

## **Chapter 3 PERSONNEL CODE**

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### **ARTICLE I. IN GENERAL**

#### **Sec. 3-1. Establishment of Village civil service.**

Pursuant to the authority granted to the Board of Managers by the Chevy Chase Village Charter and Article 23A of the Maryland Code, there is hereby established a civil service for the Village. Except as otherwise expressly provided, all positions of employment in the village government shall be within the Village civil service and subject to the provisions of this chapter.

Except as specifically provided in this Chapter, Village employment is "at-will". The provisions of this Chapter are not intended as, nor shall they be construed as, a contract with any Village employee, nor shall this Chapter be construed to grant any employee any irrevocable rights. The Board of Managers shall have the right to amend all or any portion of this Chapter. Any rights granted to employees by this Chapter may be altered, amended or revoked, in whole or in part, if the Board of Managers finds that such alteration, amendment or revocation is in the public interest.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95)

#### **Sec. 3-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

*Commission:* The Chevy Chase Village Personnel Commission established pursuant to section 3-4 of this chapter.

*Employee, full-time:* A person employed in the Village civil service holding a position for which the compensated workweek is forty (40) hours per week or more.

*Employee, part-time:* A person employed in the Village civil service holding a position for which the normal workweek is less than forty (40) hours per week.

*Employee, probationary:* A person who has been conditionally employed by the Village. Each employee shall be on probation for the first year of his or her employment with the Village. The probationary period may be extended in order to allow additional time to evaluate the employee's

performance. The probationary period may be reinstated in order to evaluate specific areas of employee performance (e.g. driving behavior).

*Employee, regular:* A person employed in the Village civil service who is not on probation and is not a special employee.

*Employee, special:* A person employed by the Village who is not a regular or probationary employee.

*Employment at Will:* Describes an employer-employee relationship which is for an indefinite period of time and can be terminated by either the employee or the employer for any legal reason or for no reason.

*Exempt employees:* The Village Manager, Chief of Police and Director of Public Works.

*Family member:* For purposes of use of sick and safe leave, a family member is:

- (1) a biological child, an adopted child, a foster child, or a stepchild of the employee;
- (2) a child for whom the employee has legal or physical custody or guardianship;
- (3) a child for whom the employee stands in loco parentis, regardless of the child's age;
- (4) a biological parent, an adoptive parent, a foster parent, or a stepparent of the employee or of the employee's spouse;
- (5) the legal guardian of the employee;
- (6) an individual who acted as a parent or stood in loco parentis to the employee or the employee's spouse when the employee or the employee's spouse was a minor;
- (7) the spouse of the employee;
- (8) a biological grandparent, an adopted grandparent, a foster grandparent, or a step-grandparent of the employee;
- (9) a biological grandchild, an adopted grandchild, a foster grandchild, or a step-grandchild of the employee; or
- (10) a biological sibling, an adopted sibling, a foster sibling, or a stepsibling of the employee.

*Retirement:* The point at which an employee may retire from a position of employment when age and length of service (minimum of ten (10) years), or physical disability, requirements for retirement have been met.

*Voluntary separation:* To voluntarily end employment with the Village other than by retirement.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95; No. 06-02-05, 06-13-05; No. 03-01-20, 03-09-20)

### **Sec. 3-3. Department organization.**

(a) *Public works department.* The public works department shall be responsible for all activities related to, but not limited to, the following:

- (1) Construction and maintenance of streets, curbs and gutters.

- (2) Refuse collection and disposal.
- (3) Maintenance of municipal parks and rights-of-way.
- (4) Maintenance of municipal buildings, grounds and equipment.
- (5) Erection and maintenance of traffic-regulating signs, signals and highway markings.
- (6) Any and all duties as may be assigned by the Village Manager and/or the Board of Managers.

(b) *Police department.* The police department shall be responsible for all activities related to, but not limited to, the following:

- (1) Prevention and suppression of crime.
- (2) Apprehension of offenders and suspected persons.
- (3) Enforcement of criminal laws and municipal ordinances.
- (4) Protection to persons and property.
- (5) Maintenance of records and files pertaining to crime and police activities.
- (6) Detention of prisoners.
- (7) Traffic and pedestrian safety.
- (8) Animal control.
- (9) Police community relations and educational programs.
- (10) Any and all duties as may be authorized by law or assigned by the Village Manager and/or the Board of Managers.

(No. 49-9-90, 10-23-90)

**Sec. 3-4. Personnel Commission.**

(a) There shall be a three-member personnel commission. The members shall serve for three-year terms or until a successor has been appointed, except that the initial appointments shall be for one (1) year, two (2) years and three (3) years, so that the members terms shall be staggered. Each year the chairman of the Board of Managers shall designate one (1) commission member as chairman of the commission. Membership on the commission shall be restricted to qualified voters of Chevy Chase Village who are not Village employees and who are not elected officials of the Village.

(b) The members of the personnel commission shall familiarize themselves with the Village personnel code and regulations and procedures adopted pursuant thereto.

(c) The personnel commission shall hear appeals pursuant to section 3-27 of this chapter.

(No. 49-9-90, 10-23-90; No. 11-01-14; 11-10-14.)

**Sec. 3-5. Reserved.**

## ARTICLE II. VILLAGE MANAGER

### Sec. 3-6. Village Manager.

(a) The Village Manager shall be responsible for implementing the provisions of this chapter, for the general supervision of the Village civil service, and for performing such other duties as may be prescribed by the Village charter, code, law, or as directed by the Board of Managers.

(b) The Village Manager shall serve upon the terms and conditions established by the Board of Managers and receive such compensation as the Board of Managers may determine. The position of Village Manager is excluded from the Village civil service and incorporates benefits available to the Village civil service only to the extent expressly authorized by the Board of Managers.

(c) The Village Manager may determine by Executive Order that certain vaccinations and inoculations are required in order for employees to be fit to perform the essential duties of their positions and to avoid endangering the health or safety of themselves or others in the course of their employment. This provision shall apply to all employees, including contract employees.

(No. 49-9-90, 10-23-90; No. 03-02-16, 03-14-16; No. 09-01-21, 09-13-21.)

### Sec. 3-7. Duties of the Village Manager.

The duties of the Village Manager are prescribed in Section 501 of the Village Charter.

(No. 49-9-90, 10-23-90; No. 0-91-04, 11-1-91; No. 12-03-05, 12-12-05; No. 03-02-16, 03-14-16.)

### Sec. 3-8. Special Employees.

The Village Manager, with the approval of the Board of Managers, may hire employees who are outside of the Village civil service. Such employees shall be considered special employees. Special employees may be hired where special circumstances exist such that it is not in the Village's best interests to provide such employees with all of the rights and benefits of the village civil service. The special employee category may be used for seasonal or other temporary employees or where the work to be performed is sporadic or provided on an irregular schedule.

The Village Manager and each special employee shall execute an employment agreement identifying those rights and benefits of the Village civil service, if any, which the special employee shall receive. If a right or benefit described in Articles III, IV or V of this chapter is not included in the employee's employment agreement, the employee shall not be entitled to such right or benefit, except as may be required by federal or state law.

(No. 06-02-05, 06-13-05)

## ARTICLE III. COMPENSATION; LEAVE; HOLIDAYS; ETC.

### Sec. 3-9. Compensation.

(a) *Schedule of job descriptions and pay scales.* The Village shall maintain a schedule of job descriptions and pay scales including grade and step increments. Each job description shall indicate whether the position is exempt or non-exempt. The pay scales are reviewed annually by the Board of Managers as part of the budget process.

(b) *Regular compensation.* An employee is entitled to compensation at the rate assigned for the job, grade and step at which the employee is hired, except that probationary employees may be paid less than grade for the probationary period of one year.

(c) *In-grade salary increases.* Provision shall be made for periodic in-grade salary increases (step increases). These increases are to take effect on the first day of the month nearest the date on which the employee commenced employment for the Village. Prior to the granting of any in-grade salary increase, the supervisor of the employee concerned must certify to the Village Manager that the employee has performed his duties satisfactorily for the preceding year.

(d) *Merit increases.* The Board of Managers, upon recommendation of the Village Manager, may grant to an employee a special in-grade increase or cash bonus for outstanding performance.

(e) *Overtime.* Any employee, except those holding exempt positions, shall be entitled to compensation at the rate of one and one-half (1 1/2) times the employee's normal rate of compensation for hours actually worked in excess of the normal work period. The normal work period shall be:

- (1) a. *Nonpolice employees.* Forty (40) hours in a week period commencing Saturday and ending Friday.
- b. *Police.* Eighty-six (86) hours in a two (2) calendar week period commencing Saturday and ending the second Friday thereafter.
- (2) Actual hours worked shall include holidays and pre-approved leave.
- (3) Overtime hours worked must be authorized by the department head and approved by the Village Manager.

The Board of Managers by resolution may authorize overtime pay for exempt employees.

- (4) When required to attend court during non-scheduled hours, a police officer shall be entitled to a minimum of three (3) hours of overtime, and shall be entitled to overtime for any additional hours actually required for the court proceeding.

(f) *Compensatory time.* In extraordinary circumstances, the Manager may grant exempt employees compensatory leave at the rate of one (1) hour of leave for each hour worked, which must be used within one (1) year of accrual. An exempt employee may not accrue more than forty (40) hours of compensatory time. All accrued compensatory hours will be paid to the employee upon separation of employment from the village.

(g) *Emergency compensation.* During a declared emergency when non-essential employees are not required to report to work, as determined by the Village Manager, an essential employee working a normal shift shall be paid at the overtime rate, and an essential employee working in excess of the normal work period will receive double pay for the excess hours. Non-essential employees who are not required to report to work will be paid at regular compensation rates for work performed during this time. Non-essential employees already on approved leave during hours that coincide with the emergency will not be charged for the hours but will instead receive administrative leave.

(h) *Pay differential.* An hourly pay differential, to be determined by policy adopted by the Board of Managers, may be authorized at the discretion of the Village Manager for:

- (1) Communications and police personnel employees when performing training of new department employees.
- (2) In extraordinary circumstances, an employee who assumes the duties of another position, in whole or in part, for a temporary period of time.

(No. 49-9-90, 10-23-90; No. 12-01-05, 12-12-05; No. 01-01-15, 01-12-15; No. 03-01-20, 03-09-20)

**Sec. 3-10. Sick and safe leave.**

(a) *Basis.* All full-time regular employees shall accrue one (1) day of sick leave for each month of service. All part-time employees shall accrue a prorated portion of a day of sick leave for each month of service. Sick leave shall be credited to the employee on a biweekly basis.

(b) *Accumulation of leave.* An employee may accumulate unlimited sick leave.

(c) *Advancement of sick leave.* In exceptional cases, an employee with more than two (2) years' service may be advanced unaccrued paid sick leave upon recommendation of the employee's department head and approval of the Village Manager.

(d) *Conditions under which sick leave may be taken:*

- (1) Personal illness, injury, medical, dental or optical examinations and treatments and for temporary disability caused or contributed to by pregnancy, miscarriage, childbirth or recovery therefrom. For medical appointments, sick leave may be used only for the time required for the appointment and for reasonable travel time to and from the appointment, and not for the entire work day, unless so justified and approved in advance by the employee's supervisor.
- (2) Family illness and as otherwise required by Title 3, Subtitle 13, §§3-1301 *Et Seq.*, Labor and Employment Article, Annotated Code of Maryland, as amended. The leave must be approved by the employee's supervisor.
- (3) Quarantine.

(e) *Validation.* The Village Manager may require such evidence as the Manager deems necessary to validate sick leave.

(f) *Payment for unused sick leave.* Upon any retirement from the service of the Village, an employee shall be paid one (1) day's pay for every three (3) days of unused, accumulated sick leave as of the date of his retirement. Upon any other type of separation from Village employment, no payment shall be made for any unused accumulated sick leave.

(g) *Special compensation.* Special compensation shall be paid annually to each employee for sick leave accrued but not used during each year (i.e., days of sick leave accrued less days used) at the rate of one-third day's pay for each sick day so accrued, based on his current rate of pay. No such compensation shall be granted unless the employee has accumulated thirty (30) days of sick leave as of the end of the year. The payment of compensation under this subsection shall not affect the accumulated sick leave balance of the employee and in no event shall any employee receive more than the equivalent of three (3) day's special compensation as provided in this subsection. No payment shall be made under this subsection for a partial year upon any employee's separation from Village employment for any reason.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95; No. 03-01-20, 03-09-20)

**Sec. 3-11. Annual leave.**

(a) *Basis.* Annual leave shall be granted to all full-time regular employees on the following basis:

Years of Service	Days per Year
1 to 4	11
4 to 10	17
10 to 20	20
Over 20	25

Annual leave shall be credited to each employee on a biweekly basis. There may be no advance crediting of annual leave.

(b) *Limitation.* No annual leave can be taken until the employee has been employed for ninety (90) days.

(c) *Request.* A leave request shall be submitted to the employee's immediate supervisor for approval prior to the date the leave is to be taken.

(d) *Accumulation of leave.* Annual leave may be accumulated and carried over from year to year up to a maximum of thirty (30) days of leave time. Annual leave in excess of thirty (30) days must be used by the end of the calendar year or it will be forfeited.

(e) *Payment for unused leave upon separation from employment.* Upon voluntary or involuntary separation, an employee may take the unused portion of annual leave or may request payment for same, except that an employee whose separation occurs before having been employed for a continuous period of six (6) months shall not be entitled to such payment. In no event shall such leave, taken or paid, exceed thirty (30) days.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95; No. 03-01-20, 03-09-20)

### **Sec. 3-12. Holidays.**

(a) All full-time employees shall be granted holiday leave with pay for the following holidays:

New Year's Day.  
Martin Luther King, Jr. Day.  
President's Day.  
Memorial Day.  
Juneteenth National Independence Day.  
Independence Day.  
Labor Day.  
Veterans Day.  
Thanksgiving Day.  
Christmas Day.

(b) Full-time employees required to work on one of the above holidays shall be paid, in addition to one (1) day's pay, an amount equal to one and one-half (1 1/2) times their hourly wage for the time actually worked on the holiday, up to a maximum of eight (8) hours, regardless of the normal assigned shift.

(c) Holiday leave will not be deducted from any other leave so accrued by an employee.

(d) When one of the above holidays falls on a Sunday, the following Monday shall be designated as a substitute holiday and observed as an official holiday for that year for each employee. When one of the above holidays falls on a Saturday, the preceding Friday shall be designated as a substitute holiday and observed as an official holiday for that year for each employee. The actual holiday shall apply for those employees whose regularly scheduled workday is a Sunday or Saturday holiday.

(e) In order to be eligible for holiday pay, an employee must be entitled to pay for his last-scheduled regular workday before the holiday and his first scheduled regular workday after the holiday.

(f) A part-time employee is entitled to holiday pay if his normal workday falls on the official holiday.



(No. 49-9-90, 10-23-90; No. 0-92-03, 10-12-92; Ord. of 1-10-94; No. 12-1-95, 12-11-95; No. 03-01-20, 03-09-20; No. 07-01-21, 07-12-21.)

**Sec. 3-13. Bereavement leave.**

All employees shall be granted three (3) working days off with pay for a death in the employee's immediate family. The immediate family shall be construed to mean one of the following: spouse, child, parent, sibling or other blood relative residing in the employee's household. An employee shall be granted one (1) working day with hours equivalent to the employee's normally assigned shift, with pay for a death of other close family members including only grandparent, grandchild and spouse's parent. Additional time off will be charged against annual leave. The time off allowed in the case of death in the employee's family shall not be deducted from any other leave accrued by the employee.

(No. 49-9-90, 10-23-90; No. 03-01-20, 03-09-20)

**Sec. 3-14. Disability leave.**

In the event that an employee sustains an injury while on the job for the Village, the employee shall receive his regular rate of pay for his normal work period, less any workman's compensation payments, during the period of temporary total disability not to exceed thirty (30) workdays. Such leave will not be deducted from any other leave accrued by the employee.

(No. 49-9-90, 10-23-90)

**Sec. 3-15. Leave of absence without pay.**

The Village Manager may grant requests for leave of absence without pay for periods not to exceed one (1) year, when such leave is, in the opinion of the Village Manager, in the best interest of the Village. However, in cases where such leave is in excess of three (3) months, it shall be subject to approval by the personnel commission.

(No. 49-9-90, 10-23-90)

**Sec. 3-16. Administrative leave.**

The Village Manager may grant administrative leave with pay for the following purposes:

- a. For non-essential personnel when an emergency is declared by the Village Manager and the employee's department is closed either for delayed opening, full closure for the workday, or early closing.
- b. When an unhealthy or dangerous situation exists at the employee's work facility.
- c. When an employee is relieved of duty pending:
  1. An investigation of an incident or charge,
  2. Removal from the employee's position, or
  3. A determination of the employee's fitness for duty.
- d. To attend official approved meetings, conferences, seminars, or training, or as paid professional improvement leave.
- e. When an employee is subpoenaed as a witness in a civil or criminal case or an administrative proceeding, unless the employee is subpoenaed as a witness in a civil case:

1. That is unrelated to the employee's official duties, and
  2. To which the employee is a party.
- f. Following an on-the job injury if the injury is eligible for disability leave.
- g. Under other circumstances where the Village Manager determines that granting administrative leave is in the best interest of the Village.

Such leave will not be deducted from any other leave accrued by the employee. The Board of Managers may grant administrative leave to the Village Manager.

(No. 49-9-90, 10-23-90; No. 03-01-20, 03-09-20)

**Sec. 3-17. Jury duty leave.**

Any employee called upon for jury service will be granted jury duty leave and will receive his regular salary. Such time as may be necessarily required to serve as a juror will not be deducted from any other leave accrued by the employee.

(No. 49-9-90, 10-23-90)

**Sec. 3-18. Military leave.**

(a) Any employee who is a member of any United States Military Reserve or National Guard unit and is required to engage in training exercises will be granted military leave not to exceed ten (10) days in any one (1) year plus an additional five (5) days' travel time; provided, that such employee satisfactorily demonstrates that such additional travel time is absolutely necessary.

(b) Any employee on military leave pursuant to subsection (a) above will be reimbursed the difference between payments received from military service and his regular salary. Such leave will not be deducted from any other leave accrued by the employee.

(No. 49-9-90, 10-23-90)

**Sec. 3-19. Accruing leave while on leave.**

With the exception of employees on leave without pay, employees are entitled to accrue leave at their normal rate of entitlement while on leave. However, employees shall not be entitled to accrue sick leave or annual leave when on any leave in excess of thirty (30) consecutive calendar days.

(No. 49-9-90, 10-23-90)

**Sec. 3-20. Retirement and pension plans.**

The Board may elect to adopt a retirement, pension and/or retirement savings plan and may require participation by all salaried employees of the Village. The Village may participate in a retirement or pension system operated by or in conjunction with the State on such terms and conditions as State law may require. The Board may adopt the terms and conditions of any such retirement, pension, or retirement savings plan, including designation of trustees or authorized persons, by resolution. The said trustees and authorized persons shall have that discretion required by law in administering any such plans.

(No. 05-02-14, 05-12-14.)

## ARTICLE IV. LAYOFFS; SANCTIONS; ETC.

### Sec. 3-21. Layoffs.

The Village Manager is authorized to release from employment any employee because of lack of work or funds. The Manager will consider first the types of activities to be curtailed and the classes of positions thereby affected, and then proceed to the selection of individual employees to be released. Employees' previous service will be a factor in determining the order in which employees are to be released, however, the decision shall be solely within the discretion of the Village Manager.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95)

### Sec. 3-22. Sanctions--Generally.

The Village Manager may impose such sanctions as deemed necessary and appropriate, including, but not limited to, dismissal, suspension with or without pay, demotion, loss of pay, or loss of leave, against any employee at any time for any of the following reasons:

- (1) The employee has been convicted of, or charged or arrested for, a felony or of a misdemeanor involving moral turpitude.
- (2) The employee has been engaged in brutality or cruelty to a person in custody.
- (3) The employee has violated any of the regulations of this Code.
- (4) The employee has violated any Village regulation or order or failed to obey any proper direction given by a supervisor or superior officer.
- (5) The employee has been under the influence or in possession of drugs or alcohol while on duty.
- (6) The employee has been engaged in conduct either on or off duty which interferes with the performance of his duties.
- (7) The employee has been offensive in his conduct or language in public, or towards the public, Village officials or employees, either on or off duty.
- (8) The employee has any mental or physical condition which interferes with the performance of his duties, subject to the reasonable accommodation requirements of law.
- (9) The employee is careless or negligent with money or other property of the Village.
- (10) The employee fails to maintain sufficient competency to properly perform his or her duties.
- (11) The employee fails to perform satisfactorily. Unsatisfactory performance includes, but is not limited to, the inability or unwillingness to perform assigned tasks, the failure to take appropriate action in any situation deserving attention or correction, the failure to conform to work requirements or work standards established for the employee's position and/or the failure to maintain a satisfactory performance rating.
- (12) The employee has failed to pay or make reasonable provisions for future payments of his personal debts to such an extent that such failure shall be detrimental to the Village.

- (13) The employee has used, threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of rate of pay or character of work.
- (14) The employee has induced or has attempted to induce an employee of the Village to commit an unlawful act or to act in violation of any lawful regulation or order.
- (15) The employee has taken, for his personal use, a thing of value in connection with his work, when such thing of value appears to be given in the hope or expectation of receiving a favor or preferential treatment.
- (16) The employee has engaged in political activity while on the job during working hours.
- (17) The employee has misrepresented material facts relating to the use of leave.
- (18) The employee has misrepresented material facts in connection with his application for employment.
- (19) The employee has been excessively absent from or tardy to work.
- (20) The employee has engaged in conduct which is inconsistent with the best interests of the Village.
- (21) For any other good and sufficient cause.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95; No. 03-01-20, 03-09-20)

**Sec. 3-23. Same--Hearing.**

Before dismissing, suspending, demoting or laying off a regular employee, the Village Manager shall provide the employee a reasonable opportunity to be heard. Notwithstanding the foregoing, the Manager may suspend an employee without a presuspension hearing when, in the Manager's judgment, immediate suspension is required; provided, that the Manager shall provide a prompt post-suspension opportunity to be heard. The Village Manager shall give written notice to the affected employee of the employee's dismissal, suspension, demotion or layoff. The notice of such action shall contain the effective date of the action, the reasons therefor and, for regular employees, shall advise the employee of the right to appeal the Manager's decision to the personnel commission.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95)

**Sec. 3-24. Fringe benefits during suspension.**

An employee who is suspended with pay shall be entitled to all fringe benefits and shall continue to earn vacation leave and sick leave during the period of suspension. An employee who is suspended without pay shall be entitled to all fringe benefits except that the Village Manager may, as an additional sanction, direct that the employee shall not earn vacation leave and sick leave during the period of suspension. An employee shall not be entitled to accrue any type of leave after the first thirty (30) calendar days of any suspension, whether with or without pay.

(No. 49-9-90, 10-23-90)

**Sec. 3-25. Reserved.**

## **ARTICLE V. COMPLAINTS; APPEALS; HEARINGS**

### **Sec. 3-26. Complaints concerning status or conditions.**

All complaints other than layoffs, suspensions, demotions or dismissals which any employee may have because of any action affecting his status or conditions of employment shall be handled in accordance with the following:

- (1) The employee shall discuss the complaint with his immediate supervisor to effect a settlement.
- (2) A complaint not so settled shall be presented in writing by the employee to the Village Manager. The employee may appear before the Village Manager in his own behalf.
- (3) The Village Manager shall write his disposition of the complaint and send a copy to the employee and personnel commission within five (5) working days after receipt of the written complaint or the appearance of the employee, whichever is later.

(No. 49-9-90, 10-23-90)

### **Sec. 3-27. Appeals by employees.**

Any employee who has been suspended, demoted, laid-off or dismissed who wishes to appeal the decision of the Village Manager or who claims to have been discriminated against in the course of his employment on account of race, creed, color, sex, religion, age, disability, or national origin may file an appeal in writing to the personnel commission and may request a hearing thereon. Such appeal shall state in detail the pertinent facts relative to the action which the employee is appealing and shall be signed by the employee and filed with the personnel commission within five (5) days after receipt by the employee of the notice of such suspension, demotion, layoff, dismissal or the discriminatory action.

(No. 49-9-90, 10-23-90; No. 12-1-95, 12-11-95)

### **Sec. 3-28. Appeal procedures.**

(a) If requested at the time the appeal is filed, the employee shall be entitled to a hearing before the personnel commission.

(b) The hearing shall be scheduled within thirty (30) days of receipt of the notice of appeal, but may be postponed or continued, in the discretion of the commission.

(c) Notice of the time and place of the hearing shall be given promptly by the chairman of the personnel commission to the employee and to the Village Manager at least five (5) days prior to the date of the hearing. Notice to the employee shall be sufficient if it is sent by mail, postage prepaid, addressed to the employee at his last-known post office address.

(No. 49-9-90, 10-23-90)

### **Sec. 3-29. Hearing procedures.**

(a) The hearing shall be conducted in an orderly manner with a view to the presentation of all material facts so that a fair and impartial decision may be made. The personnel committee shall have full authority at all times to maintain orderly procedure and to limit the hearing to relevant facts. In order to protect the privacy of the employee and fellow employees, the commission may exclude the public from the hearing.

(b) The employee and the Village Manager may be represented by counsel.

(c) All of the evidence that the employee wishes to have made part of the record must be presented at the hearing.

(d) The commission may admit any probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give such weight to the evidence as the commission deems appropriate.

(e) The commission may exclude evidence that is incompetent, irrelevant, immaterial or unduly repetitious.

(f) The employee and the Manager are each entitled to:

- (1) Call witnesses;
- (2) Offer evidence, including rebuttal evidence;
- (3) Cross-examine any witness that the other calls; and
- (4) Present summation and argument.

(g) The commission may receive documentary evidence in the form of copies or excerpts or by incorporation by reference.

(h) The commission may take official notice of a fact that is judicially noticeable or within the specialized knowledge of the commission.

(i) The commission may use its experience and specialized knowledge in the evaluation of evidence.

(j) Insofar as it is administratively practical, the employee may request the presence of Village employees as witnesses in his behalf.

(k) All testimony shall be under oath or affirmation given by a person duly authorized to administer oaths within Maryland.

(l) A tape recording or other verbatim record of the hearing shall be made. The record shall be transcribed if the employee, Manager or commission so requests. If the employee requests the transcription of the proceedings, the employee shall pay all costs thereof prior to such transcription.

(No. 49-9-90, 10-23-90)

### **Sec. 3-30. Decision of personnel commission.**

Promptly after the conclusion of the hearing, the commission shall render a written opinion in which findings of fact are made and which shall contain the decision of the commission with respect to the action from which the appeal was taken. The commission shall have the power to affirm, reverse or modify the action. The opinion shall be filed at the Village office and shall be delivered to the Village Manager and the employee. Delivery to the employee shall be effective as of the date of mailing if mailed, postage prepaid, to the employee's last-known address or as of the date of delivery if hand delivered. A copy shall be forwarded to the Board of Managers.

(No. 49-9-90, 10-23-90)

**Sec. 3-31. Appeal to Board of Managers.**

(a) Either the employee or the Village Manager may request that the Board of Managers review the record of the hearing before the commission and the commission's decision. Such request shall be made in writing and must be received at the Village office or by the Chairman of the Board of Managers within ten (10) days of the effective date of delivery to the appellant of the commission's decision.

(b) The Board of Managers shall decide the appeal on the record before the personnel commission. The Board of Managers may, but shall not be required to, permit oral argument, following reasonable notice to the employee and the Village Manager.

(c) The decision of the Board of Managers shall be promptly reduced to writing and shall be filed with the Village Manager and a copy delivered to the employee.

(No. 49-9-90, 10-23-90)

**Sec. 3-32. Reserved.**

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**Cross reference(s)**--Public ethics, Ch. 2.

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