

VILLAGE OF VERNON HILLS

ORDINANCE 2014-041

AN ORDINANCE AMENDING CHAPTER 17 OF THE VERNON HILLS CODE OF
ORDINANCES TO CREATE ARTICLE V - ADMINISTRATIVE PROCEDURE TO
DETERMINE ELIGIBILITY UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT

THE 21st DAY OF OCTOBER 2014

Published in pamphlet form by the Authority of the
President and Board of Trustees of the Village of
Vernon Hills, Lake County, Illinois, this 22nd Day
of October, 2014

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**AN ORDINANCE AMENDING
CHAPTER 17 OF THE VERNON HILLS
CODE OF ORDINANCES TO CREATE
ARTICLE V - ADMINISTRATIVE
PROCEDURE TO DETERMINE
ELIGIBILITY UNDER THE PUBLIC
SAFETY EMPLOYEE BENEFITS ACT**

WHEREAS, the Village of Vernon Hills is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village pursuant to its home rule powers has authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the public health, safety and welfare of its citizens; and

WHEREAS, the Village, under its home rule authority, and pursuant to Pedersen vs. Hoffman Estates (2014 Il Ap (1st) 123402), has the authority to establish an administrative procedure for determining claims for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.), subject to judicial review by seeking a common law writ of certiorari; and

WHEREAS, the President and Board of Trustees of the Village of Vernon Hills have adopted the "Public Safety Employee Benefit Act Procedure" by Resolution 2011-139; and

WHEREAS, as a result of the Illinois Appellate Court decision in Pedersen vs. Hoffman Estates, the Village now desires to amend its Procedure by deleting the "PSEBA Hearing Process" and "PSEBA Application Procedure" sections of the Procedure and to adopt the following procedure and finds that this is in the best interest of the municipality and its citizens.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Vernon Hills, Lake County, Illinois, as follows:

Section 1: That Chapter 17 Police of the Code of Ordinances is hereby amended to create a new Article V entitled "Administrative Procedures to Determine Eligibility Under the Public Safety Employee Benefits Act;" and

Section 2: That Article V shall read as follows:

ARTICLE V

ADMINISTRATIVE PROCEDURE TO DETERMINE ELIGIBILITY UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT

Section 1. PURPOSE

The purpose of this chapter is to provide a fair and efficient method of determining the eligibility of an employee for the benefits enumerated under the Public Safety Employee Benefits Act ("PSEBA") through an administrative process, including if necessary, an administrative hearing. All benefits provided employees pursuant to PSEBA will be consistent with PSEBA.

Section 2. APPLICATION PROCEDURE

A. Public safety employees or family members of an injured or deceased Public Safety Officer in the event the employee is not capable of taking this action ("Applicant") must file with the Village Manager a full and complete PSEBA application as described in more detail in this Section 2, in writing, within thirty (30) days of filing a pension claim, or within thirty (30) days of the date of the adoption of this Ordinance in the event that an Applicant has filed for a pension claim prior to date of adoption of this Ordinance, whichever is later, if the Applicant is seeking benefits under PSEBA. Failure to timely file the full and complete application with the Village Manager shall result in a forfeiture of the benefits under PSEBA. Upon request, the Village shall furnish a Public Safety Employee Benefit Act Application to the Applicant. PSEBA applications are also available from the Village Manager, Finance Director or on line through the Village's intranet (HR website).

B. Any Applicant seeking benefits under the Act shall complete the application provided by the Village, and include the public safety employee's or family member's firsthand knowledge explaining how the disability injury/death directly resulted from:

- i) A police officer's response to fresh pursuit;
- ii) A police officer's response to what is reasonably believed to be an emergency;
- iii) A police officer's response to an unlawful act perpetrated by another; or
- iv) A police officer's participation during the investigation of a criminal act.

C. The Public Safety Employee Benefit Act Application must be sworn and notarized to certify the truthfulness of the content of the information contained in the completed application, along with a signed PSEBA medical authorization release, and a signed PSEBA general information release. Both the PSEBA medical and PSEBA general information releases authorize the collection of information related to the incident including, but not limited to, the disability pension proceedings, worker's compensation records and medical records. A review of the Application will not occur until the Application is complete including the medical releases.

D. The complete application must include the name of employee, date of hire, detailed information regarding the incident, (including date, time, place, nature of injury, any other factual circumstances surrounding said incident giving rise to said claim), witnesses to the incident, witnesses the Applicant intends to call at the PSEBA hearing, information and supporting pension documentation filed with the Police Pension Board and any Police Pension Board determination or ruling, information supporting the PSEBA eligibility requirements, a signed PSEBA medical authorization release, a PSEBA general information release authorizing the collection of information as set forth in Section C above, and if applicable, other sources of health insurance benefits currently enrolled in or received by the employee and or family members if the employee is deceased.

E. The PSEBA medical information release must specify name and address information for pertinent health care provider(s) and hospital(s), along with employee's and/or his/her authorized representative's signature and witness signature.

F. The PSEBA general information release must specify name and signature of employee or his/her authorized representative along with legal proof of said representation along with name and signature of witness authorizing the collection of information pertinent to the incident review process.

G. On the date that the PSEBA application is deemed complete by the Village, the completed application, which will include a completed PSEBA application, PSEBA medical release and PSEBA general information release, shall then be submitted to the Village Manager, as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.

H. Upon receipt of a complete application for PSEBA benefits timely filed, the Village Manager shall review the Application and supporting documents to make an initial determination as to whether or not an administrative hearing is required to determine whether to:

- a. Grant benefits based upon the facts on the application as it stands;
- b. Set matter for an administrative hearing before a Hearing Officer to make a determination based on the result of an administrative hearing.
- c. Enter such other finding as is consistent with the evidence or by agreement of the Applicant and the Village.

I. If the Village Manager grants the benefit based on the Preliminary Record as it stands, the Applicant will be contacted, by the Village Manager's Office, within thirty (30) days of the decision. The Applicant will be required to contact the Finance Director for benefit explanation and processing.

J. If the Village Manager denies the benefit based on the Preliminary Record as it stands, the Applicant will receive written notice of such denial and the Applicant shall have the right to request an administrative hearing which must be served in writing to the Village Manager not later than thirty (30) days after being served with written notice of the denial. Upon receipt of a timely notice from the Applicant, the Village Manager shall schedule an administrative hearing and serve the Applicant with Notice of the Administrative Hearing.

K. If the Applicant, upon receiving written notice of denial, chooses not to request an administrative hearing, the Applicant will be required to contact the Finance Director to discuss other options in which the Applicant may be eligible to participate.

L. If the Village Manager determines the matter requires an administrative hearing, the Applicant will be given written notice of such decision along with a date for the scheduled administrative hearing.

M. If the Applicant, upon receiving written notice of the administrative hearing date, cannot attend said date as indicated in the Notice of Administrative Hearing, the Applicant must contact the Hearing Officer within seven (7) days after being served with notice of the administrative hearing, communicating alternative hearing date(s) which are within close proximity of the original date indicated by the Hearing Officer. Failure to appear may result in denial of benefits.

Section 3. ADMINISTRATIVE COMPOSITION

The administrative hearing shall be scheduled, which hearing shall be comprised of a hearing officer whose power and authority and limitations are as follows:

A. Power of the Hearing Officer. The hearing officer shall have all of the powers granted to him under common law relative to the conduct of an administrative hearing including the power to:

- 1) preside over all village hearings involving PSEBA;
- 2) administer oaths;
- 3) hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;
- 4) issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
- 5) rule upon objections in the admissibility of evidence;
- 6) preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;
- 7) issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

B. Hearing Officer. The Mayor with the consent of the Board of Trustees is hereby authorized to appoint a person to hold the position of a hearing officer for each and every individual hearing that shall come before this Village. In making said selection, the Mayor shall consider all pertinent information including, at a minimum:

- 1) the candidate's ability to comply with the job description as set forth herein;
- 2) background and performance data made available to the Mayor on file with the Village or otherwise obtained by the Village;
- 3) the candidate must be an attorney licensed to practice law in the State of Illinois for at least three (3) years and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

Section 4. PROCEDURE

The system of administrative hearings for determination of eligibility for benefits under PSEBA shall be initiated either by the Village Manager or by an Applicant after the submission of a full and complete PSEBA application as described in more detail in Section 2 requesting the benefits enumerated under PSEBA and requesting the setting of a hearing to determine eligibility to receive said benefits.

Section 5. ADMINISTRATIVE HEARING

An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act

A. Time and date. Hearings shall be held on the date, time and place as established by the Village with appropriate notice served upon the Applicant.

B. Record. The Applicant, at Applicant's expense, shall ensure that all hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Village at Applicant's expense within fourteen (14) days of the date of the PSEBA hearing.

C. Procedures. The Village and the Applicant shall be entitled to representation by counsel at said hearing and may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

D. Evidence. The rules of evidence as set forth in the Illinois Code of Evidence shall apply.

E. Final Determination. The determination by the hearing officer of whether the petitioning Applicant is eligible for the benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) shall constitute a final administrative determination for the purpose of judicial review under the common law writ of *certiorari*.

F. Burden of Proof. At any administrative hearing the Applicant shall have the obligation and burden of proof to establish that the Applicant is qualified to receive the benefits.

G. Administrative Records. All records pertaining to the administrative process will be held in a separate file in the employee's name within the Finance Department of the Village.

Section 6: SEVERABILITY

If any section, paragraph, clause, phrase or part of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of this ordinance, and the application of these provisions to any person or circumstances shall not be affected thereby.

Section 7: CONFLICT

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 8: PUBLICATION OF ORDINANCE

The Village Clerk is authorized to publish this ordinance in pamphlet form.

Section 9: EFFECTIVE DATE

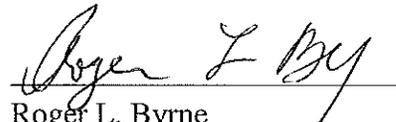
This Ordinance shall be in full force and effect immediately from and after its passage and approval.

Adopted by roll call vote as follows:

AYES: 7 – Williams, Koch, Schultz, Koch, Schwartz, Marquardt, Byrne

NAYS: 0 - None

ABSENT AND NOT VOTING: 0 - None



Roger L. Byrne
Village President

PASSED: 10/21/2014

APPROVED: 10/21/2014

PUBLISHED IN PAMPHLET FORM: 10/22/2014

ATTEST:

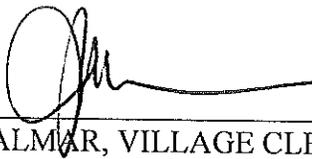


John Kalmar
Village Clerk

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, JOHN M. KALMAR, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE 2014-041 AN ORDINANCE AMENDING CHAPTER 17 OF THE VERNON HILLS CODE OF ORDINANCES TO CREATE ARTICLE V - ADMINISTRATIVE PROCEDURE TO DETERMINE ELIGIBILITY UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM OCTOBER 22, 2014 TO NOVEMBER 3, 2014.



JOHN M. KALMAR, VILLAGE CLERK

SUBSCRIBED AND SWORN TO BEFORE
THIS 22nd DAY OF OCTOBER 2014



Notary Public