

PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Legislative intent.
- § 1-2. Continuation of existing provisions.
- § 1-3. Repeal of enactments inconsistent with Code.
- § 1-4. Enactments saved from repeal; matters not affected.
- § 1-5. Severability.
- § 1-6. Copy of Code on file.
- § 1-7. Amendments to Code.
- § 1-8. Code book to be kept up-to-date.
- § 1-9. Sale of Code book; supplementation.
- § 1-10. Penalties for tampering with Code.

- § 1-11. Changes in previously adopted legislation; new provisions.
- § 1-12. Incorporation of provisions into Code.
- § 1-13. When effective.

ARTICLE II General Definitions

- § 1-14. Definitions.

ARTICLE III General Penalty

- § 1-15. Penalties for offenses.

ARTICLE IV Miscellaneous

- § 1-16. Service of notice.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code [Adopted 6-14-2004 by L.L. No. 3-2004]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Pelham Manor, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 210, together with an Appendix, shall be known collectively as the "Code of the Village of Pelham Manor," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Pelham Manor" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Trustees of the Village of Pelham Manor, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments inconsistent with Code.

All local laws and ordinances of a general and permanent nature of the Village of Pelham Manor in force on the date of the adoption of this local law and inconsistent with the provisions contained in such Code are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Pelham Manor prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Pelham Manor or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Pelham Manor.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Pelham Manor.
- E. Any local law or ordinance of the Village of Pelham Manor providing for the laying out opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Pelham Manor or any portion thereof.
- F. Any local law or ordinance of the Village of Pelham Manor appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Pelham Manor or other instruments or evidence of the Village's indebtedness.

- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.
- N. Local Law No. 4-1977, Housing Standards.
- O. Any local law adopted subsequent to 2-10-2003.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Pelham Manor and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Village Clerk of the Village of Pelham Manor by impressing thereon the Seal of the Village of Pelham Manor, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Pelham Manor" or any now local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions,

amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the code of the Village of Pelham Manor required to be filed in the office of the Village Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws or resolutions until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code, or any chapter or portion of it, may be purchased from the Village Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Board of Trustees. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Pelham Manor or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Pelham Manor to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Pelham Manor, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsections B and C hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. Throughout the Code, all references to "General Code of Ordinances" are changed to "Code."

- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Village of Pelham Manor, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

ARTICLE II

General Definitions

[Derived from Sec. 1 of the General Code of Ordinances]

§ 1-14. Definitions.

- A. In the following chapters of the Village of Pelham Manor, each of the following terms shall have the meaning and shall be construed as indicated below:

ANIMALS — All quadrupeds, fowls, birds, reptiles and insects.

BOARD — The Board of Trustees of the Village.

CLERK — The Clerk of the Village.

CROSSWALK — That portion of a roadway ordinarily included within the prolongation or connection of the curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing, by lines or other markings on the surface.

CURB — The line, whether marked by stone curbing or otherwise or not, dividing the sidewalk from the roadbed.

ENGINEER — The Engineer of the Village.

FIREARMS — Includes rifles, shotguns, bows and arrows, pistols, machine guns, spring guns, air guns and all instruments or devices for the projection of missiles of every type and nature.

¹ Editor's Note: In accordance with § 1-11C, the chapters, sections and subsections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by the following history: "Amended (added, deleted) 6-14-2004 by L.L. No. 3-2004." Schedule A, which contains a complete description of all changes, is on file in the Village Clerk's office.

HE, SHE or IT — Shall embrace male, female and neuter and singular and plural.

HIGHWAY IMPROVEMENT — The filling, excavating, grading, paving, surfacing, draining and the laying of curbs, gutters and sidewalks upon or otherwise improving a street or any one or more or all of such improvements.

LICENSE — A written license or permit signed by the Clerk and issued pursuant to Village ordinance or pursuant to a general or special resolution of the Board.

MAYOR — The Mayor of the Village.

OFFICIAL PAPER — The Pelham Sun, published in the Town of Pelham, which is hereby designated as the official paper of the Village for the publication of all notices required by law to be published.

OWNER — A person having an estate, interest or easement in real property or occupying or using the same.

PARK or PARKING — The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

PAVEMENT — Includes a macadam, asphalt, brick, concrete or other improved roadbed, and shall be applied only to the portion of the street between the sidewalks or established curblines.

PEDDLER, HAWKER, HUCKSTER and SOLICITOR — Any person who, in any public street or by going from house to house or place of business to place of business, on foot, or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter, any goods, wares or merchandise or who solicits subscriptions or orders for future delivery of any such articles.

PERSON — An individual, firm, corporation or other body, whether acting as principal or as agent.

POLICE OFFICER — A police officer of the Village.

REAL PROPERTY — Includes all land and improvements, lands under water, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal or equitable, privilege and franchise relating to the same.

SIDEWALK — That portion of the street between the curblines and the adjacent property lines.

SIGN — Any display of words and/or design that is arranged, intended or used as an advertisement, announcement or direction; including signs for the control of traffic or vehicles; sign billboards and advertising devices, of every kind, whether separate structures or attached to independent structures.

STREET or HIGHWAY — Any street, lane, highway, alley, parkway or public place within the Village, including roadbed, sidewalk and other surface, and also all culverts, drains, gutters, ditches, water ways and retaining walls, catch basins and receiving basins, between the exterior lines of lots abutting upon the highway.

STRUCTURE — Includes all buildings, sheds, walls, fences, excavations, billboards, scaffolds, framework or other objects built, constructed or otherwise added on or in any lands, and all parts thereof.

TIME — The standard time throughout the Village which shall be that of the 75th meridian of longitude west from Greenwich, except that at 2:00 antemeridian of the last Sunday of April of every year, such standard time throughout the Village shall be advanced one hour and at 2:00 antemeridian of the last Sunday in September of every year such standard time shall, by the retarding of one hour, be returned to the mean solar time of the 75th meridian of longitude west from Greenwich and excepting further as and while the same may be modified by any superseding federal or state statute or proclamation.

TREASURER — The Treasurer of the Village.

TRUSTEE — A Trustee of the Village.

USED — Shall be construed as though followed by the words “or intended, arranged or designed to be used.”

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

VILLAGE — The Village of Pelham Manor.

- B. The meanings and definitions of all other terms hereinafter used not specifically defined herein shall be the meanings and definitions given to them by other chapters of the Village or by the statutes and courts of this state.

ARTICLE III

General Penalty

[Derived from Section 60 of the General Code of Ordinances]

§ 1-15. Penalties for offenses. [Amended 5-14-1979 by L.L. No. 1-1979]

- A. For each violation of any of the chapter contained in this Code the offender shall be subject upon conviction for each offense to a penalty of not more than \$250. Each and every day that such violation continues shall constitute a separate offense. In addition, an offender shall be subject for violation of any one of such chapters to injunction prohibiting and otherwise preventing any further violations.
- B. The penalties and other remedies specified in this section shall not apply to any section of this Code which contains therein a penalty or other remedy for its violation.

ARTICLE IV

Miscellaneous

[Derived from Section 61 of the General Code of Ordinances]

§ 1-16. Service of notice.

- A. Any or all notices or demands to be served by the Village, by the Clerk or by any other official of the Village, pursuant to any ordinance or rule of the Village or otherwise, may be delivered personally or by mail by depositing it or a copy thereof in the Post Office of the Village or Town of Pelham, addressed to such person at his last known place of residence or by publication of such notice in the official newspaper of the Village once a week for two weeks, and the last day of publication shall be deemed to be the date of service.
- B. Service so made shall be deemed to be sufficient except where otherwise required by state statute.

Chapter 6

ASSESSMENTS

- | | |
|--|---|
| <p>§ 6-1. Intent.</p> <p>§ 6-2. Maintaining certain assessment percentages upon reassessment.</p> <p>§ 6-3. Ceasing of village's status as assessing unit.</p> | <p>§ 6-4. Village taxes to be levied as part of town assessment.</p> <p>§ 6-5. Filing provisions with state.</p> <p>§ 6-6. When effective.</p> <p>§ 6-7. Filing provisions with Town Clerk, Assessor and state.</p> |
|--|---|

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 11-9-1998 by L.L. No. 3-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 191.

§ 6-1. Intent.

The intent of the Board of Trustees of the Village of Pelham Manor is to implement § 1903 of the Real Property Tax Law, providing for maintaining certain assessment percentages upon reassessment, and § 1402, Subdivision 3, of the Real Property Tax Law, providing for the voluntary termination of the village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this chapter to abolish the position of Assessor and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Pelham Manor.

§ 6-2. Maintaining certain assessment percentages upon reassessment.

The Village of Pelham Manor hereby adopts the provisions of § 1903 of the Real Property Tax Law of the State of New York.

§ 6-3. Ceasing of village's status as assessing unit.

On or after the effective date of this chapter, the Village of Pelham Manor shall cease to be an assessing unit, the position of Assessor in the Village of Pelham Manor is abolished, and the Board of Assessment Review in the Village of Pelham Manor is abolished.

§ 6-4. Village taxes to be levied as part of town assessment.

On or after the effective date of this chapter, taxes in the Village of Pelham Manor shall be levied on a copy of the applicable part of the assessment roll of the Town Pelham with the taxable status date of such town controlling for village purposes.

§ 6-5. Filing provisions with state.

Within 10 days of the adoption of this chapter, the Board of Trustees of the Village of Pelham Manor shall forward a copy of this chapter with the State Board of Equalization and Assessment.¹

§ 6-6. When effective.

This chapter shall take effect immediately upon filing with the Secretary of State, subject to the provisions of § 1402 of the Real Property Tax Law, and as provided in § 27 of the Municipal Home Rule Law.

§ 6-7. Filing provisions with Town Clerk, Assessor and state.

Within five days of the effective date of this chapter, the Board of Trustees of the Village of Pelham Manor shall file a copy of such chapter with the Clerk and Assessor of the Town of Pelham and with the State Board of Equalization and Assessment.

¹ Editor's Note: The State Board of Equalization and Assessment was changed to the State Board of Real Property Services by L.1994, c. 385, effective 1-1-1995.

Chapter 12 CONSTABLE

§ 12-1. Position established; duties; compensation.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 8-28-1989 by L.L. No. 2-1989. Amendments noted where applicable.]

§ 12-1. Position established; duties; compensation. [Amended 1-23-1995 by L.L. No. 1-1995; 6-14-2004 by L.L. No. 3-2004]

The position of Village Constable is hereby established to serve and execute civil process, take custody of and see to the transportation of prisoners, and undertake such other duties consistent with the position of Village Constable as from time to time might be prescribed by the Village Manager or the Board of Trustees in exchange for such compensation as shall be established by the Board of Trustees from time to time.

Chapter 15
COURT

§ 15-1. Village Court Abolished.

§ 15-2. Referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 12-28-1992 by L.L. No. 5-1992. Amendments noted where applicable.]

§ 15-1. Village Court Abolished.

Pursuant to the provisions of § 3-301 of the Village Law of the State of New York, the Village Court is abolished.

§ 15-2. Referendum.

This law is subject to permissive referendum.

Chapter 19
DEFENSE AND INDEMNIFICATION

ARTICLE I
Village Officers and Employees

- § 19-1. Legislative intent.
- § 19-2. Definitions.
- § 19-3. Defense of employee.
- § 19-4. Indemnification of employee.
- § 19-5. Conditions of benefits.
- § 19-6. Interpretation of benefits.
- § 19-7. Rights of insurer under any policy of insurance not altered.
- § 19-8. Applicability.
- § 19-9. Immunity or right to defense in accordance with other laws not altered.

ARTICLE II
Police Officers

- § 19-10. Defense and indemnification of police officers.
- § 19-11. Purchase of insurance coverage.
- § 19-12. Determination of proper conduct.
- § 19-13. Conditions of benefits.
- § 19-14. Immunity or right to defense in accordance with other laws not altered.
- § 19-15. Applicability.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Village Officers and Employees
[Adopted 7-14-1980 by L.L. No. 2-1980]

§ 19-1. Legislative intent.

The purpose of this article is to provide legal and financial protection for those individuals serving the Village of Pelham Manor from losses which may be brought against them in their individual capacity for actions taken while in the performance of their official duties and responsibilities. In enacting this article, the Board of Trustees finds that the State of New York has enacted similar provisions for the legal and financial security of its officers and employees and further finds that such security is also required for local personnel. By enactment of this article, the Board of Trustees does not intend to limit or otherwise abrogate any existing right or responsibility of the village or its employees with regard to indemnification or legal defense. It is solely the intent of this article to provide similar coverage for local employees as is presently provided for state employees, so as to continue to attract qualified individuals to local government service.

§ 19-2. Definitions.

As used in this article, unless the context otherwise requires, the following terms shall have the meanings indicated:

EMPLOYEE — Any person holding a position by election, appointment or employment in the service of the Village of Pelham Manor, whether or not compensated, or a volunteer expressly authorized to participate in a municipally-sponsored volunteer program, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

§ 19-3. Defense of employee.

- A. Upon compliance by an employee with the provisions of § 19-5 of this article, the village shall provide for the defense of the employee in any threatened or pending civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting or believed himself in good faith to be acting within the scope of his public employment or duties, or which is brought to enforce a provision of § 1981 or 1983 of Title 42 of the United States Code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Village of Pelham Manor.
- B. Subject to the conditions set forth in Subsection A of this section, the employee shall be entitled to be represented by the Village Attorney or other counsel retained by the village or its insurer; provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the Village Attorney determines, based upon his investigation and review of the facts and circumstances of the case, that representation by the Village Attorney or other counsel retained by the village or its insurer would be inappropriate, or that representation by counsel retained by any insurer of the village is insufficient because of the insurer's maximum liability or any other reason (in which case, however, the insurer shall continue to provide for the representation of the employer up to its maximum liability); or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The Village Attorney shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel of his choice. The Village Attorney may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the Village Attorney shall so certify to the Village Board. Reasonable attorney's fees and litigation expenses shall be paid by the village to such private counsel from time to time; where appropriate, such fees may be paid prior to or during the pendency of the civil action or proceeding. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

- C. Where the employee delivers process and a request for a defense to the Village Attorney or Village Manager as required by § 19-5 of this article, the Attorney shall take the necessary steps, including the retention of private counsel under the terms and conditions provided in Subsection B of this section, on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense. **[Amended 1-23-1995 by L.L. No. 1-1995]**

§ 19-4. Indemnification of employee.

- A. The village shall indemnify and save harmless any employee in the amount of any judgment obtained against such employee in any state or federal court, or in the amount of any settlement of a claim (subject to the terms and conditions provided in Subsection B of this section), provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting or believed himself in good faith to be acting within the scope of his public employment or duties and, provided further, that the injury or damage from which such judgment or settlement arose did not result from intentional wrongdoing or recklessness on the part of the employee.
- B. An employee represented by private counsel shall cause to be submitted to the Village Attorney any proposed settlement which may be subject to indemnification by the village, and if not inconsistent with the provisions of this section, the Village Attorney shall certify such settlement, and submit such settlement and certification to the Board of Trustees. The Board of Trustees shall review such proposed settlement, and shall give its approval if in its judgment the settlement is in the best interest of the village.
- C. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement personally or by certified or registered mail within 30 days of the date of entry or settlement, upon the Mayor; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by the Mayor. If the Attorney concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the Village Treasurer.

§ 19-5. Conditions of benefits. [Amended 1-23-1995 by L.L. No. 1-1995]

The duty to defend or indemnify and save harmless provided by this article shall be conditioned upon delivery to the Village Attorney or Village Manager by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, unless good cause can be shown for the failure to make such delivery; and the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the village based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this article.

§ 19-6. Interpretation of benefits.

The benefits of this article shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this article be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

§ 19-7. Rights of insurer under any policy of insurance not altered.

The provisions of this article shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 19-8. Applicability.

The provisions of this article shall apply to all actions and proceedings threatened or pending upon the effective date thereof or thereafter instituted.

§ 19-9. Immunity or right to defense in accordance with other laws not altered.

Except as otherwise specifically provided in this article, the provisions of this article shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the village, or any right to defense or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

ARTICLE II
Police Officers
[Adopted 5-25-1998]

§ 19-10. Defense and indemnification of police officers.

Pursuant to § 50-j, Subdivision 6, of the General Municipal Law, the village shall provide for the defense in any civil action or proceeding brought against a duly appointed police officer of the village and shall indemnify and save harmless such police officer from any judgment of a court of competent jurisdiction whenever such action, proceeding or judgment is for punitive or exemplary damages, arising out of a negligent act or other tort such police officer committed while in the proper discharge of his/her duties and within the scope of employment. The duty to cover the cost of the police officer's defense and indemnification shall not arise where the injury or damage resulted from intentional wrongdoing, maliciousness or recklessness on the part of the employee.

§ 19-11. Purchase of insurance coverage.

Pursuant to the provisions of § 50-j of the General Municipal Law, the village officials are hereby authorized and empowered to purchase insurance to cover the cost of the defense and indemnification as described above in § 19-10.

§ 19-12. Determination of proper conduct.

The determination of whether any such police officer properly discharged his/her duties within the scope of his/her employment shall be made by the Village Attorney or other counsel retained by the village or its insurer.

§ 19-13. Conditions of benefits.

The benefits of this article shall be conditioned upon delivery by the police officer to the Village Attorney or Village Manager of a written request to provide for his/her defense and indemnification against punitive or exemplary damages as set forth in this article, together with the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he/she is served with such document, unless good cause can be shown for the failure to make such delivery; and the full cooperation of the police officer in the defense of such action or proceeding and in defense of any action or proceeding against the village based upon the same act or omission, and in the prosecution of any appeal.

§ 19-14. Immunity or right to defense in accordance with other laws not altered.

Nothing contained in this article shall be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any police officer of the village, or any right to defense or indemnification provided to any police officer of the village by, in accordance with, or by reason of, any other provision of state or federal statutory or common law or local law or resolution.

§ 19-15. Applicability.

This article shall apply to all actions or proceedings in which final judgment has not been entered as of the date of its enactment.

Chapter 23

ETHICS, CODE OF

- | | |
|--|---|
| <p>§ 23-1. Definitions.</p> <p>§ 23-2. Standards of conduct.</p> <p>§ 23-3. Disclosure of interest.</p> <p>§ 23-4. Investments in conflict with official duties.</p> <p>§ 23-5. Private employment in conflict with official duties.</p> | <p>§ 23-6. Appearance before village.</p> <p>§ 23-7. Use of office to secure privileges.</p> <p>§ 23-8. Filing of claims against village.</p> <p>§ 23-9. Distribution of copies.</p> <p>§ 23-10. Board of Ethics.</p> |
|--|---|

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 12-14-1970. Amendments noted where applicable.]

§ 23-1. Definitions.

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

VILLAGE OFFICER OR EMPLOYEE — An officer 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 a village officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

§ 23-2. Standards of conduct.

- A. Every village officer and employee shall be subject to and abide by the following standards of conduct:
- (1) No village officer or employee shall directly or indirectly solicit any gift, or accept or receive any gift having a value of \$25 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonable inferred that the gift was intended to influence him in the performance of his official duties or was intended as a reward for any official action on his part.
 - (2) No village officer or employee shall disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interests.
 - (3) No village officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee, or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.

- (4) No village officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the village, whereby his 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.
- B. In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate this section may be fined, suspended or removed from office or employment in the manner provided by law.

§ 23-3. Disclosure of interest.

Any village officer or employee, whether paid or unpaid, who participates in a discussion or gives an official opinion to the Board of Trustees of the village on any legislation before such Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest of his in such legislation.

§ 23-4. Investments in conflict with official duties.

No village officer or employee shall 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.

§ 23-5. Private employment in conflict with official duties.

No village officer or employee shall 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.

§ 23-6. Appearance before village.

No village officer or employee shall, 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 personally participated during the period of his service or employment or which was under his active consideration.

§ 23-7. Use of office to secure privileges.

No village officer or employee shall use or attempt to use his official duties to secure unwarranted privileges or exemptions for himself or others.

§ 23-8. Filing of claims against village.

Nothing in this Code shall be deemed to bar or prevent the timely filing by any village officer or employee or any former village officer or employee of any claim, account, demand or suit against the village or any agency thereof on behalf of himself or any members of his family arising out of any personal injury or property damage or any lawful benefit authorized or permitted by law.

§ 23-9. Distribution of copies.

The Mayor of the village shall cause a copy hereof to be distributed to every officer and employee of the village within 20 days after the adoption of this Code. Each officer and employee elected or appointed after the adoption of this chapter shall be furnished a copy upon entering the duties of his office or employment.

§ 23-10. Board of Ethics.

The Board of Trustees of the village may establish a Village Board of Ethics which shall have all the powers and duties provided by law with respect to village officers and employees. The members of the Board of Ethics shall be appointed by the Board of Trustees to serve at the pleasure of the Board of Trustees. The Board of Ethics shall consist of at least three members, a majority of whom are not otherwise officers or employees of the village. Such Board of Ethics shall include at least one member who is an elected or appointed village officer or employee.

Chapter 25

FAMILY AND MEDICAL LEAVE ACT POLICY

- | | |
|---|--|
| § 25-1. Coverage. | § 25-9. Intermittent and reduced schedule leave. |
| § 25-2. Scope. | § 25-10. Reporting in while on leave. |
| § 25-3. Eligibility. | § 25-11. Return-to-work certification. |
| § 25-4. Types of leave; conditions. | § 25-12. Status of benefits while on leave. |
| § 25-5. Length of FMLA leave. | § 25-13. Restoration of position and benefits. |
| § 25-6. Advance notice. | § 25-14. Additional state and local benefits. |
| § 25-7. Medical certification. | |
| § 25-8. Use of vacation and sick leave. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 2-9-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 19.
Code of Ethics — See Ch. 23.

Sexual Harassment Policy — See Ch. 50.

§ 25-1. Coverage.

The federal Family and Medical Leave Act of 1993 (FMLA) entitles employees of the Village of Pelham Manor (the "Village") who have worked 1,250 hours during the preceding 12 months up to 12 weeks of unpaid leave for:

- A. The birth and care of a newborn child;
- B. The adoption or foster placement of a child (beginning within 12 months of the birth, adoption or placement);
- C. The care of an immediate family member with a serious health condition;
- D. The employee's own serious health condition;
- E. A qualifying exigency for military operations arising out of active duty in the Armed Forces of an employee's spouse, child, or parent, or a call to active duty; or
- F. The care of a spouse, child, parent, or next of kin (defined as the nearest blood relative), who is an Armed Forces member with a serious injury or illness incurred in the line of duty.

§ 25-2. Scope.

This policy is applicable to all requests for family and medical leaves of absence under the federal FMLA.

§ 25-3. Eligibility.

- A. To be eligible for FMLA leave and benefits, an employee:
- (1) Must have worked for the Village for at least 12 months (which need not be consecutive) prior to the date on which his or her leave is to commence;
 - (2) Must have worked at least 1,250 hours during the 12 months preceding the leave; and
 - (3) Must work at a location where at least 50 individuals are employed by the Village within a seventy-five-mile radius.
- B. The determination of whether an employee has worked 1,250 hours in the past 12 months is made as of the date the FMLA is to start, not when leave is requested.

§ 25-4. Types of leave; conditions.

- A. Eligible employees may request FMLA leave for one or more of the following reasons:
- (1) The birth and care of a newborn child ("Bonding Leave");
 - (2) The adoption of a child or the placement of a child in foster care ("Bonding Leave");
 - (3) The need to care for an immediate family member (spouse, child or parent) with a serious health condition ("Family Care Leave");
 - (4) The employee's own serious health condition ("Serious Health Condition Leave");
 - (5) A "qualifying exigency" for military operations arising out of the active duty, or call to active duty in support of a "contingency operation" declared by the U.S. Secretary of Defense, President or Congress, as required by law, of a spouse, child or parent in the Armed Forces (including the National Guard and Reserves) ("Military Exigency Leave"); or
 - (6) The need to care for a spouse, child, parent or next of kin (nearest blood relative of an individual) who is an Armed Forces member with a serious injury or illness incurred in the line of duty while on active duty that may render the individual medically unfit to perform his or her military duties ("Military Caregiver Leave").
- B. Unless otherwise required by law, a "qualifying exigency" under Military Exigency Leave will be defined by the Village on a case-by-case basis. The types of situations that qualify for this type of leave include: (1) addressing any issue that arises from the short-notice deployment of a military member; (2) attending any official ceremony, program, or event sponsored by the military and attending family support and assistance

programs and informational briefings related to the active duty of a military member; (3) making arrangements for child care and school activities of the military member; (4) making financial and legal arrangements to address the military member's absence; (5) attending counseling relating to the active duty of the military member; (6) spending time with a military member who is on short-term, temporary rest and rehabilitation leave during the period of deployment; (7) attending to farewell or arrival arrangements for the military member; and (8) additional activities that arise out of the active duty of the military member, provided that the Village and employee agree, including agreement on the timing and duration of the leave.

- C. For purposes of this policy, "serious health condition" is an illness, injury, impairment or physical or mental condition that involves:
- (1) Any period of incapacity or treatment in connection with or consequent to inpatient care (e.g., an overnight stay) in a hospital, hospice or residential medical care facility;
 - (2) Any period of incapacity requiring absence from work, school or other regular daily activities of more than three consecutive calendar days that also involves: (1) at least two visits to a health care provider; or (2) treatment by a health care provider with at least one visit that results in a regimen of continuing treatment. The two visits to a health care provider must occur within 30 days of the start of the period of incapacity, and the first visit in either the "two visit" situation or the "regimen of continuing treatment" situation must occur within seven days of the start of the period of incapacity;
 - (3) Continuing treatment by a health care provider for a chronic serious health condition that requires periodic visits (at least twice a year) for treatment by a health care provider, continues over an extended period of time, and may cause incapacity;
 - (4) Any period of incapacity due to pregnancy or the need for prenatal care; or
 - (5) Any period of permanent long-term incapacity due to a condition for which treatment may not be effective and requiring the continuing supervision of a health care provider.

§ 25-5. Length of FMLA leave.

- A. An eligible employee may take up to a maximum of 12 workweeks of unpaid leave in a "rolling" twelve-month period measured backward from the date that the employee's FMLA leave commences, when the leave is taken for: (1) Bonding Leave; (2) Family Care Leave; (3) Serious Health Condition Leave; and/or (4) Military Exigency Leave. In the event that both spouses are employed by the Village, their rights under this policy will be limited to a combined leave totaling 12 weeks in any twelve-month period if the leave is taken for the birth and care of a newborn child, the adoption of a child or the placement of a child in foster care. FMLA leaves for the birth, adoption or foster care placement of a child must conclude within one year of the birth, adoption or placement.

- B. The maximum amount of FMLA leave available for an employee who needs to take Military Caregiver Leave will be a combined total of 26 workweeks in a single twelve-month period. A "single twelve-month period" begins on the date of an employee's first use of such leave and ends 12 months after that date.
- (1) Example: An employee takes 16 workweeks off to care for a spouse, child, parent or next of kin under the Military Caregiver Leave provision of this policy. Later, in that same twelve-month period, the employee wishes to take time off from work to bond with a newly adopted child. Because the law allows up to 26 workweeks off in a twelve-month period for Military Caregiver Leave or a combination of Military Caregiver Leave and other types of FMLA Leave, the employee may take up to ten workweeks off to bond with the new child in that same twelve-month period, so long as he or she otherwise qualifies for FMLA leave.
 - (2) If both spouses work for the Village and are eligible for leave under this policy, the spouses will be limited to a total of 26 workweeks off between the two when the leave is for Military Caregiver Leave only, or when it is for a combination of Military Caregiver Leave, Bonding Leave and/or Family Care Leave.
- C. To the extent required by law, some extensions to FMLA leave may be granted when the leave is necessitated by an employee's work-related injury/illness, or a "disability" as defined under the Americans with Disabilities Act and/or applicable state or local law. Certain restrictions on these benefits may apply.

§ 25-6. Advance notice.

- A. Employees requesting a leave pursuant to the FMLA must submit a written leave request to Maryalice Barnett in the Village Manager's office at least 30 days before the date that the leave is expected to begin. The Village recognizes that unexpected emergencies can arise where it is not possible to provide 30 days' notice of the intended leave. In such situations, employees are expected to provide as much advance notice as practicable.
- B. Employees may be required to explain why they provided less than 30 days' notice of the need for foreseeable leave. If an employee fails to give timely advance notice with no reasonable excuse when 30 days' notice is required for foreseeable leave, the employer may delay the FMLA coverage until 30 days after the employee provides notice.

§ 25-7. Medical certification.

- A. Employees requesting Family Care Leave, Serious Health Condition Leave or Military Caregiver Leave must provide the Village with a written certification from the health care provider. The employee must provide a complete and sufficient certification within 15 calendar days after the Village's request. If a certification is incomplete or insufficient, the Village must notify the employee in writing of what information is necessary to complete the medical certification and provide the employee at least seven calendar days to furnish the additional information. Failure to cure the deficiencies identified by the Village may result in the denial of the FMLA leave. After providing the employee seven days to cure any deficiencies in the certification, if the Village still has questions about

the information provided, the Village may contact the employee's health care provider to clarify or authenticate the medical certification. The Village may contact the employee's health care provider using a health care professional, a leave administrator, or a management official other than the employee's direct supervisor. Health care provider certification forms are available from Maryalice Barnett in the Village Manager's office.

- B. Requests for Military Exigency Leave must include a copy of the covered military member's active duty orders or other documentation issued by the military. Applying employees will also be required to complete a certification of qualifying exigency form. If the request is for Military Caregiver Leave, the applying employee must provide a certification from a Department of Defense ("DOD") health care provider, a Department of Veteran Affairs health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized private health care provider.

§ 25-8. Use of vacation and sick leave.

Employees taking FMLA leave must use all accrued paid vacation. Employees taking Serious Health Condition Leave must also use their accrued sick leave. If accrued vacation and/or sick leave are insufficient to cover the full FMLA leave, the remainder will be unpaid.

§ 25-9. Intermittent and reduced schedule leave.

- A. Serious Health Condition Leave and Family Care Leave may be taken intermittently or on a reduced-schedule basis when medically necessary. If the need for intermittent leave is based on planned medical treatment, the employee is required to consult with the Village to make a reasonable attempt to schedule the treatment in a manner that does not unduly disrupt the Village's affairs.
- B. When an employee requests an intermittent leave or reduced-schedule leave, the Village may transfer the employee temporarily to an alternative position that better accommodates the employee's leave schedule. The position to which the employee is transferred will be equivalent in pay and benefits to the one that the employee held prior to the transfer.

§ 25-10. Reporting in while on leave.

During FMLA leave, employees are expected to maintain periodic contact with their supervisor or department head to advise him or her of their progress and anticipated return date. Approximately two weeks prior to the anticipated end of the employee's leave period, the employee is expected to notify his or her supervisor or department head of his or her expected return-to-work date.

§ 25-11. Return-to-work certification.

All employees taking Serious Health Condition Leave will be required to submit a fitness-for-duty certification signed by their health care provider before returning to work,

stating that the employee is able to resume his or her position. The certification must address specifically the employee's ability to perform the essential functions of his or her job.

§ 25-12. Status of benefits while on leave.

- A. While employees are on FMLA leave, they will continue to be covered under the health insurance plan in effect at the time their leave began to the same extent and under the same terms and conditions as would apply had they not taken leave. The employees must continue to pay whatever employee portion of the premium costs is normally required.
- B. If paid leave is used for any portion of the FMLA leave, the Village will deduct the employee portion of the premium from the leave payments in accordance with the practice applicable to an employee not on leave. At the time the employee begins unpaid FMLA leave, he or she shall receive written instructions detailing the time and manner in which his or her premiums are to be paid. Failure to pay these premiums by the end of the grace period stated in the written instructions can result in the loss of insurance coverage.
- C. An employee who fails to return to work for at least 30 calendar days following the expiration of the unpaid FMLA leave shall be required to reimburse the Village for the portion of the health care premiums paid by the Village during the unpaid portion of the leave period, unless the employee can establish that the failure to return was due to the continuation, recurrence or onset of a new serious health condition that meets the criteria for leave under this policy or was due to other circumstances beyond the employee's control.

§ 25-13. Restoration of position and benefits.

- A. During FMLA leave, all existing accrued benefits are retained. An employee on FMLA leave is not entitled to the accrual of any seniority or employment benefits (e.g., sick time, vacation time, holidays, personal days, etc.) during any period of leave, except as expressly stated herein or as otherwise required by law or the applicable collective bargaining agreement.
- B. At the conclusion of an employee's FMLA leave, the employee will be returned to the position that the employee held prior to taking the leave, unless the following conditions apply:
 - (1) The total FMLA-related absences from work exceed 12 weeks;
 - (2) The employee would not otherwise have been employed at the time reinstatement is requested;
 - (3) The employee cannot perform the essential functions of the job at the conclusion of FMLA leave with or without reasonable accommodation;
 - (4) The employee advises the Village of his or her intent not to return to work;
 - (5) The employee fraudulently obtained leave; or

- (6) The employee is a "key employee" as defined under the FMLA, whose reinstatement would cause substantial and grievous economic injury to the operations of the Village. A "key employee" is a salaried, eligible employee who is among the highest paid 10% of all employees of the Village.
- C. Restoration to work can be delayed if the employee fails to provide a fitness-for-duty certificate to return to work if the FMLA leave was occasioned by the employee's own serious health condition.
- D. If the employee's position is not available, the employee will be placed in a position that is equivalent in pay, conditions and other terms of employment to the employee's prior position.
- E. An employee's failure either to return to work or to notify the Village of his or her inability to return to work at the end of the FMLA leave will be treated as a voluntary resignation.

§ 25-14. Additional state and local benefits.

The FMLA does not reduce any state or local law that provides greater family or medical leave rights. Unless state law requires otherwise, FMLA leave is integrated with, not in addition to, time off due to an injury or illness that is covered by workers' compensation.

Chapter 28
INVESTMENT POLICY

- | | |
|--------------------------------------|---|
| § 28-1. Scope. | § 28-9. Safekeeping and collateralization. |
| § 28-2. Objectives. | § 28-10. Permitted investment. |
| § 28-3. Delegation of authority. | § 28-11. Authorized financial institutions and dealers. |
| § 28-4. Prudence. | § 28-12. Purchase of investments. |
| § 28-5. Diversification. | § 28-13. Repurchase agreements. |
| § 28-6. Internal controls. | Appendix A |
| § 28-7. Designation of depositaries. | |
| § 28-8. Collateralizing of deposits. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 3-8-1993. Amendments noted where applicable.]

§ 28-1. Scope.

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

§ 28-2. Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform with all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

§ 28-3. Delegation of authority.

The governing board's responsibility for administration of the investment program is delegated to the Treasurer, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates and other relevant information and regulate the activities of subordinate employees.

§ 28-4. Prudence.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Village of Pelham Manor to govern effectively.
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

§ 28-5. Diversification.

It is the policy of the Village of Pelham Manor to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

§ 28-6. Internal controls.

- A. It is the policy of the Village of Pelham Manor for all moneys collected by any officer or employee of the government to transfer those funds to the Village Manager within two days of deposit, or within the time period specified in law, whichever is shorter. [Amended 1-23-1995 by L.L. No. 1-1995]
- B. The Treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

§ 28-7. Designation of depositaries.

The banks and trust companies authorized for the deposit of moneys up to the maximum amounts are to be designated by resolution at the Annual Meeting of the Board of Trustees or at any other meeting of the Board at its convenience.

§ 28-8. Collateralizing of deposits.

In accordance with the provisions of General Municipal Law § 10, all deposits of the Village of Pelham Manor, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- A. By a pledge of eligible securities with an aggregate market value as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.

- B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- C. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

§ 28-9. Safekeeping and collateralization.

Eligible securities used for collateralizing shall be held by Chemical Bank and the Bank of New York subject to security and custodial agreements.

- A. The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Village of Pelham Manor or its custodial bank.
- B. The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 28-10. Permitted investment.

- A. As authorized by General Municipal Law § 11, the Village of Pelham Manor authorizes the Treasurer to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
 - (1) Special time deposit accounts.
 - (2) Certificates of deposit.

- (3) Obligations of the United States of America.
 - (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America.
 - (5) Obligations of the State of New York.
 - (6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Village of Pelham Manor.
 - (7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.
 - (8) Certificates of participation (COPS) issued pursuant to General Municipal Law § 109-b.
 - (9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law §§ 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.
- B. All investment obligations shall be payable or redeemable at the option of the Village of Pelham Manor within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and in the case of obligations purchased with the proceeds of bonds

§ 28-11. Authorized financial institutions and dealers.

The Village of Pelham Manor shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be creditworthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Village of Pelham Manor. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers. The Treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

§ 28-12. Purchase of investments.

- A. The Treasurer is authorized to contract for the purchase of investments:
- (1) Directly, including through a repurchase agreement, from an authorized trading partner.
 - (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5-G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State

Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.

- (3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.
- B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Village of Pelham Manor by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.
- C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 28-13. Repurchase agreements.

Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner.

INVESTMENT POLICY

APPENDIX A Schedule of Eligible Securities

- A. Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States government sponsored corporation.
- B. Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank.
- C. Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- D. Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of such state, or obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of public moneys.
- E. Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organizations.
- F. Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- G. Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- H. Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- I. Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- J. Commercial paper and bankers' acceptances issued by a bank, other than the bank, rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- K. Zero coupon obligations of the United States government marketed as "Treasury strips."

Chapter 32 MANAGER

§ 32-1. Office established.

§ 32-2. Administrative and executive powers.

§ 32-3. Duties.

§ 32-4. Appointment of village officers and employees.

§ 32-5. Powers and duties of other village officers.

§ 32-6. Conflicting legislation repealed and superseded.

§ 32-7. Referendum on petition.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 1-23-1995 by L.L. No. 1-1995. Amendments noted where applicable.]

§ 32-1. Office established.

The office of Village Manager for the Village of Pelham Manor is hereby established.

§ 32-2. Administrative and executive powers.

The administrative and executive powers of the village are vested in an official to be known as the Village Manager who shall be appointed by the Board of Trustees and hold office during the pleasure of such Board; he shall receive such compensation as shall be fixed by the Board of Trustees. Notwithstanding any other provisions of law, the Board of Trustees may also appoint the Village Manager to the office of Village Clerk to serve in such office at the discretion of such Board.

§ 32-3. Duties.

General duties of Village Manager. The Village Manager shall be the administrative head of the village government. He shall see that within the village, the laws of the state and local laws, ordinances, rules and bylaws of the Board of Trustees are faithfully executed; he shall attend all meetings of the Board of Trustees and recommend for adoption such measures as he shall deem expedient; he shall make reports to the Board of Trustees from time to time upon the affairs of the village, keep the Board of Trustees fully advised of the financial condition of the village and its future financial needs; he shall prepare and submit to the Board a tentative budget for the next fiscal year.

§ 32-4. Appointment of village officers and employees.

The Village Manager shall appoint and may remove such village officers and employees as the Board of Trustees shall determine are necessary for the proper administration of the village, and shall report each such appointment and removal to the Board of Trustees at the next meeting

thereof following any such appointment or removal; except that in the case of the Chiefs of the Police and Fire Department and the head of the Department of Public Works, the Village Manager shall not make appointments and removals without the advance approval of the Board of Trustees, and that the Village Manager shall not appoint or remove the Village Clerk, Village Attorney, Village Treasurer or members or Chairpersons of the Board of Appeals, Planning Board or any boards, commissions or committees created by the Board of Trustees.

§ 32-5. Powers and duties of other village officers.

The officers and employees of the village, excepting the Village Clerk, Village Attorney, Village Treasurer and members and Chairpersons of the Board of Appeals, Planning Board and any boards, commissions or committees created by the Board of Trustees, shall perform such duties as may be required of them by the Village Manager under general regulation of the Board of Trustees.

§ 32-6. Conflicting legislation repealed and superseded.

All laws, local laws, ordinances, resolutions, rules and regulations and parts thereof relating to the functions, responsibilities and powers and duties of appointed administrative officials and employees of the Village of Pelham Manor are hereby repealed and superseded to the extent to which are inconsistent with provisions of this chapter and no further, and where references are made to "Village Administrator," "Village Manager" is hereby substituted. Local Law No. 1 of 1972 is hereby repealed in its entirety.

§ 32-7. Referendum on petition.

This chapter is subject to referendum on petition pursuant to § 24, Subdivision 2k, of the Municipal Home Rule Law.

Chapter 39

POLICE

ARTICLE I Mutual Aid

§ 39-1. Chief of Police authorized to request aid.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Mutual Aid [Adopted 7-14-1969 by L.L. No. 1-1969]

§ 39-1. Chief of Police authorized to request aid.

The Board of Trustees of the Village of Pelham Manor hereby delegates to the Chief of Police of its Police Department (including any public officer in command of the Police Department of this village during the absence, illness or disability of the Chief of Police or who is authorized to exercise the powers of the Chief of Police in emergency situations) the powers granted by § 209-m of the General Municipal Law of the State of New York to the Chief Executive Officer of this village, whenever he deems that the public interest requires it, to request the Chief Executive Officer or Chief of Police of any other local government to detail, assign and make available for duty and use in the Village of Pelham Manor any part of the forces, equipment and supplies of the Police Department, police force or parkway police force of the local government of which the request is made and to grant any request to this village so made by the Chief Executive Officer or Chief of Police of any local government.

Chapter 41

PROCUREMENT POLICY

- § 41-1. Review of purchase type;
competitive bidding;
documentation.
- § 41-2. Requests for proposals.

- § 41-3. Method of purchase.
- § 41-4. Documentation required.
- § 41-5. Awarding of contracts.
- § 41-6. Exemptions from solicitation.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 12-9-1991, as amended 12-23-1991. Subsequent amendments noted where applicable.]

§ 41-1. Review of purchase type; competitive bidding; documentation.

- A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:
- (1) Purchase contracts under \$10,000 and public works contracts under \$20,000;
 - (2) Emergency purchases;
 - (3) Goods purchased from agencies for the blind or severely handicapped;
 - (4) Goods purchased from correctional institutions;
 - (5) Purchases under state and county contracts; and
 - (6) Surplus and secondhand purchases from another governmental entity.
- B. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

§ 41-2. Requests for proposals.

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- A. Purchase contracts over \$10,000 and public works contracts over \$20,000;

- B. Goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law¹;
- C. Goods purchased from correctional institutions pursuant to § 186 of the Correction Law;
- D. Purchases under state contracts pursuant to § 104 of the General Municipal Law;
- E. Purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law; or
- F. Purchases pursuant to § 41-6 of this policy.

§ 41-3. Method of purchase.

- A. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Contract	Method
\$250 – \$2,999	2 verbal quotations
\$3,000 – \$9,999	3 written/fax quotations or written request for proposals
Estimated Amount of Public Works Contract	Method
\$250 – \$2,999	2 verbal quotations
\$3,000 – \$4,999	2 written/fax quotations
\$5,000 – \$19,999	3 written/fax quotations or written request for proposals

- B. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

§ 41-4. Documentation required.

Documentation is required of each action taken in connection with each procurement.

¹ Editor's Note: Section 175-b of the State Finance Law was repealed by L.1995, c. 83, effective April 1, 1995.

§ 41-5. Awarding of contracts.

Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

§ 41-6. Exemptions from solicitation.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the Village of Pelham Manor to solicit quotations or document the basis for not accepting the lowest bid:

- A. Professional services or services requiring special or technical skill, training or expertise.
- (1) The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedure.
 - (2) In determining whether a service fits into this category the Village Manager shall take into consideration the following guidelines: whether the services are subject to State licensing or testing requirements; whether substantial formal education or training is a necessary prerequisite to the performance of the services; and whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software. [Amended 1-23-1995 by L.L. No. 1-1995]
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Village of Pelham Manor is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices

are usually obtained. It is also difficult to try to compare prices of used goods, and a lower price may indicate an older product.

- D. Goods or services under \$250. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

Chapter 44 RECORDS

ARTICLE I Public Access to Records

- | | |
|--|--|
| § 44-1. Purpose and scope. | § 44-4. Hours for public inspection. |
| § 44-2. Designation of records access officer. | § 44-5. Requests for public access to records. |
| § 44-3. Location. | § 44-6. Subject matter list. |
| | § 44-7. Denial of access to records. |
| | § 44-8. Fees. |
| | § 44-9. Public notice. |

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Public Access to Records [Adopted 3-27-1978]

§ 44-1. Purpose and scope.

- A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 44-2. Designation of records access officer.

- A. The Board of Trustees is responsible for ensuring compliance with the regulations herein, and designates the following persons as records access officers: Village Clerk and Deputy Village Clerk. Records access officers are responsible for ensuring appropriate response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records or information available.
- B. Records access officers shall assure that personnel:
 - (1) Maintain an up-to-date subject matter list.

- (2) Assist the requester in identifying requested records, if necessary.
- (3) Upon locating the records, take one of the following actions:
 - (a) Make records promptly available for inspection; or
 - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
- (4) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees in accordance with § 44-8; or
 - (b) Permit the requester to copy those records.
- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that:
 - (a) The Village of Pelham Manor is not the custodian for such records; or
 - (b) The records of which the Village of Pelham Manor is a custodian cannot be found after diligent search.

§ 44-3. Location.

Records shall be available for public inspection and copying at the village office at 4 Penfield Place, Pelham Manor.

§ 44-4. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours the village office is regularly open for business. These hours are 9:00 a.m. to 4:30 p.m., Mondays through Fridays, except holidays.

§ 44-5. Requests for public access to records.

- A. A request for records must be made in writing, except that written requests shall not be required for records that have been customarily available without written request.
- B. The village shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.

§ 44-6. Subject matter list.

- A. A reasonably detailed current list by subject matter of all records in the village's possession shall be maintained, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 44-7. Denial of access to records.

- A. The Board of Trustees shall hear appeals regarding denial of access to records under the Freedom of Information Law.
- B. Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the Board of Trustees, and the Board of Trustees shall be identified by name, business address and business telephone number.
- C. If the village fails to respond to a request within five business days of receipt of a request as required in § 44-5 of these regulations, such failure shall be deemed a denial of access by the village.
- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the Board of Trustees shall commence upon receipt of written appeal identifying:
 - (1) The date and location of a request for records;
 - (2) The records that were denied; and
 - (3) The name and return address of the appellant.
- F. The village shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Public Access to Records
Department of State
162 Washington Avenue
Albany, New York 12231
- G. The Board of Trustees shall inform the appellant and the Committee on Public Access to Records of its determination in writing within seven business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F of this section.
- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

§ 44-8. Fees.

Except when a different fee is otherwise prescribed by law:

- A. There shall be no fee charged for the following:
 - (1) Inspection of records;
 - (2) Search for records; or
 - (3) Any certification pursuant to this section.
- B. Photocopies.
 - (1) The fee for photocopies of police reports is \$3 per report. (Resolution of the Board of Trustees, March 9, 1964.)
 - (2) The fee for photocopies, other than police reports, not exceeding 8.5 by 14 inches, is \$0.25 per page.
- C. The fee for photographic prints from negatives is \$5 for the first print and \$1 for each additional print from the same negative.
- D. The fee for copies other than Subsections B and C above shall be the actual cost of copying.

§ 44-9. Public notice.

The village shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- A. The location where records shall be made available for inspection and copying.
- B. The name, title, business address and business telephone number of the designated records access officer.
- C. The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

Chapter 48
SALARIES AND COMPENSATION

§ 48-1. Findings.

§ 48-3. Supersession of state law.

§ 48-2. Officials to serve without compensation.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 6-8-1953 by L.L. No. 4-1953. Amendments noted where applicable.]

§ 48-1. Findings.

The Board of Trustees hereby finds that it is in the best interest of the Village of Pelham Manor that the Mayor, Trustees, members of the Planning Board, members of the Board of Appeals and members of the Building Board serve without compensation as heretofore.

§ 48-2. Officials to serve without compensation.

The Mayor, the Trustees, the members of the Planning Board, the members of the Board of Appeals and the members of the Building Board shall serve without compensation.

§ 48-3. Supersession of state law.

This chapter shall change or supersede § 86 of Chapter 64 of the Laws of 1909 entitled "An act relating to Villages constituting Chapter 64 of the Consolidated Laws."

Chapter 50
SEXUAL HARASSMENT POLICY

§ 50-1. Policy.

§ 50-2. Definition; types of sexual harassment.

§ 50-3. Procedure.

§ 50-4. Other forms of harassment prohibited.

Sexual Harassment Complaint
Procedure

Form A

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 2-24-1997. Amendments noted where applicable.]

§ 50-1. Policy.

Sexual harassment in the workplace is illegal and all employees are forbidden from engaging in such activity in any manner. The Village of Pelham Manor is committed to providing a work environment free from all forms of sexual harassment or intimidation.

- A. This policy applies to all applicants and employees, whether related to conduct engaged in by an employee or someone not directly connected to the village (e.g., outside vendors, consultants, customers).
- B. This sexual harassment policy includes, but is not limited to, inappropriate forms of behavior described below under § 50-2.
- C. To assure compliance with this policy, supervisors and managerial personnel must take timely and appropriate corrective action when instances of sexual harassment come to their attention.
- D. Appropriate disciplinary action, which may include termination, will be taken against any individual who violates this policy.
- E. All employees will be held responsible and accountable for avoiding or eliminating prohibited conduct.
- F. Retaliation against any individual because he or she has filed a sex discrimination or sexual harassment complaint is illegal and will result in disciplinary action. Intimidation, coercion, threats, reprisals or discrimination against any individual resulting from the filing of a complaint under this policy are prohibited.
- G. Knowingly false complaints of sexual harassment, as opposed to complaints which, even if erroneous, are made in good faith, may be the subject of appropriate disciplinary action.

§ 50-2. Definition; types of sexual harassment.**A. Definition.**

SEXUAL HARASSMENT — Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, such as promotion, transfer or termination; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

B. Sexual harassment refers to behavior that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes with an employee's work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." Such conduct may be just as offensive as any other type of harassment. Specific forms of behavior that may constitute sexual harassment include, but are not limited to, the following:

(1) Verbal:

- (a) Explicit or implicit threats of retribution, or promises of benefits, in return for sexual favors.
 - (b) Abusive language related to an employee's sex or sexual preference, including sexual innuendos, slurs, suggestive, derogatory or insulting comments or sounds, whistling, jokes of a sexual nature or concerning gender-specific traits, sexual propositions and threats.
 - (c) Use of demeaning or offensive words when referring to a particular sex or sexual preference.
 - (d) Demands for sexual favors or sexually oriented comments about an employee's body or appearance, sexual habits, sexual preference or sexual desirability that are unwelcome and unreasonably interfere with an employee's work performance by creating an intimidating, hostile or offensive working environment.
- (2) Sexual harassment is not limited to oral comments. Abusive written language, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries or obscene gestures in the workplace which unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive working environment are also prohibited.

(3) Physical:

- (a) Any sexual advance involving physical contact that is not welcome, including touching, petting, pinching, coerced sexual intercourse, assault or persistent brushing up against a person's body.

§ 50-3. Procedure.

- A. Any person who feels that he or she has been the victim of sexual harassment, or has witnessed such activity, is required to immediately report the incident to their supervisor or any other managerial employee.
- B. If an individual believes he/she has been sexually harassed and would like to obtain guidance as to how to proceed in filing a complaint, that individual should review the attached Complaint Procedure.
- C. All complaints will be investigated in a timely manner.
- D. Confidentiality will be maintained to the maximum extent possible, consistent with the village's obligation to conduct a thorough investigation. All individuals who become involved in the investigation are required and directed to treat the matter confidentially, and a violation of this directive will, in itself, be grounds for disciplinary action.
- E. Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a focus upon the nature of the behavior, the pattern of such conduct, if any, and the context in which the incident(s) occurred.
- F. Individuals who believe they have been unjustly charged with sexual harassment will be afforded every opportunity to offer and present information in their defense.
- G. Anyone who participates in this procedure may do so without fear of retaliation. Retaliation against anyone, because he or she has filed a sex discrimination or sexual harassment complaint, is illegal and grounds for disciplinary action.
- H. An individual who is found to have committed an act of sexual harassment will be subject to appropriate disciplinary action, up to and including termination.

§ 50-4. Other forms of harassment prohibited.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, age, marital status, citizenship, veteran status or any other category protected by law. Anyone who believes that he or she is being harassed or discriminated against on the basis of any of these factors should follow the same procedure outlined above for complaints of sexual harassment.

SEXUAL HARASSMENT POLICY

SEXUAL HARASSMENT COMPLAINT PROCEDURE

Section 1. Step one:

- A. An individual (complainant) who believes that the village's Sexual Harassment Policy has been violated is required to file a complaint with his/her supervisor or any other managerial employee. It is preferred, but not required, that an employee file a written complaint (Form A).
- B. All complaints should be filed by the complainant as promptly as possible after the complainant has concluded that the policy has been violated.

Section 2. Step two:

- A. When a complaint is filed, the village will commence a timely and thorough investigation. All complaints will be investigated promptly.
- B. All individuals are hereby directed and required to cooperate with the village in fulfilling its investigative function.
- C. Notice of the complaint shall be given to the accused at the appropriate time. The accused shall be afforded an opportunity to present his/her version of events.
- D. Both the complainant and the accused will be given written notice of the results of the investigation.
- E. If it is determined that sexual harassment has occurred, appropriate disciplinary action will be taken. Follow-up interviews with the complainant will be conducted for an appropriate period of time, to ensure that the harassment has not resumed and that no retaliatory action has been taken.

SEXUAL HARASSMENT POLICY

FORM A

Complaint of Sexual Harassment

Date of Complaint: _____

Date of Incident: _____

Complainant: _____

Description of Incident: (Attach additional sheets if necessary)

Name(s) of witness(es), if any: _____

Has the incident been reported before: _____

If yes, when, to whom, and what was the resolution?: _____

Complainant

Complaint Received by: _____

Chapter 55
ZONING APPEALS, BOARD OF

§ 55-1. Amendment of village law.

[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 10-10-1955 by L.L. No. 1-1955. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 210.

§ 55-1. Amendment of village law.

The first paragraph of § 179-b of Chapter 64 of the Laws of 1909 entitled “An act relating to villages, constituting Chapter 64 of the Consolidated Laws,” as amended, is hereby superseded and changed to read as follows:

Such Board of Trustees shall appoint a Board of Appeals consisting of five members and shall designate its Chairman. The members of such Board in office on the effective date of this chapter shall continue in office until the end of the terms for which they have been appointed and until their successors have been appointed as herein provided and have qualified. Of the members of such Board of Appeals first appointed after the effective date of this chapter, one shall hold office for the term of one official year, two for the term of two official years, two for the term of three official years, from and after their appointment. Their successors shall be appointed for the term of three years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Board of Trustees by appointment for the unexpired term. The Board of Trustees shall have the power to remove any member of the Board for cause and after public hearing. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record.