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CHAPTER 30: PERSONNEL POLICIES

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RESIDENCY REQUIREMENTS

§ 30.01 FINDINGS.

The Village Board of Trustees makes a legislative determination that residency by its employees and officers within the community will assure continuation of essential public services and encourages hiring and promoting from within.

(Ord. 4-2002, passed 11-25-2002)

§ 30.02 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RESIDENCY. The actual principal domicile of an individual where the person normally sleeps and maintains usual personal and household effects.

(Ord. 4-2002, passed 11-25-2002)

§ 30.03 VILLAGE RESIDENCY REQUIRED FOR FULL-TIME EMPLOYEE.

(A) In addition to any other legal requirements or prohibitions, no person shall be eligible to become a full-time employee of the village who is not a citizen of the United States of America, at least 18 years of age, and a resident of the village within 12 months following the employee's initial date of hire. Until all of the requirements of this division have been fulfilled, no employee shall be placed on permanent status as a full-time employee.

(B) Any person who becomes a full-time employee of the village after the date of the adoption of this section shall be ineligible to continue as a full-time employee of the village if that person resides in a municipality outside of the village.

(C) Pursuant to NY Village Law § 3-300(2)(b), the Village Board of the Village of Franklinville, which has a population of less than 3,000 people, may appoint an individual to the office of Village Justice who does not reside in the village but does reside within Cattaraugus County.

(Ord. 2-1999, passed 4-26-1999; Am. Ord. 3-2009, passed 8-10-2009)

§ 30.04 HARDSHIP EXCEPTION TO RESIDENCY REQUIREMENT.

The Village Board of Trustees continues its residency requirement established by §30.03 above. Where hardships are encountered, the time limit set forth in § 30.03 above may be extended in the discretion and as determined by the Village Board of Trustees.

(Ord. 4-2002, passed 11-25-2002)

§ 30.05 POSTING OF RESIDENCY REQUIREMENT.

A copy of § 30.03 and this subchapter law shall be provided to all employees upon initial appointment. However, the failure of the employer to do so shall not affect the application of either law to any employee who is appointed after its effective date.

(Ord. 4-2002, passed 11-25-2002)

§ 30.06 BREACH OF REQUIREMENT; NOTICE; SCHEDULED HEARING.

Should it be determined that an employee is not in compliance with the residency requirement, the employee's supervisor, upon becoming aware of the allegation, shall provide the employee written notice of the alleged violation and shall allow the employee seven days in which to respond. Where there is failure to respond or where the response is not, in the judgment of the employee's supervisor, sufficient to satisfy the requirements of this law, the employee's supervisor shall set a hearing date to hear the charge of non-residency and to make a record of this hearing. Should an employee establish residency to the satisfaction of the employee's supervisor prior to the hearing date, it shall result in a cancellation of the hearing authorized by this law.

(Ord. 4-2002, passed 11-25-2002)

§ 30.07 HEARING AND DECISION; DISMISSAL AND REINSTATEMENT APPLICATION.

(A) The employee shall be sent a notice of the hearing date at least 15 days prior to the hearing. The hearing record and the determination of the supervisor as to whether the employee is a nonresident or resident shall be referred to the Mayor for review and decision.

(B) Should the Mayor decide that an employee is a nonresident in violation of §30.03 above, the employee shall be dismissed in accordance with any statutory or contractual procedure applicable to the employee under the circumstances.

(C) Upon re-establishing residency, an individual having been dismissed may apply for reinstatement and shall be reinstated if the position is vacant.

(Ord. 4-2002, passed 11-25-2002)

§ 30.08 WAIVER OF RESIDENCY REQUIREMENT; STANDARDS; RECORD OF WAIVER.

(A) If the Village Board of Trustees determines by resolution that it is in the best interests of the village to do so, the provisions of § 30.03 above may be waived with respect to an applicant or applicants for a particular title or position in accordance with the following standards:

(1) *Lack of qualified applicants.* The requirement of residency may be waived in those instances where the employer has difficulty hiring the most qualified person because of the residency requirement; or

(2) *Necessity for nonresidency.* The requirement of residency may be waived in those instances where it is determined that residency is not a material consideration for the title or position.

(B) A copy of any resolution adopted in accordance with this provision shall be placed in the personnel file of the affected individual and a copy thereof shall be mailed or delivered to the individual.

(Ord. 4-2002, passed 11-25-2002)

INDEMNIFICATION OF OFFICERS AND EMPLOYEES

§ 30.20 PURPOSE.

(A) The purpose of this subchapter is to provide legal and financial protection for those individuals serving the village, 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 chapter, the Board of Trustees finds that the state has enacted similar provisions for the legal and financial security of its officers and employees and further finds that the security is also required for local personnel.

(B) By enactment of this local law, 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 local law 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.

(Ord. 3-1980, passed 12-22-1980)

§ 30.21 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EMPLOYEE. Any person holding a position by election, appointment or employment in the service of the village, 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 or her estate or judicially appointed personal representative.

(Ord. 3-1980, passed 12-22-1980)

§ 30.22 VILLAGE REQUIRED TO PROVIDE LEGAL DEFENSE.

Upon compliance by the employee with the provisions of §30.28 below, the village shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his or her public employment or duties, or which is brought to enforce a provision of 42 U.S.C. §§ 1981 or 1983. This duty to provide for a defense shall not arise where the civil action or proceeding is brought by or on behalf of the village.

(Ord. 3-1980, passed 12-22-1980)

§ 30.23 REPRESENTATION BY VILLAGE ATTORNEY; CONFLICT AND RETENTION OF PRIVATE COUNSEL.

(A) Subject to the conditions set forth in §30.22 above, the employee shall be entitled to be represented by the Village Attorney, provided, however, that the employee shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the Village Attorney determines, based upon his or her investigation and review of the facts and circumstances of the case, that representation by the Village Attorney would be inappropriate, 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 or her choice.

(B) The Village Attorney shall notify the employee in writing of the determination that the employee is entitled to be represented by private counsel of his or her choice. The Village Attorney may require, as a condition to payment of the fees and expenses of the representation, that appropriate groups of the employees be represented by the same counsel.

(C) 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 attorneys' fees and litigation expenses shall be paid by the village to the private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which the employee is employed and upon the audit and warrant to the Village Clerk-Treasurer.

(D) 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.

(Ord. 3-1980, passed 12-22-1980)

§ 30.24 AVOIDANCE OF DEFAULT JUDGEMENT.

Where the employee delivers process and a request for a defense to the Village Attorney as required by §30.28 below, the Attorney shall take the necessary steps including the retention of private counsel under the terms and conditions provided in § 30.23 above 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.

(Ord. 3-1980, passed 12-22-1980)

§ 30.25 DUTY TO INDEMNIFY AND HOLD HARMLESS.

The village shall indemnify and save harmless its employees in the amount of any judgment obtained against those employees in any state or federal court, or in the amount of any settlement of a claim provided that the act or omission from which the judgment or settlement arose occurred while the employee was acting in good faith within the scope of his or her public employment or duties, the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(Ord. 3-1980, passed 12-22-1980)

§ 30.26 APPROVAL OF PRIVATE COUNSEL PROPOSED SETTLEMENT.

(A) An employee represented by private counsel shall cause to be submitted to the Board of Trustees any proposed settlement which may be subject to indemnification by the village and if not inconsistent with the provisions of this section, the Mayor shall certify the settlement, and submit the settlement and certification to the Village Attorney.

(B) The Attorney shall review the proposed settlement as to form and amount, and shall give his or her approval if, in his or her judgment, the settlement is in the best interest of the village.

(C) Nothing in this section shall be construed to authorize the village to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the Village Attorney.

(Ord. 3-1980, passed 12-22-1980)

§ 30.27 SERVICE OF JUDGEMENT OR SETTLEMENT ON MAYOR FOR PAYMENT.

(A) 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 the 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, the judgment or settlement shall be certified for payment by the Mayor.

(B) If the attorney concurs in the certification, the judgment or settlement shall be paid upon the audit and warrant of the Village Treasurer.

(Ord. 3-1980, passed 12-22-1980)

§ 30.28 REQUIRED CONDITIONS PRIOR TO DUTY TO DEFEND AND INDEMNIFY.

(A) The duty to defend or indemnify and save harmless provided by this chapter shall be conditioned upon:

(1) Delivery to the Village Attorney or his or her assistant, at his or her office, by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he or she is served with the document; and

(2) The full cooperation of the employee in the defense of the action or proceeding and in defense of any action or proceeding against the state based upon the same act or omission, and in the prosecution of any appeal.

(B) The delivery shall be deemed a request by the employee that the village provide for his or her defense pursuant to this local law.

(Ord. 3-1980, passed 12-22-1980)

§ 30.29 RESTRICTION ON APPLICATION; NO CHANGE TO WORKERS' COMPENSATION LAW.

The benefits of this section 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 section be construed to affect, alter or repeal any provision of the workers' compensation law.

(Ord. 3-1980, passed 12-22-1980)

§ 30.30 RIGHTS AND OBLIGATIONS OF INSURER NOT CHANGED.

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

(Ord. 3-1980, passed 12-22-1980)

§ 30.31 APPLICATION; ADDITIONAL RIGHTS OF DEFENSE AND INDEMNIFICATION NOT SUPERCEDED.

(A) The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or there after instituted.

(B) Except as otherwise specifically provided in this chapter, the provisions of this chapter 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 and/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.

(Ord. 3-1980, passed 12-22-1980)

RETIREMENT INCENTIVE PROGRAM

§ 30.45 IMPLEMENTATION OF RETIREMENT INCENTIVE PROGRAM.

(A) The village hereby elects to provide all of its eligible employees with a retirement incentive program authorized by Chapter 86, Laws of 2000.

(B) The commencement date of the retirement incentive program shall be October 1, 2000.

(C) The open period, during which eligible employees may retire and receive the additional retirement benefit, shall be 90 days in length.

(D) The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this section shall be paid as one lump sum, or in five annual installments. The amount of the annual payment shall be determined by the Actuary of the New York State and Local Employees' Retirement System, and it shall be paid by the village for each employee who receives the retirement benefits payable under this section

(E) This section shall take effect August 30, 2000.

(Ord. 2-2000, passed 3-8-2000)

CHAPTER 31: TAXATION

Section

Village Assessment

- 31.01 Purpose
- 31.02 Cessation of village as assessing unit
- 31.03 Assessor position abolished
- 31.04 Board of Assessment review abolished
- 31.05 Taxes levied by village

VILLAGE ASSESSMENT

§ 31.01 PURPOSE.

(A) The intent of the Board of Trustees of the village is to implement N.Y. Real Prop. Tax Law § 1402(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.

(B) It is also the intent of this subchapter to abolish the position of Assessor and to terminate any and all responsibility as provided by the law for the review of the assessments of real property located within the village.

(Ord. 1-2002, passed 1-28-2002)

§ 31.02 CESSATION OF VILLAGE AS ASSESSING UNIT.

On or after the effective date of this subchapter, the village shall cease to be an assessing unit.

(Ord. 1-2002, passed 1-28-2002)

§ 31.03 ASSESSOR POSITION ABOLISHED.

The position of Assessor in the village is hereby abolished.

(Ord. 1-2002, passed 1-28-2002)

§ 31.04 BOARD OF ASSESSMENT REVIEW ABOLISHED.

The Board of Assessment review in the village is hereby abolished.

(Ord. 1-2002, passed 1-28-2002)

§ 31.05 TAXES LEVIED BY VILLAGE.

On or after the effective date of this subchapter, taxes in the village shall be levied on a copy of the applicable part of the assessment roll of the village with the taxable status date of the village controlling for village purposes.

(Ord. 1-2002, passed 1-28-2002)

CHAPTER 32: FINANCIAL POLICIES

Section

Procurement Policy

- 32.01 General provisions; purposes and authority
- 32.02 Basis for award; documentation and requirements
- 32.03 Applicable contracts
- 32.04 Procurement policy; savings; construction

PROCUREMENT POLICY

§ 32.01 GENERAL PROVISIONS; PURPOSES AND AUTHORITY.

(A) This chapter provides for the Village Board of Franklinville ("Village Board") to exercise its local option under N.Y. General Municipal law ("GML") § 103(1), as amended by Chapter 608 of the Laws of 2011 and Chapter 2 of the Laws of 2012. These amendments authorize the Village of Franklinville ("village") to award purchase and service contracts subject to competitive bidding under N.Y. Gen. Mun. Law § 103 based on either lowest responsible bidder of the "best value," as defined in § 163 of the New York State Finance Law. Accordingly, a quote or proposal received pursuant to standard bidding procedures, including both purchase contracts and those contracts for service work, may be awarded on either a best value or lowest responsible bidder standard, so long as the requirements of this chapter have been met.

(B) **BEST VALUE** shall mean and refer to a basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offers. Such basis shall reflect, whenever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offers that are small businesses or certified minority- or women-owned business enterprises as defined in N.Y. Executive Law §§ 301(1), (7), (15) and (20) to be used in the evaluation of offers for awarding of contracts for services. Goods and services procured and awarded on the basis of best value are those that the Village Board determines will be of the highest quality while being the most cost efficient.

(C) This "best value" option may be, but is not required to be, used to award an applicable purchase contract to optimize quality, cost, and efficiency among responsive and responsible offers instead of the lowest responsible bidder. Best value procurement links the procurement process directly to the village's performance requirements, incorporating selection factors such as useful lifespan, quality, options, and incentives for more timely performance and additional services. Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investments of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality, and service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting village needs, including the participation of small, minority, and women-owned businesses, and the development of environmentally-preferable goods and service delivery methods. Best value procurement will provide

needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services.

(Ord. 1-2016, passed 3-28-2016)

§ 32.02 BASIS FOR AWARD; DOCUMENTATION AND REQUIREMENTS.

(A) All awards based on best value shall require Village Board approval. When awarding a contract based upon best value the requirements of N.Y. Finance Law § 163 and the following criteria and procedures shall apply and be observed:

(1) The Village Board shall document in the procurement record and in advance of the initial receipt of offers a clearly articulated procedure and a clear statement of product specifications, requirements or work to be performed; a documentable process for soliciting bids, proposals or other offers; a balanced and fair method, established in advance of the receipt of offers, for evaluating offers and awarding contracts; contract terms and conditions that protect the village's interests and promote fairness in contracting with the business community; and a regular monitoring of vendor performance.

(2) Reasonable efforts shall be made to ensure that the private and not-for-profit sectors in New York State are apprised of procurement opportunities, including by specifying the elements of a responsible bid and disclosing the process for awarding contracts including, if applicable, the relative importance or weight of cost and the overall technical criterion for evaluating offers and ensuring the procurement is conducted accordingly.

(3) Guidelines and specifications for procurements and best value determinations shall reasonably address performance and shall prescribe the minimum specifications or requirements that must be met in order for an offer to be considered responsive, a process for ensuring a competitive field, a fair and equal opportunity for interested bidders to submit responsive offers, and a balanced and fair method of award. Such criteria may include, but are not limited to: the cost of maintenance; the proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; or quality of craftsmanship.

(4) In the event that no best value election is made purchase contracts will continue to be awarded to the lowest responsible bidder furnishing any required security.

(5) All information gathered in the course of the bidding procedures of this local law shall be filed with the documentation supporting the subsequent purchase or public works contract. When a contract is awarded on the basis of best value rather than a lowest responsible bidder, the basis for determining best value shall be properly documented.

(B) The village shall adopt procurement policies that, in conjunction with this local law, help develop procedures for governing awards on the basis of best value. These policies may be adopted by resolution and shall be periodically reviewed and updated by the Village Board.

(Ord. 1-2016, passed 3-28-2016)

§ 32.03 APPLICABLE CONTRACTS.

(A) This chapter applies only to purchase contracts involving an expenditure of more than \$20,000 including contracts for service work (i.e., building services under Article 9 of the N.Y. Labor Law and utility services). Such number is based upon current procurement levels set in N.Y. Gen. Mun. Law § 103. If the dollar thresholds of N.Y. Gen. Mun. Law § 103 are increased or decreased in the future by proper amendment to law, then the dollar thresholds as set forth herein shall be deemed simultaneously amended to match the then stated updated thresholds.

(B) This local law does not apply to purchase contracts for the following: (i) any purchase contract necessary for the completion of a public works contract pursuant to Article 8 of the New York State Labor Law; and (ii) any purchase or procurement of goods and services otherwise excluded by law from best value purchasing standards, whether now existing or hereafter arising.

(Ord. 1-2016, passed 3-28-2016)

§ 32.04 PROCUREMENT POLICY; SAVINGS; CONSTRUCTION.

Any inconsistent provision of the village's procurement policy, as adopted or amended prior to the effective date of this chapter, shall be deemed superseded and supplemented by the provisions of this chapter so as to incorporate this chapter therein. If any part or provision of this chapter or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Village Board of the Village of Franklinville hereby declares that it would have passed this chapter or the remainder hereof had such invalid application or invalid provision been apparent or omitted. Any reference to a state statute or code shall include the future amendment or recodification of such statute or code and the references herein are for convenience and construction purposes only.

(Ord. 1-2016, passed 3-28-2016)

CHAPTER 33: VILLAGE POLICIES

Section

33.01 Management and custody of village properties

§ 33.01 MANAGEMENT AND CUSTODY OF VILLAGE PROPERTIES.

(A) The village properties are limited public forums and visitors to these properties can only be present at these properties to conduct business with the village and all others not conducting business with the village are not allowed on or in village properties. Moreover, once a citizen concludes the conducting of his or her business with the village, he or she shall be required to leave these properties. Those who fail to adhere to these rules will be trespassing and the village may avail itself of any and all legal remedies to prohibit such trespassing.

(B) The Village Board of Trustees, village officials and village department heads may promulgate posted rules which, among other things, prohibit access to certain portions of village properties consistent with the aforesaid management and custody of village properties, including but not limited to, the posting of signs indicating that certain areas of village properties are for village officials, village employees or invitees of the village for the purpose of conducting business with the village.

(Ord. 2-2023, passed 5-22-2023)