

OFFICERS AND EMPLOYEES

Chapter 13A

ARTICLE I : Safety Program for Highway, Sewer and Water Departments

- 13A-1 Program adopted**
- 13A-2 Awards dinner**
- 13A-3 Accident Review Board**
- 13A-4 Driver record**
- 13A-5 Drivers' meeting**
- 13A-6 Road observation program**
- 13A-7 Educational material**
- 13A-8 Rochester Safety Council**
- 13A-9 Suggestions**

ARTICLE II : Defense and Indemnification Local Law No. 1, 1981

A local law relating to the defense and indemnification of Village employees.

- 13A-10 Definitions**
- 13A-11 Defense of employees**
- 13A-12 Indemnification of employees**
- 13A-13 Conditions for defense or indemnity**
- 13A-14 Benefits exclusive to employees**
- 13A-15 Effect on insurers**
- 13A-16 Applicability**
- 13A-17 Construe of provisions**
- 13A-18 Severability**
- 13A-19 When effective**

ARTICLE III : Cash Payment to Employees in Lieu of Health Insurance Coverage

- 13A-20 Definitions**
- 13A-21 Cash Payment in Lieu of Health Insurance Coverage**
- 13A-22 When effective**

ARTICLE IV : Residency Requirement

- 13A-23 Residency requirement for Village Clerk, Deputy Clerk, Treasurer and Deputy Treasurer**

OFFICERS AND EMPLOYEES

Chapter 13A

ARTICLE V: Retirement Incentive Program

- 13A-24 Election of Program**
- 13A-25 Commencement Date**
- 13A-26 Open Period**
- 13A-27 Payment of Benefits**

(HISTORY: Adopted, Hilton Village Board: Article I, 4-2-79 by resolution; Article II, 2-2-81 as L. No. 1, 1981. Article III adopted 2-5-90 as L.L. No. 1 1990. Article IV adopted 3-1-93 as L.L. No. 1 1993. Article V adopted 8-9-99 as L.L. #2 1999. Amendments noted where applicable.)

ARTICLE I : Safety Program for Highway, Sewer and Water Departments
(Adopted 4-2-79 by resolution)

13A-1 Program adopted

The Village Board hereby adopts a safety program to be adhered to by all employees in the operation of motor vehicles of the Village of Hilton.

13A-2 Awards dinner

An annual safety award dinner will be held in the early part of each year, at which time special safe driver awards will be made.

13A-3 Accident Review Board

An Accident Review Board shall be established, which will consist of one (1) member of the Village Board, the Village Administrator, the Superintendent of Public Works, one (1) driver and a representative from the insurance company. This Accident Review Board will meet four (4) times a year as follows: March, June, September and December to hear and determine damages concerning accidents and/or to hold a discussion with the drivers involved also to suggest methods to prevent the occurrence of such accidents and establish incentive awards.

13A-4 Driver record

A driver record shall be maintained and posted in the village garage under the direction of the Superintendent of Public Works.

13A-5 Drivers' meeting

A regular meeting of all drivers will be held four (4) times a year as follows: March, June, September and December. At this meeting, films may be shown and talks will be given on safe driving operations, at which time guest speakers from the Safety Council, State Police, etc., will appear. Driver quizzes and other recognized tests may also be used.

13A-6 Road observation program

A road observation program will be in effect at all times and will be applicable to all village vehicles mentioned above. Reports shall be submitted by the insurance representatives, and the problems will be discussed with the drivers involved and are to be used for educational rather than disciplinary purposes.

13A-7 Educational material

Literature consisting of booklets and other educational material will be furnished by the insurance company and will be passed out periodically to all drivers. Safe-driving letters will be sent to all drivers at least four (4) times a year.

13A-8 Rochester Safety Council

Participation will be continued in the Rochester Safety Council.

13A-9 Suggestions

A suggestion box will be maintained at the village garage where suggestions may be submitted. A committee to consist of the Mayor, Village Attorney and Superintendent of Public Works shall pass upon and approve or disapprove the suggestions.

ARTICLE II : Defense and Indemnification

(Adopted 2-2-81 as L.L. No. 1, 1981)

13A-10 Definitions

As used in this chapter, 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 Hilton, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

13A-11 Defense of employees

- A. Upon compliance by an employee with the provisions of 13A-13 of this chapter, 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 while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding was brought by or on behalf of the Village of Hilton. The determination of the Village Attorney that an act or omission occurred or did not occur within the scope of the public employment or that an allegation in a pleading alleging such conduct within the scope of employment is a bona fide allegation shall be final. The Village Attorney may properly ascertain that a pleading alleging conduct within the scope of employment is not bona fide and that the defendant/employee is thereby not entitled to the protection of this section.

HILTON CODE: OFFICERS AND EMPLOYEES

13A-11

- 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, except where counsel is provided pursuant to a policy of insurance under which the village and/or the employee is named as an insured and counsel is provided to the village and/or its employee pursuant to such policy of insurance. 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 would be inappropriate under the provisions of this chapter or otherwise. The Village Attorney shall notify the employee in writing of such determination that the village is not required to provide representation and/or 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 chapter, the Village Attorney shall so certify to the Village Board. Reasonable attorney fees and litigation expenses shall be paid by the village to such 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 such employee is employed and upon the audit and warrant of the Village Treasurer. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorney fees shall be resolved by the Village Board, whose determination in such matters shall be final.
- C.** Where the employee delivers process and a request for a defense to the Village Clerk as required by 13A-13 of this local law, the Village 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 of the village to provide for a defense.

13A-12 Indemnification of employees

- A.** The village shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court or in the amount of any settlement of a claim to the extent that insurance proceeds from policies insuring the village and/or the employee do not cover such judgment or settlement, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting in good faith, without malice and within the scope of his public employment or duties. The duty to indemnify and save harmless described by this section shall not arise where the injury or damage resulted from intentional and/or knowing wrongdoing or recklessness on the part of the employee.

HILTON CODE: OFFICERS AND EMPLOYEES

13A-12

- B.** An employee represented by private counsel shall cause to be submitted to the Village 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 such settlement and submit such settlement and certification to the Village Attorney. The Village Attorney shall review such proposed settlement as to form and amount and give his approval if, in his judgment, the settlement is in the best interest of the village. 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.

- C. Nothing in this chapter shall authorize the village to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties.
- D. Upon entry of a final judgment against an employee, or under 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 thirty (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 Village Attorney concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the Village Treasurer. The determination of the Mayor or Village Attorney that an employee is entitled to indemnification for a specific judgment or settlement under the provisions of this section shall be final.

13A-13 Conditions for defense or indemnity

The duty to defend or indemnify and save harmless provided by this chapter shall be conditioned upon delivery to the Village Clerk or his assistant, at the Village Hall, by the employee, of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this chapter. 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, shall also be conditions for the defense or indemnity provided in this chapter.

13A-14 Benefits exclusive to employees

The benefits of this chapter shall inure only to employees as defined in 13A-10 of this chapter, and shall not enlarge or diminish the rights of any other party nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the Worker's Compensation Law.

13A-15 Effect on insurers

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

13A-16 Applicability

The provisions of this chapter shall apply to all actions and proceedings pending on the effective date hereof or hereafter instituted.

HILTON CODE: OFFICERS AND EMPLOYEES

13A-17

13A-17 Construe of provisions

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 the village, state or federal statutory or common law.

13A-18 Severability

If any provision of this chapter or the application hereof to any person or circumstances is held unconstitutional or invalid, in whole or in any part, by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provisions to any other person or circumstance.

13A-19 When effective

This chapter shall take effect immediately upon filing with the Secretary of State and shall apply to any actions or proceedings pending on the effective date of this chapter and those subsequent thereto.

ARTICLE III : Cash Payment in Lieu of Health Insurance

(Adopted 2-5-90 as L.L. No. 1 1990)

13A-20 Definitions

As used in this Article, the term "Employee" shall be defined pursuant to Section 13A-10 of this Chapter, except shall not include any uncompensated person and shall not include any former employee, his estate, or judicially appointed personal representative.

13A-21 Cash Payment in Lieu of Health Insurance Coverage

Any Employee, by virtue of his employment, who is entitled to receive health insurance coverage under the health insurance plan provided by the Village of Hilton as an incident of employment by the Village and who opts not to be covered under such health insurance plan, shall be entitled to receive an annual cash payment in an amount to be established from time to time by resolution of the Village Board but in no event shall exceed the cost the Village would have incurred on behalf of the Employee in providing such health insurance coverage had the Employee opted to be covered under said health insurance plan. Such cash payment shall be made to the Employee at a time determined by resolution of the Village Board but in no event less than one time per fiscal year.

13A-22 When effective

This Article shall take effect immediately upon filing with the Secretary of State as required by law.

ARTICLE IV : Residency Requirement

(Adopted 3-1-93 as L.L. No. 1 1993)

13A-23 Residency Requirement for Village Clerk, Deputy Clerk, Treasurer and Deputy Treasurer

In lieu of any other residency requirement imposed by law, any appointed Village Clerk, Deputy Clerk, Treasurer and/or Deputy Treasurer need not be a resident of the Village but must be a resident of the County in which the Village is located or in an abutting or adjacent County.

ARTICLE V: Retirement Incentive Program

(Adopted 8-9-99 as L.L. No. 2 1999)

13-24 Election of program; authorization

The Village of Hilton hereby elects to provide all of its eligible employees in the position or positions so targeted with a retirement incentive program as authorized by Chapter 70 of the Laws of 1999.

13-25 Commencement Date

The commencement date of the retirement incentive program shall be October 1, 1999.

13-26 Open Period

The open period during which eligible employees may retire and receive additional retirement benefits shall be 90 days in length and end on December 29, 1999.

13-27 Payment of benefits

The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this chapter 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 of Hilton for each employee who receives the retirement benefits payable under this chapter.