been provided if circumstances change (for example, but not limited to, if the individual's disability improves or ceases, or if the individual is assigned different duties that eliminates the need for an accommodation or requires a different reasonable accommodation be provided).

An employee or job applicant who has questions regarding this policy or believes that he or she has been discriminated against based on a disability should notify the Village Manager. In the event the employee or applicant is unable to discuss this matter with the Village Manager, the complaint should be reported to the Village Clerk. All such inquiries or complaints will be treated as confidential to the extent practicable. An employee who reports, in good faith, a possible violation of this Policy will not suffer adverse employment consequences as a result of making such complaint.

Nothing in this policy shall be deemed to limit or waive an employee's or the Village's rights or obligations pursuant to Sections 71, 72 and/or 73 of the New York Civil Service Law.

SEXUAL HARASSMENT PREVENTION POLICY

Introduction

The Village of Croton-on-Hudson (“Village”) is committed to maintaining a work environment free from sexual harassment, which is one form of employment discrimination. This Policy is one component of the Village’s commitment to a discrimination-free work environment.

Policy:

1. This Policy applies to all employees, elected and/or appointed officials, and applicants for employment. It also applies to individuals who are not employees of the Village but are employees of contractors, subcontractors, vendors, consultants, volunteers and other persons who provide services in the Village’s workplace, such as interns and temporary employees.
2. Sexual harassment is not tolerated by the Village and is prohibited by this Policy. This Policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate. Employees and other individuals covered under this Policy will be subject to disciplinary or other corrective action for any violations of this Policy. Where applicable, such discipline shall be in accordance with any statutory rights and/or collective bargaining agreement protections to which the individual may be entitled.
3. No person covered by this Policy shall be subject to adverse employment action because they make a good faith report of an incident of sexual harassment, or provide information, or otherwise assist in any investigation of a sexual harassment complaint. Any person covered by this Policy, who retaliates against anyone involved in a sexual harassment investigation, is in violation of this Policy and subject to remedial or disciplinary action.
4. The Village will conduct a prompt, thorough, impartial, and appropriate investigation, consistent with this Policy, in response to any complaint about sexual harassment. The Village may also investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. The Village will take appropriate corrective action whenever sexual harassment or other inappropriate conduct is found to have occurred. All employees, including but not limited to department heads and supervisors, are required to cooperate with any internal investigation of sexual harassment conducted by the Village.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is of a sexual nature or which is directed at an individual because of that individual’s actual, self-identified or perceived sex, sexual orientation, gender expression, gender identity or transgender status when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment; or
- Such conduct has the purpose or effect of treating an individual unequally or less well than others with regard to a term or condition of employment.

A sexually harassing hostile work environment can consist of unwelcome advances, threats, derogatory comments, signs, jokes, pranks, intimidation, physical contact, violence, or other conduct which is of a sexual nature, or which is directed at an individual because of that individual's sex, where the conduct is more than what a reasonable person would consider a petty slight or trivial inconvenience and alters the terms of employment for the individual subject to the harassment. It makes no difference if the individual engaging in such conduct is "just joking" or "teasing" or "playful."

Sexual harassment can also occur when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Examples of Sexual Harassment

The following is a non-exhaustive list of some of the types of acts that may constitute sexual harassment:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions.
- Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience, including those which occur outside of the physical workplace or in a remote work setting.
- Written conduct such as authoring threatening, derogatory or offensive letters, e-mails, text messages, or social media posts.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on Village or personal computers, tablets, cell phones or any other devices in the workplace.
- Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Intentional misuse of an individual's preferred pronouns.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees including contractors, subcontractors, vendors, consultants, independent contractors and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, an elected and/or appointed official, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are working remotely or interacting through virtual means, traveling for business, at employer-sponsored events, or other occasions outside of work, *i.e.*, not in the workplace. Calls, texts, emails, and social media usage containing inappropriate messages, language, pictures, videos or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

What is “Retaliation”?

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity includes opposing a discriminatory practice, making a good faith report of a suspected violation of this Policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment. Anyone who engages in retaliation prohibited by this Policy will be subject to remedial or disciplinary action in accordance with any statutory rights and/or collective bargaining protections to which the individual may be entitled.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility.

The Village cannot prevent or remedy sexual harassment unless it knows about it. Any employee or other person covered by this Policy, who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, department head or Village Clerk Paula DiSanto. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, department head or Village Clerk Paula DiSanto. If possible, the employee or witness should tell the alleged harasser that his/her actions are not welcome and must stop immediately.

If an employee makes a report to his/her supervisor or department head and believes the supervisor or department head is not taking appropriate action, the employee should report this inaction to the Village Clerk. If an employee believes that his/her supervisor or department head violated this Policy, then the employee should report the matter to a higher-level department head, or to Village Clerk Paula DiSanto.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to hereto as Appendix "A" and all individuals are encouraged to use this complaint form, but using the form is not required. Regardless of whether being made verbally or in writing, a report of sexual harassment should be as detailed as possible and include the names of the individual(s) involved, any witness(es) to the harassment, direct quotes and/or evidence (*e.g.*, notes, e-mails, digital recordings, etc.) of the harassment. Individuals who report sexual harassment on behalf of another person should state clearly that the complaint is being made on another person's behalf.

Bystander Intervention

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or department head that is a bystander to harassment is **required** to report it. Generally, there are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help, including:

1. Interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. If a bystander feels unsafe interrupting on their own, they can ask a third party to intervene or assist in interrupting the harassing behavior;
3. Record or take notes of the potentially harassing behavior;
4. Check-in with the person who has been harassed after the incident to see how they are feeling and let them know the behavior/actions were unacceptable and that it should be reported; and/or
5. If a bystander feels safe, confront the harasser(s) and tell them their behavior is inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Supervisory Responsibilities

Any supervisor or department head who receives a complaint or information about suspected sexual harassment or observes conduct that may be sexually harassing behavior or otherwise learns of such conduct, **is required to take appropriate steps to address the conduct and to report such suspected sexual harassment to Village Clerk Paula DiSanto.**

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and department heads will be subject to discipline for failing

to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Investigation of Sexual Harassment

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible.

In conducting an appropriate and impartial investigation, the Village's procedures will include these protections: the Village will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The Village may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this Policy may be required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation.

All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect the privacy of those involved in the investigation and to allow the Village to conduct an objective and appropriate investigation.

If the Village determines that this Policy has been violated, it will take effective remedial action commensurate with the circumstances. Any employee who has been found by the Village to have harassed another employee in violation of this Policy will be subject to corrective action, up to and including termination where appropriate. Any appropriate disciplinary action will be taken in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. If it is concluded that a non-employee has subjected an employee or other person protected by this Policy to conduct in violation of this Policy, prompt and effective action will be taken to stop the harassment and deter any future harassment.

The Village will notify the individual who was subject to the reported conduct and the person who filed the complaint of the conclusion of its investigation, and will follow up with that individual as appropriate under the circumstances.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the Village, but is also prohibited by state, federal, and local law. In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer's workplace. A sexual harassment complaint alleging a violation of the Human Rights Law may be filed either with the DHR, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted by: calling 1 (888) 392-3644; visiting its website at www.dhr.ny.gov; or by calling the DHR's confidential and toll-free sexual harassment hotline at 1-800-HARASS-3 (1-800-427-2773), which is available Monday through Friday, 9:00 a.m. to 5:00 p.m.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e *et. seq.*). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue their claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with the DHR, the DHR may file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. For example, the Westchester County Human Rights Law, which is enforced by the Westchester County Commission on Human Rights (<https://humanrights.westchestergov.com>), may provide protections to individuals who work within Westchester County and award relief if unlawful discrimination is found to have occurred.

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

Other Types of Harassment

The Village also prohibits discrimination or harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, military status, age, arrest record, veteran status, marital status, familial status, domestic violence victim status, criminal history, citizenship, predisposing genetic characteristics, genetic information, or any other category protected by federal, state or local law. For more information, see the Village's Unlawful Harassment Policy.

Questions

If you have any questions about this Policy, please contact Village Clerk Paula DiSanto.

UNLAWFUL HARASSMENT POLICY

It is the policy of the Village that all employees, administrators, officers, elected officials and applicants, as well as everyone with whom the Village does business (e.g., outside vendors, consultants, contractors), should be able to enjoy a work environment free from discrimination based on race, color, creed, age, disability, religion, national origin, citizenship, pregnancy, genetic predisposition or carrier status, marital or familial status, military or veteran status, status as a victim of domestic violence/sex offenses/stalking, or any other basis protected by Federal, State or local law, rule or regulation. Unlawful discrimination or harassment of any kind which violates the law will not be tolerated.

The Village is committed to providing a work environment free from all forms of unlawful harassment.

This Policy includes, but is not limited to, inappropriate forms of behavior as described below (Section I, Harassment). All individuals covered by this Policy shall refrain from prohibited conduct whenever acting on behalf of the Village. Making a knowingly false complaint of prohibited harassment, as opposed to complaint which, even if erroneous, is made in good faith, may be the subject of appropriate disciplinary action, up to and including termination, in accordance with applicable law and/or the terms of any applicable collective bargaining agreement.

I. Harassment

Harassment on the basis of any protected characteristic protected by law is strictly prohibited (e.g., harassment on the basis of race, color or national origin, religion, age, creed, disability, marital or partnership status, citizenship, pregnancy, veteran or military status, genetic predisposition or carrier status, status as a victim of domestic violence/sex offenses/stalking, or any other status or category protected by Federal, State, or local law). Prohibited harassment on the basis of other protected classes, includes behavior similar to sexual harassment. It does not matter if the harassment was intended to be “just joking” or “teasing” or “playful.” Harassment is defined as unwelcome visual, verbal or physical conduct that is directed at an individual because of one or more of that individual’s protected characteristics when:

- Such conduct has the purpose or effect of interfering unreasonably with the individual’s work performance or creating an intimidating, hostile, or offensive work environment that is, or would be offensive to a person of reasonable sensitivity and sensibilities; or
- Such conduct has the purpose or effect of treating an individual unequally or less well than others with regard to a term or condition of employment.

The Village is committed to providing a work environment free from all forms of prohibited harassment and intimidation. Harassing conduct includes, but is not limited to:

- Abusive and/or demeaning/offensive language related to a protected class, including innuendos, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the covered individual's protected status. The abusive language and/or actions need not be directed specifically at a covered individual, but such utterances and/or actions may be offensive to a covered individual present;
- Visual conduct such as derogatory posters, photographs, cartoons, drawings, gestures, or computer or television broadcasts, internet images, or phone images;
- Verbal conduct such as ethnic or religious jokes, or derogatory comments, slurs, innuendoes, epithets or threats (including those uttered over radio television/movies or internet broadcasts);
- Written conduct such as derogatory letters, notes, e-mails, text messages, invitations social media posts/messages/transmissions (e.g., Facebook, Twitter, MySpace, Pinterest, LinkedIn, etc.) or instant messages;
- Physical conduct such as touching, blocking movements or assault; and/or
- Retaliation for reporting harassment or threatening to report harassment.

It is unlawful for members of the same protected group/class to harass each other, and for members of one protected group/class to harass members of another protected group/class. Harassment based on any protected characteristic set forth above is unlawful regardless of whether it involved: co-worker harassment; harassment by a supervisor, member of management or other Village administrator, officer or Elected Officer; or harassment by persons doing business with or for the Village (e.g., contractors, subcontractors, vendors, consultants, or any other individuals providing services pursuant to a contract in the workplace).

II. Complaint Procedure

The Village's complaint procedure provides for immediate, thorough and objective investigation of any claim of harassment; appropriate disciplinary action against one found to have engaged in prohibited harassment; and appropriate remedies for any victim of harassment. A claim of harassment may exist even if the employee has not lost a job or economic benefit.

Every employee, supervisor, manager or Village official is responsible for maintaining a workplace free from prohibited harassment. Accordingly, any such person who believes the actions or words of a co-worker, supervisor, manager, administrator, officer, Elected Officer, or individual with whom the Village is doing business constitute unwelcome harassment must take the following actions:

- If possible, tell the harasser that his/her actions are not welcome and must stop.
- Promptly report the incident and/or the harassing action(s), word(s) or conduct to your Supervisor or Department Head. If you feel uncomfortable speaking to these individuals, please speak to the Village Manager or the Mayor. This may be done either verbally or in writing. It is strongly encouraged that employees file a written

complaint. (A copy of the written complaint form is included at the end of this handbook at Appendix “B” and can also be obtained from the Village Manager.) The complaint should be as detailed as possible and include the names of individuals involved, when and where the harassment occurred, the names of witnesses, direct quotes and/or evidence (*i.e.*, notes, e-mails, voicemails, text messages, pictures, recordings etc.).

When a complaint is filed, the Village will commence a timely and thorough investigation. All incidents of harassment will be expeditiously investigated and handled as discreetly as possible. Supervisors and managerial personnel must take timely and appropriate corrective action when instances of sexual harassment or other forms of prohibited harassment come to their attention. The Village is committed to investigating any case of alleged or suspected harassment, even if the victim makes no complaint or does not want the matter pursued. The accused shall be afforded an opportunity to present his/her version of events in the presence of a union representative or attorney where required by law. All individuals are hereby directed and required to cooperate with the Village in fulfilling its investigative function. All complaints of harassment and the investigation of complaint(s) are confidential to the maximum extent reasonably possible consistent with law and the Village’s obligation to conduct a thorough investigation.

If the investigation is conclusive, and unlawful harassment is found to have occurred, corrective action will be taken in a timely manner and appropriate measures will be taken to deter any future harassment. Appropriate disciplinary action, which may include termination, will be taken in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. Once a determination has been made, it will be communicated to the employee who complained, the victim of the harassment (if the victim is not the individual who made the complaint) as well as to the accused harasser.

III. Retaliation

Retaliation of any kind against an employee who makes a good-faith report of harassment or who participates in an investigation into a harassment complaint is strictly prohibited. Retaliation, direct or indirect, against any employee for complaining in good faith of unlawful harassment or participating with an investigation into unlawful harassment will be grounds for discipline, up to and including termination in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. Follow-up interview(s) with the complainant and/or the victim of the harassment (if the victim is not the individual who made the complaint) may be conducted, if appropriate, to ensure that the harassment has not resumed and that no retaliatory action has been taken.

IV. Sexual Harassment

This Policy only prohibits harassment on the basis of the non-sex based characteristics protected by law (*e.g.*, race, color, creed, age, disability, religion, national origin, citizenship, pregnancy, genetic predisposition or carrier status, marital or familial status, military or veteran status, status as a victim of domestic violence/sex offenses/stalking). However, harassment on the basis of sex, gender and sexual orientation is strictly prohibited as provided for in the Sexual Harassment Prevention Policy, which is found on Page 09 of this

Handbook. Complaints about potential sexual harassment should be made in accordance with the complaint procedure set forth in the Sexual Harassment Prevention Policy. Any complaints made to the Village about potential sexual harassment will be investigated in accordance with the Sexual Harassment Prevention Policy.

V. Questions

Should you have any questions about this Unlawful Harassment Policy, please contact the Village Manager or if the Village Manager is the alleged harasser, the Village Clerk.

WORKPLACE SAFETY/VIOLENCE

I. Workplace Safety

Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Village to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.

Employee Responsibility – In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, it is the employee's responsibility to understand the correct operation and possible hazards involved, safety procedures, and necessary safety equipment required to perform the job. Any unsafe conditions or potential hazards should be reported to a Supervisor or Department Head *immediately*, even if the problem appears to be corrected. Any suspicion of a concealed danger present on the Village's property, or in a Village facility, piece of equipment, process, or business practice for which the Village is responsible, should be brought to the attention of a Supervisor or Department Head *immediately*.

Safety Program – The Village's safety program includes, but is not limited to, the following:

- Providing mechanical and physical safeguards to the maximum extent possible;
- Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards, and comply with the safety and health standards for every job;
- Training all employees in safety and health practices;
- Providing necessary personal protective equipment and instructions for its use and care;
- Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment;
- Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences; and
- Providing First Aid kits and fire extinguishers throughout buildings and facilities.

Accident Plan – In the event of an accident, an employee must immediately stop work and take the following steps:

- Eliminate the immediate cause of the accident;
- Provide aid to the injured person and summon for assistance;
- Call the Supervisor or Department Head immediately;
- If the accident appears serious, call 911; and
- Take steps to prevent additional accidents.

Accident Reporting Procedures – In the event an accident occurs in the workplace or in the course of employment, the following procedures will apply:

- When an accident occurs that results either in the loss of an employee’s work time, or in the provision of medical care to an employee, the employee must immediately notify the Supervisor or Department Head who will in turn notify the Village Clerk. The Supervisor or Department Head will complete an *Employer’s Report of Injury Form (C-2)* and submit according to operating procedures as set forth in the Village’s Workplace Violence Prevention Program.
- When an accident occurs which does not result in the loss of an employee’s work time, or in the provision of medical care to the employee, the employee must immediately notify the Supervisor or Department Head who will in turn notify the Village Clerk. The Village Clerk will maintain appropriate documentation of the incident.

II. Workplace Violence

The Village of Croton-On-Hudson is committed to providing its employees with a work environment that is safe, secure, and free of harassment, threats, intimidation and violence. “Violence” includes, but is not limited to, physically harming another, fighting, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities. The Village also considers the safety of its residents, vendors, contractors, and the general public (collectively referred to as “visitors” throughout the remainder of this program manual) to be of paramount importance and strives to provide them the same type of protections while on Village property.

Prohibited Conduct – The Village will not tolerate any acts of violence in the workplace and will take all reasonable and practical measures to prevent violence and protect employees and visitors from acts of violence. This includes threatening or violent actions by:

1. Employees directed against other employees or Village property.
2. Employees directed against visitors.
3. Visitors directed against Village employees or Village property or facilities.
4. Individuals who are conducting Village business in an off-property location.

Employees are prohibited from possessing firearms or weapons of any kind while on Village premises; in Village or personal vehicles while conducting business for the Village; at work sites; or any other location during working hours or while representing the Village, regardless of whether the person is licensed to carry the weapon. Weapons include, but are not limited to, guns, knives, explosives, and other items with the potential to inflict harm. The only exceptions are law enforcement personnel and security personnel. Any employee who has

knowledge of another employee's possession of a weapon must report this to a Supervisor or Department Head as soon as possible.

Workplace Violence Prevention Program – Enforcement of this policy will be accomplished through the implementation of a Workplace Violence Prevention Program, and by complying with the requirements of the NYS Workplace Violence Prevention Act, as set forth in NYS Labor Law Section 27-b. A copy of the Village's Workplace Violence Prevention Program can be obtained from the Village Manager's. Employees are expected to be familiar with the provisions set forth in such Program. A general review of this program will be conducted annually, at the time of a reported workplace violent incident, or if there is a change in operations or physical structure of any building.

Reporting Procedures – Any and all incidents of workplace violence must be promptly reported in accordance with the reporting procedure outlined in Section 5 of the Workplace Violence Prevention Program manual.

Policy Violations – Violations of this policy will result in appropriate remedial, disciplinary, and/or legal action, according to the circumstances, in accordance with applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

Prohibition Against Retaliation – An employee will not be subject to criticism, reprisal, retaliation, demotion, discrimination, disciplinary action, or other adverse employment action for making a good faith report of acts pursuant to this program.

POLICY GOVERNING THE USE OF TECHNOLOGY

The Village's e-mail, telephone, fax and computer systems are the Village's property and are to be used for job-related purposes. While incidental use of these systems for personal or non-business use is not strictly prohibited, such use should be kept to a minimum and should be limited to non-working time.

Use of the Village's e-mail, telephone, fax and/or computer systems in such a way as to harass, intimidate, or annoy others, or to create, receive, or disseminate information containing defamatory, profane, obscene, racist, sexist, harassing, offensive, or otherwise discriminatory material, is strictly prohibited, even outside of working hours. Use of these systems in such a way as to infringe copyrights is also strictly prohibited.

The Village's computer, fax and/or telephone systems are not to be used for any economic or business enterprises other than the Village's, nor should such systems be used for personal financial gain or profit, or in any way that is inconsistent with the Village's interests or the law.

E-mails or other messages may not be sent in such a way that they appear to have originated with someone else. Log-on and other passwords may not be shared with any third party, and they may not be shared with other Village employees, except when authorized by a Supervisor or Department Head.

Employees should be cautious about downloading information from e-mails or the Internet, to avoid infecting the Village's systems with computer viruses. No unauthorized or unlicensed hardware or software may be used or installed on any Village computer.

There is no right to privacy when using the Village's computer systems or equipment. By using the Village's e-mail, telephone, fax and/or computer systems, you waive any right to privacy in the data created, transmitted or received. The Village reserves the unlimited right to monitor, access, review, copy, or delete any message, file, or document on its e-mail, voicemail, telephones, Village provided cellular phones/Blackberries/smart-phones or computer systems, including matters stored on individual computers, or personal cellular phones/blackberries/smart-phones provided by the Village and related media. Employees should be aware that deleting messages does not necessarily preclude access to them. Employees shall not take any steps to prevent the Village from obtaining access to its computer systems or equipment and/or any information or data stored on such systems and equipment, such as changing passwords or manipulating computer programs.

Employees who conduct Village business via mobile telephones or handheld electronic devices, such as Blackberries, cellular phones, smart-phones and/or other similar devices, while driving must utilize a hands-free apparatus or pull over to a parking lot or a shoulder that permits safe reentry to the road. Text messaging, emailing, reading, game playing and accessing the Internet on a Village-owned device, or conducting Village business on a personal device while driving are prohibited. All users of Village-owned devices and all users of personal devices to conduct Village business must comply with all applicable Federal, State, and local laws and regulations at all times.

Employees are generally prohibited from performing personal business and/or making personal telephone calls with Village telephones and/or using mobile telephones or handheld electronic

devices, such as Blackberries, cellular phones, smart-phones and/or similar devices during working hours. This includes but is not limited to using office phones and/or mobile telephones or handheld electronic devices for texting, emailing, reading, game playing and/or Internet access. If you must keep a mobile telephone or handheld electronic device with you during working hours, the device should be placed on vibrate-only or silent mode. If some personal calls can only be made during regular business hours, employees must keep the number and duration of these calls to a minimum and, to the extent possible, make these phone calls only during lunch or break times.

An employee may not make or receive personal calls on a Village provided telephone, cellular phone, Blackberry, smart-phone or any other electronic device that will result in additional charges to the Village, except in an emergency and/or with prior approval from the Department Head. The employee must reimburse the Village for the cost of such call.

Employees who fail to abide by this policy may be subject to discipline up to and including termination from employment in accordance with applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

POLICY GOVERNING CONFIDENTIAL INFORMATION

The Village promotes open government and intends to comply with all requirements regarding public access to information. However, the Village recognizes that certain documents, records, and other information pertaining to Village operations and activities contain sensitive and confidential information about Village residents and others who do business with or on behalf of the Village and/or its residents.

Confidential information is defined as all non-public information about the Village, its employees, residents, suppliers and vendors. Confidential information may include, but is not necessarily limited to, financial information; personnel records and files; payroll records; technical information and data; computer programs; computer systems and models; personal information about residents; and any other non-public documents or information regarding the Village and its operations, procedures, and practices.

Confidentiality extends to confidential information contained in any medium, including information that is on paper, in the computer systems of the Village, electronically transmitted, stored on a Blackberry/cellular phone/smart-phone or communicated verbally.

Employees must strictly comply with all applicable Federal and State laws and regulations, and all policies and procedures established by the Village relating to confidentiality and the protection of confidential information.

Confidential information cannot be photocopied, duplicated, discussed, electronically transmitted or otherwise disclosed to any outside party except by employees specifically authorized to do so in accordance with the Freedom of Information Law ("FOIL") or any other applicable laws and regulations. Any request from individuals for disclosure of information under the Freedom of Information Law or any other applicable laws and regulations must be promptly forwarded by the employee who receives the request to the Village Clerk.

Employees are prohibited from using or accessing confidential information for personal purposes. Employees may use confidential information only as necessary to perform duties as assigned. When using and/or accessing confidential information, employees may only use or access the minimum confidential information necessary to perform their specific duties. When confidential information must be shared with others in the Village, it must be shared in such a manner and with appropriate safeguards to minimize the risk of potential disclosure beyond those individuals with whom it is shared, and for the intended purpose.

Employees may not divulge, copy, transfer, transmit, alter, or destroy confidential information, or remove confidential information from the Village, except as specifically authorized. Employees must hold in the strictest confidence any and all access codes, passwords, and/or authorizations provided by the Village. An employee's responsibility to safeguard the confidentiality of confidential information continues after termination of his/her employment with the Village.

Employees who become aware of any activity by an individual or entity that may jeopardize the secrecy of confidential information should promptly report such activity to his or her Supervisor or Department Head, or the Village Manager.

Employees who fail to abide by this policy, or any other policy, procedure, or Federal or State law relating to the protection of confidential information, may be subject to discipline or discharge in accordance with applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

PERSONAL APPEARANCE/DRESS CODE POLICY

All employees must present a neat and clean appearance and wear clothing suitable for their position.

Employees who are assigned to work at Village Hall, or in any other Village office, are expected to present a business-like appearance and wear clothing that is appropriate for a professional business office. Unless otherwise specifically required by the Village for a particular occasion(s) or business reason, business casual clothing is appropriate and employees are not required to wear formal business attire.

Employees must maintain a personal appearance in a manner that reflects a good image to the public. Acceptable personal appearance is an ongoing requirement of employment with the Village, and includes the responsibility of each employee to maintain individual cleanliness and personal hygiene. **Employees should not wear suggestive attire, athletic clothing, shorts, tank tops, flip-flops, slippers or other inappropriate footwear, and/or other similar items of casual attire that does not present a businesslike appearance.**

If an employee arrives to work in inappropriate attire, the employee may be asked to return home and change into appropriate clothing or take other measures to correct the problem. Any time lost doing so will be charged to the employees accrued leave time. Should an employee not have any accrued leave time available, such time shall be unpaid.

Employees may be required to wear protective clothing or safety devices, as appropriate for their assigned job duties and as directed by their Supervisor or Department Head.

Employees who fail to abide by this policy may be subject to discipline or discharge in accordance with applicable law, rules and regulation and/or the terms and conditions of any applicable collective bargaining agreement.

SOLICITATION AND DISTRIBUTION POLICY

It is the policy of the Village to prohibit solicitation and distribution on its premises by non-employees and to permit solicitation and distribution by employees only as outlined below, unless otherwise required by law.

During Working Time – An employee may not distribute literature or solicit other employees during his/her working time or during the working time of the employee(s) being solicited or to whom literature is being distributed.

During Meal Periods/Break Periods/Non-Working Time – Employees may distribute literature and solicit other employees during meal, break and non-work time periods, so long as both the soliciting employee and the employee(s) being solicited or to whom literature is being distributed are on non-working time.

Solicitation for Charitable Donations – Employees are prohibited from soliciting members of the community and/or local businesses for charitable donations while in uniform and/or during working hours and/or on Village premises, without the prior approval of the Village Manager.

SMOKING POLICY

The Village is committed to maintaining a smoke-free workplace in accordance with all applicable Federal, State and local laws. The use of tobacco products (including but not limited to smoking cigarettes, electronic cigarettes, pipes and/or cigars, and the use of chewing tobacco) is prohibited in all Village offices, buildings and vehicles at all times. Smoking is only permitted outside during authorized break time, and before and after work. Employees who violate these rules may be subject to discipline or discharge in accordance with applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement. Any employee who believes that the smoking policy has been violated should report this violation to his or her Supervisor, Department Head, or the Village Manager.

Employees shall not be retaliated against for exercising their rights to a smoke-free environment. Employees who believe that they have been subject to any retaliation for exercising their rights should file a written complaint with their Supervisor, Department Head, or the Village Manager. This policy is designed to ensure that all non-smoking employees can work in a healthy, smoke-free environment.

DRUG-FREE WORKPLACE/DRUG FREE AWARENESS PROGRAM

The Village recognizes that substance abuse poses a threat to the health and safety of all employees. The Village is committed to a drug and alcohol free workplace to maintain a safe, healthy and productive work environment. The unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance as defined in the Federal Drug-Free Workplace Act, is prohibited on the job or at the workplace.

Except as otherwise provided in any applicable collective bargaining agreement, the following policy shall control.

Prohibited Conduct – No Village employee, administrator, Elected Official or officer shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage, marijuana, illegal drugs, or any other intoxicating substance, nor be under the influence of such, while on duty, at any job site or workplace, or in a Village vehicle, a vehicle leased for Village business, or a privately owned vehicle being used for Village business. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to criminal, civil and disciplinary penalties, up to and including termination of employment in accordance with the applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement. Any work-related accident or injury involving a Village vehicle, equipment, and/or property where it can be demonstrated that the use of alcohol, marijuana, illegal drugs, or any other intoxicants may have been a contributing factor will result in disciplinary action which may include penalties up to and including termination of employment in accordance with the applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

Use of Prescription and Over-the-Counter Drugs – Prescription drugs must be in the possession of the individual to whom the prescription was written, taken in the dosage prescribed, and either be maintained in their original containers or have the original container in their possession at all times. Employees in public safety or safety-sensitive positions must inform their supervisors of any prescription or legal, nonprescription (i.e., over-the-counter) drugs they are currently taking that could in any way affect or impair the employee's ability to perform the job safely. The legal use of prescribed and over-the-counter drugs is permitted on the job only if it does not impair an employee's ability to perform the job safely and if it does not affect the safety or wellbeing of other individuals in the workplace.

Non-Discrimination Policy – The Village will not discriminate against an applicant or employee because of past substance abuse provided it can be demonstrated that the applicant/employee has received appropriate treatment and tests negative for controlled substance use. It is the current use of alcohol, marijuana and controlled substances that will not be tolerated in the workplace.

Employee Assistance – It is the policy of the Village to work with an employee suffering from substance abuse so that the employee will receive assistance necessary to overcome dependency. An employee seeking such assistance is encouraged to contact the employee's Supervisor or Department Head to discuss the situation before problems begin to surface in the workplace. Any disclosures made by an employee will be treated as strictly confidential to the greatest extent practicable. The employee's decision to seek assistance will not be used as the basis for disciplinary action nor used against the employee in any disciplinary proceeding.

Employee Responsibilities – Each employee must abide by this policy and notify the employee's Supervisor or Department Head of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction.

Drug-Free Awareness Program – In order to better educate its employees and to raise employee awareness of the dangers associated with drug abuse in the workplace, employees should familiarize themselves with the following awareness information:

Dangers of Drug Abuse in the Workplace

Employees with chemical dependence problems have a major negative impact on productivity, staff morale, and labor/management relations. Their hidden illness is responsible for:

1. Declining Performance

- poor concentration
- confusion in following directions
- noticeable change in the quality of work
- inability to meet deadlines
- errors in judgment affecting the health and safety of others
- customer complaints and injuries

2. Increased Costs

- five times the average sick and accident benefits
- higher job turnover, replacement and training costs
- greater workers' compensation and health insurance payments
- 3 to 5 times more on-the-job accidents
- unemployment claims

3. Absenteeism and Tardiness

- double the normal rate
- repeatedly being late for work and often leaving early
- extended lunch hours
- frequent illness and accidents both on and off the job

4. Damaged Relationships

- emotional outbursts, over-reaction to criticism, mood swings, complaints from co-workers, associates and the public often leading to damaged relations

REASONABLE SUSPICION DRUG AND ALCOHOL TESTING

In order to help provide a safe work environment and to protect staff members and the public by ensuring that Village personnel have the ability to perform their assigned duties, the Village may require employees to submit to drug/alcohol testing where there is reasonable suspicion of improper drug, marijuana or alcohol use.

Employees suspected of possessing alcohol, marijuana, illegal drugs, intoxicants, or controlled substances are subject to inspection and search, with or without notice. Employees' personal belongings, including any bags, purses, briefcases, and clothing and all of the Village's property, are also subject to inspection and search, with or without notice.

Employees who violate the Village's drug and alcohol abuse policy will be removed from the workplace immediately. The Village may also bring the matter to the attention of the appropriate law enforcement authorities. Any conviction for criminal conduct involving illegal drugs, intoxicants, or controlled substances, whether on or off duty, or any violation of the Village's drug and alcohol policy, including having a positive drug-test result, may lead to disciplinary action, up to and including termination in accordance with any applicable law, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

To the extent a collective bargaining agreement already provides for a reasonable suspicion drug and alcohol testing policy, the rights granted to the employee in the collective bargaining agreement shall govern. An employee shall not be tested under both this Policy and the reasonable suspicion drug and alcohol policy set forth in the applicable collective bargaining agreement.

DEPARTMENT OF TRANSPORTATION CONTROLLED SUBSTANCE AND ALCOHOL TESTING

The United States Department of Transportation (“DOT”) has issued regulations (“the DOT Regulations”) pursuant to the Omnibus Transportation Employee Testing Act of 1991 (the “Omnibus Act”) and individual DOT agency rules requiring employers to implement a comprehensive drug and alcohol testing program for certain commercial motor vehicle drivers. The term “employer” means any person (including the United States, a State, District of Columbia or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle.

It is the Village’s intention to comply fully with the Omnibus Act and the DOT Regulations governing drug and alcohol testing. The requirements of the DOT Regulations are hereby incorporated into this Policy. In the event the DOT Regulations are amended, this Policy and the applicable term(s) condition(s) and/or requirement(s) of this policy shall be deemed to have been amended automatically at that time, without the need of re-drafting in order to reflect and be consistent with DOT’s regulations. In such case, the Village reserves the right to apply the amended requirements immediately, and without giving prior notice to affected employees, unless such notice is required by DOT or other applicable law. The Village also intends to comply with the requirements of all other applicable laws governing drug and alcohol use and testing. In the event of a conflict between this Policy and the DOT regulations, the DOT regulations shall control.

The Village shall arrange for training of all supervisors who may be called upon to determine whether reasonable suspicion exists to test a driver for alcohol misuse or control substance abuse.

I. Definitions

Accident means any occurrence involving a commercial motor vehicle operating on a public road which results in:

- (i) a fatality; or
- (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (iii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include:

- (i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or
- (ii) An occurrence involving only the loading or unloading of cargo.

Adulterated specimen means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and Isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under the Board's Policy and Administrative Regulation as described herein.

Alcohol use means the consumption of any beverage, mixture, or preparation (including any medication), containing alcohol.

Breath Alcohol Technician ("BAT") – a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the motor vehicle:

- (i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds), or more, whichever is greater; or
- (ii) is designed or used to transport more than 8 passengers, including the driver, for compensation; or
- (iii) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (iv) is used in the transportation of materials found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary of Transportation under 49 C.F.R., subtitle B, chapter I, subchapter C.

Confirmation test for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry {GC/MS} is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines and phencyclidine.)

Controlled Substance means:

- (i) any substance listed on Schedule I, 21 C.F.R. § 1308.11;
- (ii) an amphetamine or any formulation thereof (including, but not limited to "pep pills" and "bennies");

- (iii) a narcotic drug or any derivative thereof; or
- (iv) any other substance, to a degree which renders the driver incapable of safely operating a motor vehicle.

DHHS. The Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

Driver means any employee who operates a commercial motor vehicle. This includes, but is not limited to full-time, regularly employed drivers and casual, intermittent or occasional drivers who operate a commercial motor vehicle at the direction of or with the consent of the Village. For the purposes of pre-employment/pre-duty testing and the requesting of information under Section 2.0 Applicability herein only, the term driver includes a person applying to the Village to drive a commercial motor vehicle.

Drug and Alcohol Program Manager – a Village employee authorized by the Village to (i) make required decisions in the testing and evaluation processes; (ii) take immediate action(s) to remove employees from safety-sensitive duties; and (iii) receive test results and other communications provided for under this Policy on behalf of the Village. The Village's Drug and Alcohol Program Manager is the Village Manager.

Medical Review Officer (MRO). A licensed physician responsible for receiving and reviewing laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate medical explanations for certain drug test results.

On duty time means all time from the time a driver begins to work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. On duty time shall also include all time spent traveling to and participating in either a drug or alcohol test when it is pursuant to random, reasonable suspicion, post-accident or follow-up test as directed by or on behalf of the Village.

Performing a safety-sensitive function. A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Refusal to submit (to an alcohol or controlled substances test) means that a driver:

- (i) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a Consortium/Third Party Administrator (C/TPA);
- (ii) Fails to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;

(iii) Fails to provide a urine specimen for any drug test required by this policy or DOT agency regulations. Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;

(iv) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;

(v) Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate explanation for failure;

(vi) Fails or declines to take a second test the employer or collector has directed the driver to take;

(vii) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, as directed by the Designated Employer Representative (DER). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;

(viii) Fails to cooperate with any part of the testing process (*e.g.*, refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or

(ix) Is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (i) All time at or on Village property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the Village;
- (ii) All time inspecting equipment as required by 49 C.F.R. §§ 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (iii) All time spent driving a commercial vehicle;
- (iv) All time, other than driving time, in or upon any commercial vehicle;
- (v) All time loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; and
- (vi) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (also known as initial test). In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or saliva specimen. In drug testing, it means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Substance Abuse Professional (SAP) means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by a National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge and/or clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders, who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

II. Prohibited Conduct

The Regulation expressly prohibits drivers from:

- (i) reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while the driver has an alcohol concentration of 0.04 or greater;
- (ii) possessing any amount of alcohol (including alcohol found in medications, food or other alcohol-containing products) while on duty or operating a commercial motor vehicle, unless the alcohol is manifested and transported as part of a shipment;
- (iii) using alcohol at any time while performing any safety-sensitive function;
- (iv) using alcohol within four (4) hours prior to performing any safety-sensitive function;
- (v) where a driver is required to undergo post-accident testing using alcohol for eight (8) hours following an accident (as defined in this Administrative Regulation) or until he/she undergoes a post-accident alcohol test, whichever occurs first;
- (vi) refusing to submit to any of the following tests required under this Administrative Regulation: a post-accident alcohol or controlled substance test (as defined in this Administrative Regulation); a random alcohol or controlled substances test; a reasonable suspicion alcohol or controlled substances test; or a follow-up alcohol or controlled substances test;
- (vii) reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle;
- (viii) failing to inform the Village that he/she is using any therapeutic drug. If any drugs are prescribed for therapeutic reasons by a licensed medical practitioner, that practitioner must certify in writing to the Village Manager or his/her

designee, the driver's fitness for fulfilling the safety-sensitive responsibilities prior to performing those activities; and

- (ix) reporting for duty, remaining on duty or performing safety-sensitive functions when the driver tests positive for controlled substances or has adulterated or substituted a test specimen for controlled substances.

Drivers are also prohibited from failing to inform the Village, consistent with existing Village rules that may require such notification, that the driver is using drugs other than therapeutic drugs.

Drivers are also prohibited from providing incorrect prior employment information and prior drug and/or alcohol information relating to DOT drug and alcohol testing.

Any violation of the Omnibus Act, the Regulations, the Board's Policy regarding Controlled Substance and Alcohol Testing, this Administrative Regulation and the Board's Drug and Alcohol Testing Educational Material is also considered prohibited conduct.

Drivers (excluding applicants for covered driving positions) who violate these prohibitions will be subject to the actions mandated by the DOT as described in this Administrative Regulation. Drivers who violate these prohibitions may also be subject to disciplinary action by the Village, up to and including discharge, in accordance with any applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

Refusal to Submit to an Alcohol or Drug Test

No driver shall refuse to submit to a post-accident, reasonable suspicion, random or follow-up alcohol or drug test. Any driver who makes such a refusal will not be permitted to perform or continue to perform any safety-sensitive functions.

III. Required Testing

The Village is required by DOT to conduct tests under the following conditions or times:

- (i) before a driver-applicant is hired or an existing employee seeking to become a driver performs safety-sensitive functions ('pre-employment' testing) as described in 49 CFR 382.301;
- (ii) following certain accidents (post-accident testing) as described in 49 CFR 382.303;
- (iii) on a random basis, as described in 49 CFR 382.305;
- (iv) for reasonable suspicion as described in 49 CFR 382.307;
- (v) return-to-duty testing after engaging in prohibited conduct as described in 49 CFR 382.309; and

- (vi) follow-up testing as described in 49 CFR 382.311 for individuals in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances. These tests are described below:

1. Pre-employment: Prior to the first time the driver performs a safety-sensitive function, the driver must undergo testing for drugs.

2. Post-accident: As soon as practicable following an accident involving a commercial motor vehicle, the Village will test for alcohol and drugs of each surviving driver:

- (a) who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (b) who receives a citation under State or local law for a moving traffic violation arising from the accident where the accident involved:
(1) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (2) one or more motor vehicles incurring disabling damage as a result of the accident, requiring such vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle. Where a post-accident alcohol test is being conducted, the moving traffic violation citation must have been received by the driver within 8 hours of the accident. Where a post-accident drug test is being conducted, the moving traffic violation must have been received by the driver within 32 hours of the accident.

“Disabling damage,” as defined by DOT regulations, means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. Included in such definition is damage to a motor vehicle that could have been driven, but would have been further damaged if so driven. Excluded from this definition is damage which could be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, headlamp or taillight damage, or damage to turn signals, horn, or windshield wipers which makes them inoperative.

If a post-accident alcohol test is not administered within two (2) hours following the accident, the Village shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a post-accident alcohol test is not administered within eight (8) hours following the accident, the Village shall cease attempts to administer the alcohol test and shall prepare and maintain the same record.

If a post-accident drug test is not administered within thirty-two (32) hours following the accident, the Village shall cease attempts to administer the drug test, and prepare and maintain on file a record stating the reasons the test was not promptly administered.

If the above conditions are met for post-accident testing, the driver must:

- (i) Call the Village to report the accident. Follow existing procedures for reporting an accident. The driver must let the Village know where he or she can be reached. Record the date and time of the accident.
- (ii) Remain readily available for such testing, or he/she may be deemed by the Village to have refused to submit to testing. However, nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.
- (iii) Report the accident as required by Federal or State law.

The results of a breath or blood test for the use of alcohol, or a urine test for controlled substances, conducted by Federal, State, or local officials having independent authority for the test (*e.g.*, law enforcement officials), shall be considered to meet the requirements of this section, provided such tests conform to applicable Federal, State or local requirements, and that the results of the tests are obtained by the Village. The driver must notify the Village if any such tests were performed by any such officials.

3. Reasonable suspicion: The Village shall require a driver to submit to an alcohol test when the Village has reasonable suspicion to believe that the driver has engaged in prohibited behavior concerning alcohol under this Regulation. The determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver observed during, just preceding, or just after the period of the workday that the driver is required to be in compliance with this Regulation.

The Village shall require a driver to submit to a drug test when the Village has reasonable suspicion to believe that the driver has engaged in prohibited behavior concerning controlled substances under this Regulation. The determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The required observations for reasonable suspicion alcohol and/or controlled substances testing shall be made by a supervisor or Village official who has received at least 60 minutes of training on controlled substance use, and at least sixty (60) minutes of training on alcohol misuse. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. Within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier, the supervisor or Village official shall make a written record of his/her observations of the driver that lead to the reasonable suspicion of alcohol and/or controlled substances test, which shall be signed by the supervisor or Village official who made the observations.

Notwithstanding the absence of a reasonable suspicion alcohol test, no driver shall be permitted to perform or continue to perform safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse until: (i) an alcohol test is administered and the driver's blood alcohol concentration measures less than 0.02; or (ii) twenty-four (24) hours have elapsed following a determination that there is reasonable suspicion to believe that the driver has violated the prohibitions of this Regulation concerning the use of alcohol.

4. Random: The Village shall randomly select a sufficient number of drivers for alcohol and drug testing each calendar year, in accord with DOT regulations. The dates of such tests will be unannounced and spread throughout the year. Drivers may be tested for drugs at any time while on duty. However, drivers shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. When notified, drivers must proceed immediately to the collection site. The probability of being randomly selected in the future is not changed by prior random selections. The DOT mandated probabilities of selection are subject to change. A driver may be tested multiple times, or not at all, during any given calendar year.

5. Return-to-Duty: The Village shall ensure that if a driver is not terminated for engaging in conduct prohibited under this regulation, the driver shall undergo an alcohol test or drug test, depending on which sort of prohibited behavior the driver engaged in before a driver returns to duty requiring the performance of safety-sensitive functions. A driver required to undergo an alcohol test must obtain an alcohol concentration level of less than 0.02. A driver required to undergo a drug test must obtain a negative result. No return-to-duty test shall be administered until after the SAP has determined that the driver has successfully complied with prescribed education and/or treatment.

6. Follow-up: If a driver is not terminated for engaging in conduct prohibited under this Regulation, and a substance abuse professional determines that a driver is in need of assistance in resolving problems associated with alcohol misuse or drug abuse, the Village shall ensure that the driver is subject to unannounced follow-up alcohol and/or drug tests as directed by the substance abuse professional in accordance with DOT regulations. Such testing is beyond the random requirement and will be for a follow-up period that will not exceed five (5) years. The follow-up testing shall consist of at least (6) tests in the first twelve (12) months following the driver's return to duty, and may also include tests during the forty-eight (48) months of safety-sensitive duty following the initial twelve (12) month period. Tests may be for both drugs and alcohol, independent of the type of test with a positive result.

IV. Testing Procedures

Pre-Testing Procedures

The Drug and Alcohol Program Manager should call the collection site to schedule an immediate appointment for the drug/alcohol test. The individual being tested must have the following information with them when they report to the collection site:

1. a DOT chain of custody form;
2. alcohol testing instructions (if an alcohol test is required);
3. a picture ID (e.g., a driver's license); and
4. directions to the collection site.

The individual being tested shall be provided with transportation to and from the testing site, and all time spent in transportation to and from the testing site as well as time spent being tested shall be work time.

Alcohol Testing

Alcohol testing will be performed in accordance with then-current DOT Regulations utilizing approved testing equipment and technicians. Alcohol testing will be conducted by means of a breath test administered by a Breath Alcohol Technician ("BAT") designated by the Village. Such breath tests shall be conducted by a breath alcohol technician using an evidential breath testing device ("EBT") that is approved by the National Highway Traffic Safety Administration and is on the Conforming Products List of Evidential Breath Measurement Devices (e.g., Datamaster).

There are two types of breath tests that are to be administered: (1) a screening test; and (2) a confirmation test.

1. The Screening Test – The first test is a screening test that is conducted by a BAT using an EBT which meets DOT specifications. Any result less than 0.02 breath alcohol content is considered a negative test and no further testing is authorized. If the result of the screening test is 0.02 breath alcohol content or greater, a confirmation test will be conducted.
2. The Confirmation Test – If the result of the screening test is 0.02 breath alcohol content or greater, a confirmation test will be performed by a BAT on an EBT which meets DOT specifications. There will be a waiting period before the confirmation test is conducted. This time period begins with the completion of the screening test, and shall not be less than fifteen (15) minutes. The confirmation test will be conducted within thirty (30) minutes of the completion of the screening test. This waiting period is for the driver's benefit since it is undertaken to prevent any accumulation of mouth alcohol leading to an artificially high reading. The EBT will have the capability of printing out the evidential test result.

An alcohol test result is a "final test result" after the alcohol confirmation test. Applicable DOT Regulations do not require an option for an alcohol split-specimen collection. Therefore, there will be no opportunity for an alcohol re-test.

"Shy Lung"

1. If, on the first attempt, the employee fails to provide a sufficient amount of breath for testing, the individual will be required to try again, and the

tester shall instruct the employee about the proper way to provide a sufficient amount of breath. If the employee refuses to make a second try, such refusal shall be a “refusal to test.” Upon such a refusal, the collector shall discontinue the test, note the fact on the “Remarks” line of the collection form, and immediately notify the Village Manager or his/her designee.

2. If, on the second attempt, the employee fails to provide a sufficient amount of breath for testing, the tester may provide the individual a third opportunity to do so if the tester believes that there is a strong likelihood that it could result in the employee providing a sufficient amount of breath to test. If the tester determines that a third opportunity should not be provided or if the employee’s third attempt fails to produce a sufficient amount of breath for testing, the tester shall note the fact on the “Remarks” line of the collection form and immediately notify the Village Manager or his/her designee.
3. Upon being notified that the employee failed to provide a sufficient amount of breath for testing, the Village Manager or his/her designee shall direct the individual to obtain, within five (5) days of the attempted provision of breath, an evaluation from a licensed physician, acceptable to the Village and who has expertise in the medical issues raised by the employee’s failure to provide a sufficient breath sample, concerning the employee’s medical inability to provide a sufficient sample. If the physician determines that there was a medical condition (not including unsupported assertions of situational anxiety or hyperventilation) that caused or with a high degree of probability could have caused the employee’s inability to provide a sufficient sample of breath, the physician shall provide the reason to the Village Manager or his/her designee in writing, and the test will be canceled. If the physician determines that there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of breath, it shall constitute a refusal to test.

Drug Testing

Drug screening tests will be conducted by means of urinalysis. Drug confirmation tests will be conducted by means of gas chromatography/mass spectrometry (GC/MS) testing.

As required or permitted in certain situations, which may change from time to time as required by the DOT, a directly observed collection by a same sex collector will be required.

The actual drug test analysis will be conducted only at laboratories that are certified by the National Institute on Drug Abuse (NIDA) of the United States Department of Health and Human Services (or other agency as required by then-current DOT Regulations). The Village shall designate the medical facility to be used for the collection of the urine specimen. The Village and laboratories utilized in connection with drug testing will comply with all DOT Regulations intended to ensure accuracy. To the extent permitted by DOT Regulations, the sample collection

process shall be confidential and due regard afforded to the dignity and privacy of the employee being tested.

1. Specimen Collection

Unless otherwise provided in this Policy or as allowed or required by DOT Regulations, employees shall not be directly observed giving a urine sample, unless: (i) there is reason to believe the sample may be tampered with; (2) direct observation is ordered by the MRO; or (iii) the urine sample is being collected as part of a follow-up or return-to-duty test. In the event the urine sample is collected under direct observation, the direct observation shall be made by a person of the same gender as the employee giving the sample and the employee shall be informed of the reason(s) why the urine sample is being collected under direct observation. Refusal by the employee to permit any aspect of the direct observation to occur shall constitute a refusal by the employee to submit to the test. As required by the DOT Regulations, employees providing a specimen under direct observation will be asked to raise or lower their clothing, as appropriate, to ensure that they are not wearing a prosthetic device.

If an employee declines to allow such direct observation, the employee will be deemed to have refused to submit to a test.

The employee shall provide a sufficient amount of urine to allow for a screening test and a confirmation test, and for second test if requested by the employee. If an employee fails to produce a sufficient sample, the employee's ability to have a second test as set forth below may be adversely impacted.

"Shy Bladder"

1. If an individual fails to provide a sufficient sample of urine of at least forty-five (45) mL, the employee shall be given an opportunity to drink up to forty (40) ounces of fluid, distributed reasonably through a period of up to three (3) hours, or until the employee has provided a sufficient urine sample, whichever occurs first. A declination by the employee of this opportunity to drink shall not be deemed a "refusal to test." However, if the employee refuses to attempt to provide a new urine sample, that refusal shall be recorded as a "refusal to test."
2. If the employee fails to provide a sufficient sample of at least forty-five (45) mL within three (3) hours of providing the initial sample, the collector shall make note of that fact in the Remarks section of the collection form and notify the Drug and Alcohol Program Manager. After notification of this event to the Drug and Alcohol Program Manager, the Drug and Alcohol Program Manager will consult with the MRO, who shall direct the individual to obtain, within five (5) days of the attempted provision of urine, an evaluation from a licensed physician, acceptable to the MRO and who has expertise in the medical issues raised by the employee's failure to provide a sufficient urine sample, concerning the employee's medical inability to provide a sufficient sample. If the MRO determines, after considering the report of the physician, that there was a medical condition (not including unsupported assertions of situational anxiety or

dehydration) that caused or with a high degree of probability could have caused the employee's inability to provide a sufficient sample of urine, the MRO shall provide the reason to the Drug & Alcohol Program Manager or his/her designee in writing, and the test will be canceled. When the employer receives a report from the MRO indicating that a test is cancelled due to a medical condition, the employer shall take no further action with respect to the employee, and the employee remains in the random testing pool.

3. If the MRO accepts the recommendation of the referral physician, that there was not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the MRO must check "refusal to test" on the Custody and Control Form (CCF) and sign the CCF.

2. Testing Procedure

To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and safeguards, as set forth in Part 40 of Title 49 of the Code of Federal Regulations. This includes, among other things:

- (i) procedures to ensure the correct identity of each driver at the time of testing;
- (ii) a chain-of-custody procedures to ensure that the driver's specimen is not tampered with;
- (iii) the use of trained breath alcohol technicians (BAT) and DOT approved testing devices for conducting alcohol tests;
- (iv) the use of a DHHS-certified laboratory;
- (v) the confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS);
- (vi) the confirmation of an initial positive alcohol screen by a second analysis;
- (vii) the Village's appointment of a qualified Medical Review Officer (MRO) to review the drug test results before they are reported to the Village's designated representative.

For Drug Tests

The testing laboratory shall forward all drug test results – both "positive" and "negative" test results – to an MRO designated by the Village. The MRO shall analyze the test results.

Before a driver's test result will be confirmed positive for drugs, or reported as a refusal to submit due to adulteration or substitution, the driver will be given the opportunity to speak with the company's MRO and demonstrate that there was a legitimate medical explanation for the positive test result.

If the MRO receives a non-negative test result (*i.e.*, a confirmed positive, adulterated or substituted test result), he/she shall contact the employee directly (*i.e.*, actually talk to the employee either face-to-face or on the telephone), on a confidential basis, to determine whether the employee wants to discuss the results. In making this contact, the MRO must explain to the employee that, if he or she declines to discuss the result, the MRO will verify the test as positive, or as a refusal to test because of adulteration or substitution, as applicable. If the employee refuses to discuss the results with the MRO, or fails to discuss the results with the MRO within seventy-two (72) hours of the MRO having contacted the employee or if the MRO has made reasonable efforts to contact the employee but the MRO has not been able to do so within 10 days of having received the non-negative test result, the MRO shall report the test as positive, or as a refusal to test because of adulteration or substitution, as applicable. If the employee consents to discuss the results with the MRO, the MRO shall interview the employee, review his/her medical history and review other relevant biomedical information provided to the MRO by the employee. The MRO will evaluate these factors to determine whether a legitimate medical justification exists for the positive, adulterated or substituted test result. Evidence to justify a positive test result may include, but is not limited to, a valid prescription or verification from the individual's physician verifying a valid prescription. If the MRO determines that a legitimate medical justification exists for a positive test result, the MRO shall verify the test as negative and the test result may not be released for purposes of identifying illegal drug use. If the MRO determines that a legitimate medical justification exists for an adulterated or substituted test result, the MRO shall cancel the test. If the MRO determines that a legitimate medical justification does not exist, the MRO shall verify a positive test result as positive, or in the case of an adulterated or substituted test result the MRO shall verify the test result as a "refusal to test" due to adulteration or substitution as applicable. The MRO shall then forward all verified test results to the Village Manager or his/her designee.

If the MRO determines that further medical evaluation is needed for the verification process, the MRO may direct the employee to undergo such further evaluation by either the MRO or another duly licensed physician acceptable to the MRO. If further medical evaluation is needed for the verification process, the employee must comply with the MRO's request for this evaluation. If the employee refuses to or fails to undergo further medical evaluation, the employee shall be deemed to have expressly declined to discuss the test result with the MRO, which shall result in the MRO reporting a positive test result as positive, or in the case of an adulterated or substituted test result as a "refusal to test" due to adulteration or substitution as applicable. Neither the MRO nor the Village is responsible for arranging, conducting, or paying for any studies, examinations or analyses to determine whether the employee has established a legitimate medical explanation.

In the event that the test result of a driver's primary specimen is confirmed positive, the driver will be notified by the Village and advised that he/she has seventy-two (72) hours from the time the employee is notified to request that the MRO send his/her secondary specimen to a second, NIDA approved (or any other agency as required by then current DOT Regulations) laboratory for analysis. Pending the outcome of this additional analysis, the driver will be prohibited from performing any safety-sensitive functions and, when appropriate, be given a temporary alternative assignment.

Upon receiving a laboratory report indicating the urine specimen was diluted, substituted or adulterated, the MRO must treat the report in the same manner as a laboratory's report of a confirmed positive test for a drug or drug metabolite. The MRO must then follow the procedures as set forth in this Policy and/or the DOT regulations for verification of the substituted or adulterated results.

Pursuant to this Policy and/or the DOT regulations, the MRO shall conduct a verification interview, during which the employee will have the opportunity to present evidence of a legitimate medical explanation for the substituted or adulterated specimen. For the employee to meet this burden, the employee must produce evidence that he/she did produce or could have produced the urine through physiological means. Medical evidence must be medically valid, (*i.e.*, gathered using appropriate methodology and controls). An employee's assertion that a personal characteristic or condition was responsible for the result is insufficient; the employee must demonstrate that the cited characteristic or condition actually results in the physiological production of urine having the identified creatinine and specific gravity levels. Neither the MRO nor the Village is responsible for arranging, conducting, or paying for any studies, examinations or analyses to determine whether the employee has established a legitimate medical explanation.

If the MRO determines that the employee's explanation does not present a reasonable basis for concluding that there may be a legitimate medical explanation, the MRO must report the test to the Village Manager or his/her designee as a verified refusal to test because of adulteration or substitution, as applicable.

If the MRO determines that the employee's explanation may present a reasonable basis for concluding that there is a legitimate medical explanation, the MRO must direct the employee to obtain, within five (5) days, a further medical evaluation performed by a licensed physician ("referral physician"), acceptable to the MRO, with expertise in the medical issues raised by the employee's explanation. The MRO may perform the evaluation if the MRO has the appropriate expertise. In accordance with the procedures set forth in this Policy and/or the DOT regulations, the referral physician must make a written recommendation to the MRO regarding whether the MRO should determine that there is a legitimate medical explanation.

Upon consideration of the written recommendation, the MRO must determine whether the employee has a legitimate medical explanation. If the MRO determines the employee does not have a legitimate medical explanation, the MRO must report the test to the Village Manager or his/her designee as a verified refusal to test because of adulteration or substitution. On the other hand, if the MRO determines the employee has a legitimate medical explanation, the MRO must cancel the test and inform the Village Manager or his/her designee and DOT in writing of the determination and the evidentiary basis for it.

For Alcohol Tests

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported as a "negative," and no additional test will be required at that time.

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second confirmatory test will be performed. In the event that the driver provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the Village as "negative."

Any driver whose confirmatory test registers 0.02 or more but less than 0.04 will be prohibited from performing any safety-sensitive function until the driver's next regularly-scheduled duty period, but for no less than 24 hours after the test is given. Such a driver may also be subject to additional disciplinary action by the Village, up to and including discharge, in accordance with any applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

A driver who, after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will, at a minimum be suspended from performing safety-sensitive functions until the requirements of 49 CFR 382.605 are met and may be subject to additional disciplinary action by the Village, up to and including discharge, in accordance with any applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

V. Maintenance and Release of Testing Records

All individual drug and alcohol test results will be considered confidential. The release of an individual employee's test results will only be released in accordance with an individual unit member's written authorization, or as is otherwise required by applicable law.

The results of all individual drug and alcohol tests will be kept in a secure location with controlled access. If records are kept electronically, they will be password protected. All test records will be maintained for the period of time required by applicable law.

VI. Consequences of Engaging in Prohibited Conduct

In all events of a positive drug test result after MRO review, but before a re-test if any, or an alcohol test result with a breath alcohol content of 0.02 or higher, or engaging in any conduct listed in the section of this Policy entitled "Prohibited Conduct," the driver shall:

1. not be permitted to perform safety sensitive functions;
2. be referred to a substance abuse professional;
3. complete all treatment prescribed by the substance abuse professional, if any;
4. pass a return-to-duty test before safety sensitive functions are resumed; and
5. comply with any follow-up testing program prescribed.

A request to drug test a second sample will not delay any of the consequences listed above.

Refusal to Submit to a Drug or Alcohol Test

Any refusal to submit to a drug or alcohol test may result in disciplinary action up to and including discharge from employment, in accordance with any applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

Other Administrative Consequences

Any individual testing positive and/or engaging in any conduct listed in the section of this Policy entitled “Prohibited Conduct”, may be subject to disciplinary action up to and including termination from employment. Any such disciplinary action shall be in accordance with applicable law, rules and regulations and/or the provisions of any applicable collective bargaining agreement.

VII. Identity of The Drug and Alcohol Program Manager

The individual that a driver should contact if he or she has any questions regarding the Employer's Policy is the Village's Drug and Alcohol Program Manager, the Village Manager.

The Village shall inform all drivers the name and telephone number of the Village's Drug and Alcohol Program Manager, and of any subsequent change in who is the Village's Drug and Alcohol Program Manager.

VIII. Employee Assistance Programs

The Village is committed to educating its drivers regarding the risks and dangers of using alcohol and illegal drugs. Drivers will be provided with information concerning: (i) the effects of drugs and alcohol on an individual's health, work, and personal life (ii) the signs and symptoms of a drug or alcohol problem; and (iii) the available methods of intervention and treatment when a problem does exist. The Village will also periodically publicize the availability of assistance programs. Drivers with a drug and/or alcohol problem are encouraged to contact an assistance program in confidence.

IX. Violations

Employees who fail to abide by this policy may be subject to discipline or discharge, in accordance with any applicable laws, rules and regulations and/or the terms and conditions of any applicable collective bargaining agreement.

FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act of 1993 (FMLA), as amended, requires covered employers to provide eligible employees with unpaid leave. There are two types of leave available, which includes the basic twelve (12)-week leave entitlement (Basic FMLA Leave), as well as the military family leave entitlements (Military Family Leave) described in this Policy.

I. Eligibility for FMLA Leave

As required by the FMLA, the Village will grant FMLA leave to eligible employees. Employees are eligible for FMLA leave if they have worked for the Village for at least twelve (12) months (the twelve (12) months need not be consecutive) and have worked at least 1,250 hours during the twelve (12) month period before commencement of the leave (hours paid, but not worked, and unpaid leave will not be counted in determining the 1,250 hours of service). A break in employment for military service (*i.e.*, call to active duty) should not interrupt the twelve (12) month/1,250 hours of employment requirement and should be counted toward fulfilling this prerequisite. The law covers both full-time and part-time employees.

II. Basic FMLA Leave

Employees who meet the eligibility requirements described above are eligible to take up to 12 weeks of unpaid leave during any twelve (12) month period for any of the following reasons:

- The birth of the employee's son or daughter and to care for the child during the first twelve (12) months following birth;
- The placement of a son or daughter with the employee for adoption or foster care and to care for the child during the first twelve (12) months following placement;
- To care for an employee's spouse, son, daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform his/her job, including incapacity due to the employee's pregnancy, prenatal medical or child birth.

The relevant twelve (12) month period used by the Village to determine eligibility for Basic FMLA Leave will be calculated on a rolling twelve (12) month period measured forward from the date the employee's first FMLA leave begins.

When a husband and wife are both employed by the Village, they are limited to a combined total of twelve (12) weeks of leave during any twelve (12) month period if the leave is taken:

- For the birth of the employee's son or daughter or to care for the child after birth;
- For placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or
- To care for the employee's parent with a serious health condition.

Definitions

Spouse, Parent, Son or Daughter

1. “Spouse” means a husband or wife as defined or recognized under State law.
2. For purposes of Basic FMLA Leave, “parent” means a biological, adoptive, step- or foster father or mother, or an individual who stands or stood *in loco parentis* to an employee when the employee was either under eighteen (18) years of age or incapable of self-care. This term does not include a parent “in law”.
3. For purposes of Basic FMLA Leave, “son” or “daughter” means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under the age of eighteen (18), or age 18 years or older and “incapable of self-care because of a mental or physical disability” at the start of FMLA leave.

Serious Health Condition

A serious health condition is an “illness, injury, impairment, or physical or mental condition” that requires (1) inpatient care or (2) continuing treatment:

1. “Inpatient Care” is an overnight stay in a hospital, hospice, or residential medical-care facility and any resulting period of incapacity or treatment.
2. “Continuing treatment” is defined as one of the following:
 - a period of incapacity of more than three (3) consecutive calendar days and (i) treatment two (2) or more times by a health care provider within thirty (30) days of the first day of incapacity (unless extenuating circumstances exist); or (ii) treatment by a health care provider which results in a regimen of continuing treatment;
 - The first treatment visit must take place within seven (7) days of the first day of incapacity.
 - Treatment by a health care provider also requires an in-person visit to the health care provider.
 - a period of incapacity due to pregnancy or for prenatal care;
 - a period of incapacity or treatment for a chronic serious health condition which requires periodic visits for treatment (at least two (2) visits per year) by a health care provider;
 - a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
 - a period of absence to receive multiple treatments for (i) restorative surgery after an accident or injury or (ii) an injury or condition which would result in incapacity of more than three (3) consecutive calendar days if left untreated.

Ordinarily, unless complications arise, the common cold, flu, earaches, upset stomach, ulcers, headaches other than migraines, routine dental problems, *etc.* do not qualify as serious health conditions. In addition, routine medical examinations are not considered serious health conditions, and neither are voluntary cosmetic treatments, unless inpatient care is required or complications develop.

III. Military FAMILY Leave

There are two types of Military Family Leave available: Covered Servicemember Leave and Qualifying Exigency Leave. For purposes of these leaves only, the term “son” or “daughter” includes a biological, adopted or foster child, a stepchild, a legal ward, or a child for whom the employee/servicemember stood *in loco parentis*, and who is of any age.

Covered Servicemember Leave (a.k.a. “Military Caregiver Leave”)

There is a special leave entitlement that permits employees who meet the eligibility requirements for FMLA leave to take up to twenty-six (26) weeks of unpaid leave during a single twelve (12) month period to care for an immediate family member (spouse, child, parent) or next of kin (nearest blood relative) who is a covered servicemember.

A “covered servicemember,” as it applies to this form of leave, is defined as:

(1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

(2) a covered veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. For purposes of Military Caregiver Leave, a “covered veteran” means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the 5-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

- With respect to current members of the Armed Forces, National Guard or Reserves, a “serious injury or illness” is defined as an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating.
- With respect to covered veterans, a “serious injury or illness” is defined as a “qualifying injury or illness” that was incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
 1. a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank or rating; or
 2. a physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASDR) of fifty (50%) percent or greater and such VASDR rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or
 3. a physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or
 4. an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

The twelve (12) month period for Covered Servicemember Leave is defined as the twelve (12) month period measured *forward* from the date an employee's first FMLA leave to care for the covered servicemember begins. In other words, the single twelve (12) month period begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends twelve (12) months after that date, regardless of the method used by the Village to determine the employee's twelve (12) workweeks of leave entitlement for other FMLA-qualifying reasons. During this twelve (12) month period, an eligible employee's FMLA leave entitlement is limited to a combined total of twenty-six (26) workweeks of leave for any FMLA-qualifying reason.

In cases where a husband and wife are both employed by the Village, the combined total of leave taken to care for a covered servicemember may not exceed twenty-six (26) weeks in a single twelve (12) month period.

Qualifying Exigency Leave

Employees meeting the eligibility requirements may be entitled to use up to twelve (12) weeks of their Basic FMLA Leave entitlement to address certain qualifying exigencies.

Leave may be used if the employee's spouse, son, daughter, or parent (the "military member") is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. With respect to a member of a *regular* component of the Armed Forces, "covered active duty" is defined as duty during the deployment of the member with the Armed Forces to a foreign country. With respect to a member of a *reserve* component of the Armed Forces (*i.e.*, the National Guard or Reserves), "covered active duty" is defined as duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to the various provisions as defined in Title 10 of the United States Code. Qualifying exigencies may include:

- Short-notice deployment (up to seven (7) days of leave);
- Attending certain military events and related activities;
- Arranging for alternative childcare and attending certain school meetings;
- Addressing certain financial and legal arrangements;
- Spending time with a covered servicemember who is on short-term rest and recuperation leave (up to fifteen (15) calendar days of leave);
- Caring for a military member's parent who is incapable of self-care, when such care is necessitated by the member's covered active duty (*i.e.*, arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, attending meetings with staff at a care facility, etc.);
- Attending certain counseling sessions;
- Attending post-deployment activities that occur up to ninety (90) days after the termination of the covered servicemember's active duty status or to address issues that arise from the death of a covered servicemember while on (covered) active duty status; and
- Other activities arising out of the servicemember's active duty or call to (covered) active duty status which are agreed upon by the Village and the employee.

The relevant twelve (12) month period used by the Village to determine eligibility for Qualifying Exigency Leave will be calculated on a rolling twelve (12) month period measured forward from the date the employee's first FMLA leave begins.

IV. The Employee's Responsibilities When Requesting FMLA Leave

If the need for leave is foreseeable, the employee must notify the Village Clerk at least thirty (30) days in advance before the FMLA leave begins. When thirty (30) days' notice is not possible, the employee must give notice as soon as practicable (or within one (1) or two (2) business days) of learning of the need for leave, except in extraordinary circumstances. Failure to provide such notice may be grounds for delaying the start of the FMLA leave or denying the request for leave.

If the need to use FMLA leave is not foreseeable, the employee must notify the Village Clerk as soon as practicable (or within one (1) or two (2) business days). Employees are expected to provide notice in accordance with this Policy, as well as the Village's usual and customary notice requirements, which means that notice of the need for unforeseeable FMLA leave should ordinarily be given prior to the start of the employee's workday, absent unusual circumstances. Failure to provide such notice may be grounds for delaying the start of the FMLA leave or denying the request for leave.

The employee will be requested to fill out the Request for Leave of Absence Form and the appropriate medical certification form which can be obtained from the Village Clerk. See the leave request form attached hereto as Appendix "C". When submitting a request for leave, the employee must provide sufficient information for the Village to determine if the leave might qualify for FMLA leave, and also provide information on the anticipated date when the leave would start, as well as the anticipated duration of the leave.

V. The Village's Responsibilities

When an employee requests leave, the Village will inform the employee whether he or she is eligible for leave under the FMLA within five (5) business days, absent extenuating circumstances. If the employee is eligible, the employee will be given a written notice of Rights and Responsibilities. See the Notice of Rights and Responsibilities attached hereto as Appendix "D". If the employee is not eligible under the FMLA, the Village will provide the employee with a written notice indicating the reason for ineligibility.

If leave will be designated as FMLA-protected, the Village will inform the employee, in writing, within five (5) business days, absent extenuating circumstances, and provide information on the amount of leave that will be counted against the employee's twelve (12) or twenty-six (26) week entitlement. If the leave will not be designated as FMLA-protected because it does not meet the requirements of the FMLA, the Village will also notify the employee in writing. See the Designation Notice attached hereto as Appendix "E".

VI. Relation of Policy to Collective Bargaining Agreements

To the extent a collective bargaining agreement provides greater family and medical leave rights to an employee than the rights established under this Policy, the rights granted to the employee in the collective bargaining agreement will govern the family and medical leave of the employee. If an employee is entitled to family and medical leave under this Policy and under a collective bargaining agreement, the employee's family and medical leave will be deemed to have been taken concurrently under both this Policy and the collective bargaining agreement. Any leave under this Policy shall also be deemed to have been taken concurrently under this Policy and any leave

pursuant to Sections 71, 72 or 73 of the Civil Service Law for which the employee may also be eligible, to the extent permitted by applicable law.

VII. Medical Certification

The Village will require that an employee's request for leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position, be supported by written medical certification issued by an appropriate health care provider providing the medical attention. Please see the applicable certification form(s) attached hereto as Appendix "F".

Additionally, if an employee is requesting either Qualifying Exigency Leave or Military Caregiver Leave, the employee must also provide appropriate medical certification. When leave is taken to care for a covered servicemember, the Village may require the employee to provide a medical certification completed by an authorized health care provider of the covered servicemember. For purposes of Military Caregiver Leave, health care providers that may provide / complete medical documentation for purposes of medical certification under the FMLA, include but are not limited to: a US Department of Defense health care provider; a US Department of Veterans Affairs health care provider; a DOD TRICARE network authorized private health care provider; a DOD non-network TRICARE authorized private health care provider; and any health care provider as defined in the FMLA regulations. For purposes of Military Caregiver Leave only, an employer may request additional information/documentation from the health care provider to the extent permitted by 825.310 of the FMLA regulations, as appropriate. Please see the applicable certification form(s) attached hereto as Appendix "F".

Employees may obtain medical certification forms (U.S. DOL Form WH-380-E) from the Village Clerk or the appropriate Village personnel. When the employee requests leave, the Village will notify the employee of the requirement for medical certification and when it is due no later than five (5) business days after the employee requests leave. The employee must provide the requested medical certification to the Village within fifteen (15) calendar days after the employer's request, unless to do so is not practicable despite the employee's diligent, good faith efforts. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided.

The employee certification must be complete and sufficient. In the event that the certification is deficient, the Village will advise the employee, in writing, what additional information is necessary to make the certification complete and sufficient. See the Designation Notice attached hereto as Appendix "E". The employee will be given seven (7) calendar days (unless not practicable despite the employee's diligent, good faith efforts) to cure any such deficiency. If the deficiencies are not cured in the resubmitted certification, the Village may deny the taking of FMLA leave.

The Village may require verification of the need for leave by requesting that the employee obtain a second medical opinion. If the Village requires a second medical opinion, the Village will select a physician of its choice and pay for the cost of obtaining the second opinion. If the first and second medical opinions differ, the Village may require a third medical opinion. If this becomes necessary, the Village and the employee will mutually select a physician, and the Village will pay the cost of obtaining the third opinion. This third opinion will be final and binding. Failure to obtain the second and/or third medical opinion(s), where applicable, will result in the result in denial of FMLA leave.

Where permissible, the Village may require subsequent medical recertification. Failure to provide requested certification within fifteen (15) days, unless it is not practicable to do so despite the employee's diligent, good faith efforts, may result in the delay of further leave until it is provided.

During the period of an eligible employee's FMLA leave to care for the employee's parent, spouse with a serious health condition, or for the employee's own serious health condition, the Village may require medical recertification from the health care provider of the employee or the employee's spouse, parent or child. The Village may request medical recertification at reasonable intervals, but not more often than once every thirty (30) days and only in connection with an absence. However, the Village may request medical recertification, regardless of the length of time since the last request, for the following reasons:

- When an employee requests an extension of leave;
- When circumstances for the original certification have changed; or
- When the Village has a good faith reason to contest the continuing validity of the original certification.

When an employee's need for leave due to his/her own serious health condition, or the serious health condition of his/her parent, spouse or child, lasts beyond a single leave year, the Village may require the employee to provide a new medical certification annually.

VIII. Intermittent Leave

Leave because of a serious health condition involving an employee or an employee's spouse, child, or parent, or either type of Military Family Leave may be granted on an intermittent basis (in separate blocks of time due to a single health condition) or on a reduced-schedule leave (reducing the number of hours worked per workweek or workday) when necessary because of the nature of the medical condition and the scheduling of medical treatments. For illustration purposes only, intermittent leave might, for example, be required for chemotherapy or radiation treatment for cancer patients. However, leave may not be taken on an intermittent basis or on a reduced work schedule when used to care for the employee's own child during the first year following birth, or to care for a child placed with the employee for foster care or adoption, unless both the Village and the employee have expressly agreed to such leave in writing.

When planning medical treatment, employees must consult with the Village and make reasonable efforts to schedule leave so as not to unduly disrupt the Village's operations. If the need for intermittent leave is foreseeable, the employee is responsible for scheduling the treatment in a manner that does not unduly disrupt the Village's operations, subject to the approval of the health care provider.

If leave is unpaid, the Village will reduce the employee's salary based on the amount of time actually taken. In addition, while an employee is taking recurring leave on an intermittent or reduced-schedule basis for foreseeable, planned medical treatments, the Village may temporarily transfer or assign the employee to another position or an alternative position that better accommodates the recurring leave and which has equivalent pay and benefits.

IX. Maintenance of Health Benefits

While an employee is on leave, the Village will maintain the employee's health benefits as if the employee continued to be actively employed. Specifically, if the employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his/her portion of any premium payment(s) during the period of leave. If paid leave is used for any portion of an employee's FMLA leave, employee premiums will be deducted from the leave payments in accordance with the practice applicable to an employee not on FMLA leave.

Employees will be given the opportunity to choose continuation coverage under the COBRA regulations if he/she has not returned to work at the end of the twelve (12)/twenty-six (26) week period.

Once an employee has substituted all of his/her paid accrued leave for the unpaid FMLA leave time, he/she shall complete the duration of his/her FMLA leave without pay. While on unpaid FMLA leave, the employee is still responsible for paying his/her premium payment(s). If the employee's premium payment is more than fifteen (15) days late, the Village will send the employee a letter to this effect. If the Village does not receive the payment for outstanding benefit premiums within fifteen (15) days after the date of that letter, the employee's coverage, and the coverage of all enrolled dependents, will terminate for non-payment of his/her required contributions.

The employee has a five (5) day grace period to submit payment after which coverage will be discontinued if payment is not received and will result in the loss of their COBRA rights. There are no provisions for reinstating the employee's coverage after the COBRA rights have been lost.

If an employee on unpaid FMLA leave chooses not to return to work for reasons other than (1) a continued serious health condition of the employee or the employee's family member, (2) a serious injury or illness of a covered servicemember which would otherwise entitle the employee to FMLA leave, or (3) a circumstance beyond the employee's control, the Village will require the employee to reimburse them the amount it paid for the employee's health insurance premium during the leave period.

X. Substitution of Accrued Paid Leave

Unless otherwise provided for in a collective bargaining agreement, employees on unpaid FMLA leave are required to substitute all forms of available accrued paid leave for their unpaid leave (*e.g.*, vacation, personal and/or sick leave as appropriate for the particular leave). The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week or twenty-six (26) week leave period. Furthermore, in no case can the substitution of paid leave time for unpaid leave time result in the receipt of more than one hundred (100%) percent of an employee's normal wages. An employee's FMLA leave runs concurrently with other types of leave or paid time taken during the FMLA leave.

Employees who are on a leave of absence that is covered by payments such as disability benefits or Workers' Compensation benefits will not be required to substitute accrued paid leave while receiving these benefit payments. However, the Village and the employee may agree to have accrued paid leave supplement the disability or Workers' Compensation benefits to the extent permitted by state law and not prohibited by any applicable collective bargaining agreement(s). Any leave of absence taken pursuant to an applicable disability law or Workers' Compensation law will be run concurrently with FMLA leave.

XI. Return to Work at the Conclusion of FMLA Leave

Prior to the exhaustion of FMLA leave, employees will be responsible for notifying the Village Clerk, in writing, regarding their intention to return to work.

An employee on family and medical leave is not entitled to the accrual of any seniority or employment benefits during any period of unpaid FMLA leave, except as expressly stated herein or as otherwise provided by an applicable collective bargaining agreement, binding past practice or by law. The number of calendar days taken as unpaid leave will be utilized to adjust an employee's anniversary date for purposes of calculating seniority and other employment benefits and/or

policies of the Village, unless otherwise provided by law or the provisions on any applicable collective bargaining agreement.

An employee (whose leave was occasioned by the employee's own serious health condition that made the employee unable to perform his/her job) will be required to present medical certification from the health care provider that he/she is able to resume work. This certification must specifically address the employee's ability to perform the essential functions of his or her job. Failure to provide such medical certification may result in delay or denial of reinstatement.

Employees who are taking intermittent or reduced schedule leave may be required to submit a fitness-for-duty certification where reasonable safety concerns exist regarding the employee's ability to perform his/her job duties.

Whenever possible, employees who return at the end of the approved leave time will be restored to the position they held when the leave began. Any established policies and/or procedures used as a basis for restoration must be set forth in writing, must be known to the employee before FMLA is taken, and must clearly explain the employee's restoration rights following return from leave.

If the same position is not available, the employee will be restored to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. An exception to this policy of restoration may be made with respect to "key employees" (*i.e.*, salaried employees in the top 10% of the Village's payroll).

Nothing in this policy shall be deemed to limit or waive an employee's or the Village's rights or obligations pursuant to Sections 71, 72 and/or 73 of the New York Civil Service Law.

XII. Interpretations and Guidance

Whenever there is a question of definition of a term used in this Policy, the definitions used in the Family and Medical Leave Act of 1993, as amended, will apply.

XIII. Fraud

An employee who fraudulently obtains FMLA leave is subject to disciplinary action, up to and including termination.

XIV. FMLA Notice

In accordance with Federal law, the Village shall post a notice summarizing the main provisions of the FMLA, including enforcement of the law, in the Village Hall, the Department of Public Works Building, the Water Department Building, the Fire Departments and the Emergency Medical Services ("EMS") Building. A copy of the notice positing is also attached hereto as Appendix "G".

POLICY GOVERNING THE RIGHTS OF NURSING MOTHERS

Female employees who are returning to work following the birth of a child are presently provided by law the right to take reasonable unpaid break time or use paid break time each day for the purpose of expressing breast milk. The Village recognizes the importance of this right and has implemented this policy to comply with the law and to inform eligible employees of their rights and obligations under the statute.

Any employee who is nursing is eligible for up to three (3) years following the birth of a child.

Eligible employees wishing to express milk in the workplace must provide the Village with advance notice so that proper arrangements may be made. Such notice is expected to be provided prior to the employee's return to work following the birth of the child.

Employees wishing to express milk in the workplace must contact the Village Manager to discuss appropriate arrangements including but not limited to location, and work scheduling. The Village Manager and the employee's Supervisor or Department Head will work with the employee to help ensure that all appropriate needs are met while at the same time ensuring that disruption to the Village's operations will be kept to a minimum. The Village will make a reasonable effort to provide a private room or other location within a close proximity of the employee's workstation for the purpose of expression of breast milk.

Employees shall be provided sufficient unpaid break time to allow the employee to express milk. Generally, these breaks shall be twenty (20) to thirty (30) minutes in duration. If an employee believes she has not been provided sufficient time, she should immediately inform her Supervisor or Department Head, or the Village Manager. An employee is also permitted to use her normal meal period and/or her scheduled paid break period to express milk. Under certain circumstances an employee may be permitted to work before or after her normal shift to make up the amount of time used during the unpaid break time(s). Please contact the Village Manager for additional information.

An employee may be required to postpone a scheduled break to express milk for a reasonable period of up to thirty (30) minutes if she cannot be spared from her duties until appropriate coverage arrives.

The Village will not discriminate in any way against an employee who chooses to express breast milk in the workplace. The Village also strictly prohibits any form of discrimination or harassment against employees requesting or obtaining leave for expression of breast milk. Any person who believes she has been the victim of such discrimination or harassment must immediately report the incident to her Supervisor or Department Head, or to the Village Manager.

LEAVE FOR CANCER SCREENING

The Village intends to comply with applicable law with respect to a leave of absence for cancer screening. State law currently provides that all full-time and part-time employees are entitled to up to four (4) hours of paid leave annually without charge to leave accruals (*e.g.*, sick leave, personal leave, vacation) for cancer screening during their regular work schedules. Employees shall use every reasonable effort to schedule such screening outside of regular work hours.

Employees who take such leave of absence shall provide at least seventy-two (72) hours written notice of the need for such leave, unless seventy-two (72) hours written notice is not possible due to unforeseen circumstances or in the event of an emergency. Upon their return to work, the employee shall provide the Village with a note from a medical professional verifying the date and time of their screening and that they received screening for cancer. Failure to do so shall result in such leave being unpaid.

Please speak to the Village Manager for more information concerning leave for cancer screening.

MILITARY LEAVE

The Village intends to comply with applicable laws with respect to employees who are absent from work due to military service. Employees shall be provided with a leave of absence and shall be paid their salary or other compensation for any and all periods of absence while engaged in the performance of ordered military duty as required by applicable law. Please contact the Village Manager for additional information concerning your rights with respect to military leave.

BLOOD DONATION LEAVE

Village employees who work an average of twenty (20) hours or more per week are entitled to three (3) hours of unpaid leave per calendar year for the purpose of making a blood donation. This leave of absence will not be charged against any leave accruals (*e.g.*, sick leave, personal leave, vacation). However, employees are permitted to substitute accumulated paid leave accruals in order to receive pay for the hours used to donate blood.

Such leave time shall be accrued as of January 1st of each year. If the employee does not exercise his/her rights to such unpaid leave time prior to the completion of the calendar year, such leave time shall be forfeited for that calendar year and will not be eligible to be carried over to the next year. The three (3) hour unpaid leave time is inclusive of travel time to and from the appointment.

Prior to taking such leave, employees must receive approval from his/her Supervisor and/or Department Head. Employees who take such leave of absence shall provide at least seventy-two (72) hours written notice to his/her Supervisor or Department Head of the need for such leave, unless seventy-two (72) hours written notice is not possible due to unforeseen circumstances or in the event of an emergency. The employee's Supervisor and/or Department Head will have total discretion in the approval of such leave, but will not unreasonably deny such request.

Upon return to work, the employee shall provide the Village with sufficient proof of blood donation(s).

Please speak to the Village Manager for more information concerning blood donation leave.

LEAVE FOR VOLUNTEER FIREFIGHTERS AND VOLUNTEER EMERGENCY RESPONDERS

In the event an employee is called upon to perform volunteer duties as a firefighter or emergency responder at a time when the employee is scheduled to be at work for the Village, the employee will be entitled to absent him or herself from work at the Village's discretion and if authorized by the employee's Supervisor or Department Head. The employee may not leave work until it has been approved by the appropriate Supervisor or Department Head. Employees must provide reasonable advance notice to their Supervisor or Department Head of their absence from work or lateness as a result of an emergency response.

Employees may be required to utilize their accrued leave time to cover such absences, including any associated travel time to and from the call. If the employee has no accrued leave time available, he/she may be docked for the time that he/she is responding to the emergency and/or fire. Time spent performing such duties, including driving to and from the scene of the emergency/fire, will not be included as time worked for purposes of computing overtime.

Employees are required to return to the worksite upon completion of their emergency response, unless the call ends after the completion of the employee's scheduled workday. Employees must account for all time spent responding to emergency calls on the employee's timesheet, including the time the employee left and returned to the worksite. An employee may be required to show verification of his or her response to the emergency and the time of such response.

If the employee is on paid leave from the Village (i.e., vacation, holiday, personal etc.) and the employee responds to a call, the employee will not receive additional compensation from the Village and the employee's appropriate leave time will still be charged.

Formally Declared State of Emergencies

In the event that a formal state of emergency has been declared pursuant to Section 24 or 28 of the New York Executive Law, an employee shall be granted a leave of absence pursuant to Section 202-L of the New York Labor Law while engaged in the actual performance of his or her duties as: (a) a volunteer firefighter; or (b) an enrolled member of a volunteer ambulance service pursuant to Article 30 of the Public Health Law, unless the Village determines that the employee's absence would impose an undue hardship on the conduct of Village business as defined by paragraph (d) of Section 296(10)(d) of the new York Executive Law.

Such leave shall only be available if:

1. The Village has previously received written documentation from the head of the employee's volunteer fire department or volunteer ambulance services, as applicable, notifying the Village of the employee's status as a volunteer firefighter or member of a volunteer ambulance service; and
2. The employee's duties as a volunteer firefighter or member of a volunteer ambulance service are related to the declared state of emergency.

The entire period of the authorized leave of absence granted pursuant to Section 202-L of the New York Labor Law shall either be an unpaid excused leave of absence for those employees who are subject to the overtime provisions of the Fair Labor Standards Act, or may otherwise be

charged against any other leave to which such employee is entitled, as determined by the employee.

Upon request by the Village Manager, an employee who has been granted a leave of absence in accordance with Section 202-L shall provide the Village with a notarized statement from the head of the volunteer fire department or volunteer ambulance service, as applicable, certifying the period of time, or times, that said employee responded pursuant to a declared state of emergency.

LEAVE TO VOTE

To the extent possible, employees are expected to take advantage of polling hours prior to the beginning or following the end of their workday. If an employee does not have at least four (4) hours to vote either prior to reporting to work or between the end of his/her workday and the time the polling places close, the employee will be allowed up to two (2) paid hours off in order to vote. Any additional time off will be without pay. If an employee wants to use this leave, he/she must submit a written request to the Village Manager not less than two (2) working days prior to the date of the election. Such written request must state the date and time (start and end time) that the employee is requesting to take this leave, and the election for which the employee is requesting to use this leave.

VEHICLE USAGE

All vehicles and related equipment of the Village of Croton-on-Hudson are owned and maintained for the purpose of conducting official business of the Village.

Village vehicles are provided for Village business and are to be used only by qualified and authorized employees. In all cases, these vehicles are to be operated in strict compliance with motor vehicle laws of the jurisdiction in which they are driven and with the utmost regard for their care and cost-efficient use. Said vehicles and equipment may not be used for the personal use or private gain of any official or employee (except as provided below), nor for any other purpose which is not in the general public interest. No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Village vehicles at any time, except those of a limited community service nature which have been pre-authorized by the Village Board.

Authorized Drivers – Village vehicles must be assigned to specific Village officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non-Village related business, unless otherwise authorized by the Village Manager.

Full Time Assignment of Vehicles – The following employees may be permitted limited personal use of their village-assigned vehicle: Village Manager, DPW Superintendent, DPW General Foreman, the DPW Assistant General Foreman Code Enforcement Officer/Fire Inspector, Village Engineer, Police Chief, Fire Chief, Assistant Fire Chief(s), EMS Captain. In accordance with IRS regulations, “commuter value” will be added as earned income to the individual’s W-2 at the end of the year unless the vehicle has been designated by the Village Manager as a “qualified exempt vehicle” in accordance with IRS regulations.

Driver Qualifications – Driver qualifications are as follows:

- Authorized employee of the Village of Croton-on-Hudson.
- Must be at least twenty-one (21) years of age, unless otherwise authorized by the Village Manager.
- Must be trained by the appropriate supervisor before being permitted to drive or operate village vehicles or equipment.
- Must meet all licensing requirements.

An employee will not qualify to operate a Village vehicle if he/she has had his/her driver’s license suspended or revoked and/or if he/she is prohibited from driving by the DOT Regulations.

The Village will utilize the NYS Department of Motor Vehicles’ “License Event Notification Service” (LENS) to monitor activity that may negatively impact an employee’s ability to meet these qualifications. An employee who is authorized to use his/her personal vehicle for Village business is eligible for mileage reimbursement at the applicable IRS reimbursement rate.

Driver Responsibilities – As a driver of a Village vehicle, the authorized driver has been given certain privileges. The driver assumes the duty of obeying all motor vehicle laws, maintaining the vehicle properly at all times, and otherwise following the policies and procedures set forth below. Each driver is responsible for the actual possession, care and use of the Village vehicle in their possession. Driver’s responsibilities include, but are not limited, to the following:

- Operation of the vehicle in a manner consistent with reasonable practices that avoid abuse, theft, neglect or disrespect of the equipment.
- Adherence to all vehicle and traffic laws.
- The use of seat belts and shoulder harness is mandatory for driver and passengers.
- Attention to and practice of safe driving techniques and adherence to current safety requirements.
- Restricting the use of vehicles to the authorized driver only.
- Reporting the occurrence of moving violations.
 - Accurate, comprehensive and timely reporting of all accidents by an authorized driver of a Village vehicle to your immediate Supervisor and/or the Department Head when practicable. The Department Head must file an accident report with the Village Clerk within twenty-four (24) hours.
- Village vehicles may not be used to transport persons who are not officials or employees of the Village of Croton-on-Hudson, nor material not related to the conduct of official Village business, without direct and prior authorization by the appropriate Department Head or the Village Manager.
- Employees are expected to comply with all applicable “hands-free while driving” and “anti-texting while driving” laws and refrain from using a cellular phone, Blackberry, smart phone, or any other electronic device in any manner inconsistent with such laws while driving a Village vehicle. Employees who utilize cellular phones, Blackberries, smart phones or any other electronic device while driving a Village vehicle to make or receive a phone call must use a hands-free apparatus or pull over to a parking lot or to a road shoulder that permits safe reentry onto the road to do so. . Exceptions to the above may be recognized for law enforcement personnel for communications which occur during emergency responses. Text messaging, emailing, reading, playing games and/or accessing the Internet or any applications while driving are strictly prohibited

Traffic Violations – Fines for parking or moving violations, including fines associated and/or received from violations related to red-light cameras, speed traps, speeding (etc.), are the personal responsibility of the assigned operator. Each driver is required to report any citation for a moving violation when operating a Village vehicle to the Village Clerk within twenty-four (24) hours of occurrence.

An employee issued a traffic ticket or otherwise charged with an infraction of the Vehicle and Traffic Law resulting from his/her use of a cellular phone, Blackberry, smart phone or any other electronic device while driving shall be solely responsible for all liabilities which result from such action.

Any unauthorized use by an employee of his/her cellular phone, Blackberry, smart phone or any other electronic device while driving a Village vehicle may form the basis for potential disciplinary action against the employee.

Theft Control - Village vehicles must always be maintained in a safe and secure condition when not in use, including being locked and/or under direct observation; and all keys maintained under a controlled and authorized jurisdiction of the appropriate Supervisor and/or Department Head.

In the event of theft of a Village vehicle, immediately notify local police and the Village Manager.

Accidents involving Village Vehicles – In the event of an accident:

- Do not admit negligence or liability (do not apologize).
- Do not attempt settlement, no matter how minor.
- Get name, address and phone number of injured persons and witnesses, if possible.
- When appropriate, a form MV-104 must be completed.
- Exchange vehicle identification, insurance company name and policy numbers with the other driver.
- Take a photograph of the scene of the accident, if possible.
- Call the police if injury to others is involved and/or if the accident involves any non-Village property or vehicles or if any damage to any non-village property or vehicle has occurred.
- Complete the accident report in the vehicle.

Submit all information to your immediate Supervisor and/or the Department Head as soon as possible. The Department Head must then notify the Village Clerk.

Idling of Vehicles Prohibited

Pursuant to Section 215-20.1 of the Village Code, when the ambient temperature is in excess of 32° F., no person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle performing official duties, to idle for longer than three minutes while parking as defined in § 129 of the Vehicle and Traffic Law, standing as defined in § 145 of the Vehicle and Traffic Law, or stopping as defined in § 147 of the Vehicle and Traffic Law, except when the engine is being used to operate a loading or unloading or processing device.

When the ambient temperature is in excess of 32° F., no person shall cause or permit the engine of a bus, as defined in § 104 of the Vehicle and Traffic Law, to idle while stopping, parking, or standing unless otherwise required by federal, state, or local regulations to maintain a specific temperature for passenger comfort, in which case the idling time may be increased to the extent necessary to comply with such regulations.

DRIVER'S LICENSE/INSURANCE REQUIREMENTS

Requirement – An employee who is required to drive either a Village-owned vehicle or the employee's own personal vehicle to conduct business on behalf of the Village, must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license. Proof of such license must be on file with the Village. If a personal vehicle is used to conduct business on behalf of the Village, the employee is responsible for ensuring liability insurance coverage meeting NYS requirements is appropriately maintained.

Commercial Driver's License –Employees of the Village who are required either daily or periodically to operate Village vehicles and/or equipment which requires a special Commercial Driver's License ("CDL") to operate such vehicle and/or equipment are required to possess and maintain a valid CDL. An employee who operates a vehicle which requires a (CDL), must maintain such license throughout employment. Proof of such license must be on file with the Village. In accordance with the federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Village within thirty days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving.

Loss of Driver's License – An employee who is required to possess a driver's license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate Supervisor and/or Department Head and Village Manager in the event the license is suspended or revoked. The loss or suspension of the driver's license or CDL license may affect the employee's employment with the Village. The Village will utilize the NYS Department of Motor Vehicles' "License Event Notification Service" (LENS) to monitor activity that may negatively impact an employee's ability to maintain a required license.

DEDUCTION FROM PAY POLICY FOR EXEMPT EMPLOYEES

Under Federal and State law, certain executive, administrative, professional, and computer employees may be classified as “exempt.” Exempt employees are not entitled to overtime for hours worked in excess of 40 hours per week. To qualify as exempt, employees generally must meet certain tests regarding their job duties. Job titles do not determine exempt status. In order for an exemption to apply, an employee’s specific job duties and salary must meet all the requirements of the applicable federal regulations.

In addition, exempt employees must usually receive a predetermined weekly salary (under State law at least \$675.00 for executive and administrative employees and at least \$455 per week under Federal law on a salary basis) that will not be subject to deductions based on the quantity or quality of the work performed, subject to the exceptions stated in this Policy. This salary will be established at the time of hire or when you are classified as an exempt employee. Exempt employees need not be paid for any workweek in which they perform no work. If an employer makes unauthorized deductions from an employee’s predetermined salary, that employee is not paid on a “salary basis.” If an employee is ready, willing and able to work, deductions may not be made for time when work is not available. Should you have any questions on your classification, please contact the Village Manager.

It is the policy and practice of the Village to accurately compensate all exempt employees and to do so in compliance with all applicable state and federal laws. It is also the policy of the Village to comply with the salary basis requirements of the Fair Labor Standards Act. Thus, we prohibit all managers/supervisors from making any improper deductions from the salaries of exempt employees. To ensure that you are paid properly for all time worked and that no improper deductions are made, you should review your pay stub to make sure it is correct. If you believe an improper deduction has been made or have any questions, you should follow the complaint procedure in this Policy.

Under Federal and State law, your salary may lawfully be subject to certain deductions. For example, unless there is a State law, collective bargaining agreement or employment agreement to the contrary, deductions may be made from your salary for the following reasons:

- Full day absences from work for personal reasons; or
- Full day absences from work for sickness or disability pursuant to the Village’s policy of providing compensation for loss of salary occasioned by sickness or disability (sick pay); or
- Full day disciplinary suspensions for violations of the Village’s written workplace conduct policies or procedures; or
- Violations of safety rules of major significance, in an amount to be determined by the Village; or
- Family and Medical Leave absences in the same amount of time actually taken (either full or partial day absences); or
- Proportional adjustments made with respect to time actually worked during

your first or last week of employment in the event you work less than a full week; or

- To offset amounts received as payment for jury duty, attendance as a witness, or temporary military leave.

Your salary may also be reduced for certain types of deductions required or permitted under the law including but not limited to your portion of health, dental or life insurance premiums; state, federal or local taxes; social security; or voluntary contributions to a 401(k) or pension plan.

If you believe you have been subject to any improper deductions in violation of this Policy, you should immediately report the violation to the Village Manager. Every report will be investigated and corrective action will be taken where appropriate. If it is determined that an improper deduction has been made, the Village will reimburse you in full and correct any further misapplication of this Policy. The Village is committed to full compliance with this Policy.

In addition, the Village will not allow any form of retaliation against individuals who report alleged violations of this Policy or who cooperate in the investigation of such reports. Retaliation is unacceptable, and any form of retaliation in violation of this Policy will result in disciplinary action, up to and including termination. Complaints of retaliation should be reported immediately to the Village Manager. Every complaint will be investigated, and corrective action will be taken where appropriate which might include the discipline or termination of the offending employee.

AFFORDABLE CARE ACT/HEALTHCARE MARKETPLACE POLICY

Pursuant to the rules and regulations of the Affordable Care Act (“ACA”) the Village may be required to offer health insurance to its full-times employees (as defined by the “ACA”).

However, regardless of whether the Village is required to offer an employee health insurance, all employees, may at their own expense, seek to purchase health insurance from the “Marketplace.” For more information regarding the “Marketplace” please refer to Appendix “H” attached hereto.

All new employees are required to receive the “New Health Insurance Marketplace Coverage Options and Your Health Coverage” form that is attached in Appendix “H”.

