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VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS

ORDINANCE NO. 1293

AN ORDINANCE AUTHORIZING AND APPROVING AN
AMENDMENT TO THE VILLAGE OF MELROSE PARK
EMPLOYEE MANUAL REGARDING FAMILY AND MEDICAL
LEAVE OF ABSENCE, FOR THE VILLAGE OF MELROSE PARK,
COUNTY OF COOK, STATE OF ILLINOIS.

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF MELROSE PARK

THIS 22ND DAY OF JUNE 2009

RONALD M. SERPICO, Village President
MARY ANN PAOLANTONIO SALEMI, Village Clerk

Board Of Trustees

CATHLEEN COSSIDENT ITALIA
ANTHONY J. PRIGNANO
ARTURO J. MOTA
MARY RAMIREZ TACONI
JAIME ANGUIANO
ANTHONY N. ABRUZZO

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Published by authority of the
President and Board of Trustees
Of the Village of Melrose Park,
Cook County, Illinois on
This 23RD day of JUNE 2009

ORDINANCE NO. 1293

AN ORDINANCE AUTHORIZING AND APPROVING AN AMENDMENT TO THE VILLAGE OF MELROSE PARK EMPLOYEE MANUAL REGARDING FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY, FOR THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.

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WHEREAS, the Village of Melrose Park, County of Cook, State of Illinois (the “Village”) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto, with full powers to enact ordinances and adopt resolutions for the benefit of the residents of the Village; and

WHEREAS, the Village President (the “President”), the Honorable Ronald M. Serpico, the Village Clerk (the “Village Clerk”), the Honorable Mary Ann Paolantonio Salemi, and the Board of Trustees of the Village (the “Village Board”), the Honorable Cathleen Cossident Italia, Arturo J. Mota, Anthony J. Prignano, Mary Ramirez Taconi, Jaime Anguiano and Anthony N. Abruzzo, having taken office on April 30, 2009, constitute the duly elected, qualified and acting officials of the Village; and

WHEREAS, in order to comply with the federal Family and Medical Leave Act and related federal regulations, the Village President and the Village Board (collectively, the “Corporate Authorities”) find that it is advisable, necessary and in the best interests of the Village and its employees that Section 300:7 of the current Village of Melrose Park Employee Manual (the “Employee Manual”) be amended; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Melrose Park, County of Cook, State of Illinois, as follows:

**ARTICLE I.
IN GENERAL**

Section 01. Incorporation Clause.

All of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct, and the Corporate Authorities do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

Section 02. Purpose.

The purpose of this Ordinance is to amend the Employee Manual in order to comply with recent requirements of the federal Family and Medical Leave Act by deleting Section 300:7 of the Employee Manual, titled, "Family and Medical Leave of Absence Policy" and replacing it with new language.

Section 03. Invocation of Authority.

This Ordinance is enacted pursuant to the authority granted to this Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes.

Section 04. State Law Adopted.

All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

Sections 05-09. Reserved.

**ARTICLE II.
AMENDMENT TO EMPLOYEE MANUAL**

Section 10.00 Amendment to Employee Manual, 300:7, “Family and Medical Leave of Absence.”

That Section 300:7 of the Village of Melrose Park Employee Manual, titled “**FAMILY AND MEDICAL LEAVE OF ABSENCE**,” is hereby amended, notwithstanding any provision, ordinance, resolution, Employee Manual section, or Village Code section to the contrary, by deleting Section 300:7 in its entirety and inserting in its place the following language:

“FAMILY AND MEDICAL LEAVE OF ABSENCE (“FMLA”) POLICY

1. If you have been employed by the Village of Melrose Park for at least twelve (12) months (with no break in service of seven (7) or more years, except if such break in service is related to (a) USERRA covered military obligations and/or (b) as otherwise provided in a collective bargaining agreement or other written agreement, if applicable), and have worked at least 1,250 hours during the 12-month period preceding the start of the leave, and you work at or report to a work site which has fifty (50) or more Village of Melrose Park employees within a 75-mile radius of that work site, you are eligible for up to a total of twelve (12) workweeks of unpaid leave during any rolling twelve (12) month period for one or more of the following reasons:

- a. Because of the birth of your child and in order to care for such child (within 12 months after the birth of the child);
- b. Because of the placement of a child with you for adoption or foster care (within 12 months of the placement of the child);
- c. In order to care for your spouse, child, or parents if they have a “serious health condition;”
- d. Because of a “serious health condition” that makes you unable to perform the functions of your job; or
- e. Because of any “qualifying exigency” (as defined by the Secretary of Labor) arising out of the fact that your spouse, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (retired member only), National Guard or Reserves in support of a contingency operation.

2. Serious Health Condition. For purposes of this policy, “serious health condition” means an illness, injury, impairment or physical or mental condition that involves one of the following:

- a. Hospital Care. Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity relating to the same condition;
- b. Absence Plus Treatment. A period of incapacity of more than three full consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves either: (1) treatment two (2) or more times (within 30 days and provided the first visit takes place within seven (7) days of the first day of incapacity) by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or (2) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (first visit to health care provider must take place within seven (7) days of the first day of incapacity);
- c. Pregnancy. Any period of incapacity due to pregnancy, or for prenatal care;
- d. Chronic Conditions Requiring Treatment. A chronic condition which: requires at least two (2) periodic visits for treatment per year by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; which condition continues over an extended period of time; and may cause episodic rather than a continuing period of incapacity;
- e. Permanent/Long-term Conditions Requiring Supervision. A period of incapacity which is permanent or long-term due to a condition for which treatment may be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider;
- f. Multiple Treatments (non-chronic conditions). Any period of incapacity to receive multiple treatment (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) full consecutive calendar days in the absence of medical intervention or treatment.

3. Qualifying Exigency Leave. If you are an eligible employee (as defined above), you are entitled to take up to twelve (12) weeks of unpaid FMLA leave for any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status. The leave described in this paragraph is available during a 12-month rolling period, and may be taken on an intermittent or reduced leave schedule basis. You will be required to provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates that the military member is on active duty or call to active duty status in support of a contingency operation and the dates of the covered military member's active duty service. Eligible employees may take all twelve (12) weeks of his/her FMLA leave entitlement as qualifying exigency leave or the employee may take a

combination of twelve (12) weeks of leave for both qualifying exigency leave and leave for a serious health condition (as defined above).

With respect to a Qualifying Exigency Leave:

- a. A “covered military member” means your spouse, son, daughter, son, or parent who is on active duty or called to active duty status.
- b. A “qualifying exigency” includes the following broad categories: (a) short notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post deployment activities, including reintegration activities, for a period of 90 days following the termination of active duty status; and, (h) additional categories that are agreed to by the employer and employee within this phrase.
- c. The phrase “son or daughter” is defined as your biological, adopted, or foster child, stepchild, legal ward, or child for whom you stood in loco parentis, of any age for qualifying exigency leave, who is on active duty or called to active duty status who is of any age. (Note: This definition is different from other sections of this FMLA policy).
- d. A “parent” means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to you when you were a son or daughter but it does not included “parents in law”.

4. Military Caregiver Leave. If you have been employed by the Village of Melrose Park for at least twelve (12) months and have worked at least 1,250 hours during the 12-month period preceding the start of the leave, and you work at or report to a work site which has fifty (50) or more Village of Melrose Park employees within a 75-mile radius of that work site, and you are a spouse, child (of any age for military caregiver leave), parent or next of kin of a Covered Service member, as defined below, you are entitled to a total of twenty-six (26) workweeks of unpaid leave during a single 12-month period to care for the Covered Service member (including twelve (12) workweeks for any other FMLA qualifying reason). The leave described in this paragraph shall only be available during a single 12-month period beginning as of the date the leave commences and ending 12 months after that date (and any unused amounts are forfeited). Military Caregiver Leave may be permitted more than once if necessary to care for a different Covered Service member (or the same Service member with multiple or subsequent injuries or illnesses) up to a combined total of twenty six (26) workweeks in a twelve (12) month period. However, your total available leave time in any single 12-month period generally may not exceed a combined total of twenty-six (26) workweeks (including FMLA time off taken for any other reason); except as provided under the FMLA regulations. You will be required to timely submit the completed paperwork provided to you and available from our Human Resources Department as a condition of receiving approved Military Caregiver Leave; except as provided under the FMLA regulations. NOTE: the 12 month computation period for this type of leave differs from the other types of FMLA leave.

With respect to Military Caregiver FMLA Leave:

- a. A “Covered Service member” means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment,

recuperation, or therapy from an injury or illness occurring in the line of active duty and/or during active duty, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

- b. "Outpatient status" means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- c. "Next of kin" means the nearest blood relative of that individual (regardless of age) other than an employee's spouse, son or daughter. You are required to provide confirmation of the relationship upon request. The Service member may designate the blood relative who is considered his/her next of kin; otherwise, the following order generally will apply: blood relatives granted custody by law, brother/sister, grandparents, aunts/uncles, and then first cousins.
- d. "Serious injury or illness" means an injury or illness incurred by the Service member in the line of duty on active duty in the Armed Forces that may render the Service member medically unfit to perform the duties of the member's office, grade, rank or rating.

5. Spouses Employed by the Village of Melrose Park. If your spouse also works for the Village of Melrose Park and you both become eligible for a leave under paragraphs 1a. or 1b. above, or for the care of a sick parent under paragraph 1c. above, the two of you together will be limited to a combined total of twelve (12) workweeks of leave in any rolling 12-month period. In addition, if you and your spouse both become eligible for a leave under the Military Caregiver Family Leave provision above or under a combination of the Service member Family Leave provision, paragraphs 1a., 1.b. and 1e. above, or to care for your parent with a serious health condition, the two of you together generally will be limited to a combined total of twenty-six (26) workweeks of leave in any single 12-month period, but if the leave taken by you and your spouse includes leave described in paragraphs 1a. through 1e. above, that leave shall be limited to a combined total of twelve (12) workweeks of leave in any rolling 12-month period.

6. Medical Certification. Any request for a leave under paragraphs 1c., 1d. or under the Service member Family Leave provision above must be supported by certification issued by the applicable health care provider or the Department of Defense. You are required to submit this information on the forms provided to you and available from the Human Resources Manager or on the Invitational Travel Orders or Authorizations provided to you by the Department of Defense.

You will be required to submit a new medical certification form for each leave year for a medical condition(s) that last longer than one year. Additionally, you are required to submit a recertification of an ongoing condition every six (6) months in connection with an absence where the duration of the condition is described as "lifetime" or "unknown". At its discretion, the Village of Melrose Park may require a second medical opinion and periodic recertification to support the continuation of a leave or under paragraphs 1.c. and 1.d. (except as otherwise provided by the Department of Labor). If the 1st and 2nd opinions differ, a 3rd

opinion can be obtained from a health care provider jointly approved by both you and the Village of Melrose Park (unless you accept the second opinion as determinative).

7. Intermittent Leave. If certified as medically necessary for the serious health condition of either you or your spouse, child or parent (Paragraphs 1c and 1d, above), or to care for a Covered Service member if you are a spouse, child, parent or next of kin to the Covered Service member (Paragraph 3, above), leave may be taken on an intermittent or reduced leave schedule. Intermittent leave also may be taken if you qualify for leave because of a qualifying exigency as described in Paragraph 1e, above, subject to the submission of a certification prescribed by the Secretary of Labor. If leave is requested on an intermittent basis, however, the Village of Melrose Park may require that you transfer temporarily to an alternative position which better accommodates recurring periods of absence or to a part-time schedule, provided that the position offers equivalent pay and benefits.

8. Light Duty Work Assignments. While voluntarily performing in a light duty capacity while on FMLA leave, that time does not count against your 12 week FMLA allotment. In effect, your right to restoration is held in abeyance during the period of time that you are performing in a light duty capacity (or until the end of the applicable 12 month FMLA leave year if longer).

9. Notification and Reporting Requirements. All requests for leaves of absence must be submitted to your supervisor or the Human Resources Manager at least thirty (30) days in advance of the start of the leave, except when the leave is due to an emergency or is otherwise not foreseeable. If the leave is not foreseeable, you must provide notice as soon as “practicable,” which generally means either the same day or the next business day that you learn of the need for leave, in the absence of any unusual circumstances. A delay in submitting an FMLA leave request may result in a loss of FMLA protections and/or a delay of the start of your leave. Your supervisor will forward the request to the Human Resources Manager for approval.

You must respond to our questions relative to your leave request so that we can determine if the leave qualifies for FMLA protection; failure to do so may result in loss or delay of FMLA protections. If you are seeking leave due to an FMLA-qualifying reason for which the Village of Melrose Park has previously granted you FMLA-protected leave, *you must specifically reference the qualifying reason or need for FMLA leave at the time of your request to be away from work.* It is not sufficient to simply “call in sick” without providing additional information which would reasonably cause the Village of Melrose Park to believe your absence/time away from work may qualify as an FMLA qualifying event. In all cases in which you are seeking leave under this policy, you shall provide such notice to the Village of Melrose Park consistent with the Village of Melrose Park’s established call-in procedures so long as no unusual circumstances prevent you from doing so. Failure to comply with the call-in procedures may result in a delay or denial of FMLA protected leave.

You must make an effort to schedule a leave so as not to disrupt business operations. During the leave, you may be required to report periodically on your status and your intention to return to work. Any extension of time for your leave of absence must be requested in writing prior to your scheduled date of return to work, together with written documentation to support the extension. Your failure to either return to work on the scheduled date of return or to apply in writing for an extension prior to that date will be considered to be a resignation of employment

effective as of the last date of the approved leave. Employees on leaves for their own serious health condition must provide fitness-for-duty releases from their health care provider before they will be permitted to return to work. Your maximum time on a leave of absence, all types combined, and including all extensions, cannot exceed a total of twelve (12) weeks in a rolling twelve month period, unless you are a spouse, child, parent, or next of kin on leave to care for a Covered Service member, in which case your leave can last for up to twenty-six (26) workweeks in a single twelve (12) month period.

An Employee shall not be granted a leave of absence for the purpose of seeking or taking employment elsewhere or operating a private business. Unauthorized work while on a leave of absence will result in disciplinary action, up to and including discharge.

A leave of absence will not affect the continuity of your employment. Your original date of employment remains the same for seniority purposes. However, you will not accrue any benefits during the period you are on a leave.

10. Employee Benefits During Family and Medical Leave of Absence. You will be permitted to maintain health and dental insurance coverage for the duration of the leave under the same conditions coverage would have been provided if you had remained actively at work. However, you must make arrangements for the continuation of and payment of insurance premiums before you go on leave status. If you do not return to work after the leave, or if you fail to pay your portion of the premiums, you will be required, under certain circumstances, to reimburse the Village of Melrose Park for the costs and expenses associated with insuring you during the leave.

11. Return From a Family and Medical Leave. If you return from your leave on or before being absent for twelve (12) workweeks in a rolling twelve (12) month period or twenty-six (26) workweeks during a single twelve (12) month period if you took a leave under the Service member Family Leave provision, you will be restored to the same or to an equivalent position to the one you held when the leave started. Of course, you have no greater right to reinstatement or to other benefits and conditions of employment than if you had been continuously employed during the FMLA leave period. In determining whether a position is "equivalent" we would look at whether the position had substantially similar terms and conditions of employment and whether the position entails similar duties, skills, efforts, responsibilities, authority, privileges and status. The alternative position should be at the same worksite or a nearby worksite with a similar work schedule. However, the employee does not need to be reinstated in a position with the same job title or in the same physical office or cubicle as the prior position.

If the leave was due to your own serious health condition, you will be required to submit a fitness-for-duty certification from your health care provider in accordance with our normal policies and practices applicable to other leaves of absence, certifying that you are able to resume work and perform the essential functions of the job (either with or without a reasonable accommodation). A list of the essential job functions will be made available to you for compliance with this requirement prior to the Village of Melrose Park designating your leave as FMLA leave. If a reasonable job safety concern exists, you also may be required to provide a fitness for duty certification up to once every 30 days before returning from an intermittent or reduced schedule FMLA leave related to your own serious health condition. Generally, a

returning employee will be permitted to return to work within two (2) business days of the Village of Melrose Park's receipt of a valid fitness for duty release.

If you fail to return to work at the expiration of your approved Family and Medical Leave, it will be considered to be a resignation of your employment with us. Likewise, an employee on FMLA leave who provides notice of their intent not to return to work upon expiration of a leave will lose their entitlement to FMLA leave and related benefits.

12. Key Employees. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the Village of Melrose Park's operations. A "key" employee is a salaried Employee who is among the highest paid 10% of Employees at that location, or any location within a 75-mile radius. Employees will be notified of their status as a key employee, when applicable, after they request a Family and Medical Leave.

13. Coordination with Other Policies. You must substitute any accrued paid vacation days, personal time, and sick days (if you otherwise qualify) for unpaid leave under this policy, and any such paid time off must be taken concurrently with your Family and Medical Leave. If you otherwise qualify for disability pay, you will collect it at the same time you are on unpaid Family and Medical Leave.

Further, if you otherwise qualify for any other type of leave of absence, you must take that leave at the same time as you are taking your Family and Medical Leave. All time missed from work that qualifies for both Family and Medical Leave, and for workers' compensation, will be counted toward your Family and Medical Leave. To receive any type of paid time off benefit while on FMLA leave, you are required to meet the Village of Melrose Park's conditions for taking the paid leave (although the Village of Melrose Park may in its discretion waive any procedural requirement for the paid leave in appropriate circumstances).

14. Anti-Retaliation Provisions. Be assured that no retaliation will be taken or tolerated against any employee who exercises his/her rights under our FMLA policy. If you feel that you have been the victim of any discrimination or retaliation under this Policy, you are encouraged to contact Village's Human Resources Department so that the matter can be promptly investigated and remedied as appropriate."

Section 11.00. Other Actions.

A copy of this policy shall be promptly distributed to all current Village employees and to all new Village employees. The policy shall be incorporated into subsequent printings of the Employee Manual. The Village shall also post the most current version of the U.S. Department of Labor FMLA poster titled "Employee Rights and Responsibilities" at every location and facility where Village employees and applicants may view the poster. The Village shall also take all other actions necessary and appropriate to implement the policy.

Sections 12.00 – Section 15.00 Reserved.

**ARTICLE III.
SAVINGS CLAUSES,
PUBLICATION, EFFECTIVE DATE**

Section 16.00 Headings.

The headings for the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provisions of this Ordinance.

Section 17.00 Severability.

The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, subparagraph, section or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision, clause, sentence, paragraph, subparagraph, section or part shall be excluded and deemed inoperative, unenforceable and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the Village Board that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, subparagraph, section or part thereof been included.

Section 18.00 Repeal of Prior Ordinances.

All prior ordinances and resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

Section 19.00 Publication.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

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Section 20.00 Effective Date.

This Ordinance shall be in full force and effect upon its passage, approval and publication, as provided by law.

On The Individual Poll And Voice Vote Of The Board of Trustees:

AYE VOTES: Trustee Italia, Trustee Prignano, Trustee Mota,
Trustee Taconi, Trustee Anguiano, Trustee Abruzzo

NAY VOTES:

ABSTAIN:


ABSENT:

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS TWENTY-SECOND DAY OF JUNE, 2009.

APPROVED:


RONALD M. SERPICO,
VILLAGE PRESIDENT

ATTEST:


Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: June 22, 2009
Published in pamphlet form: June 23, 2009