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# AGREEMENT

between

**VILLAGE OF HIGHLAND FALLS**

and

**HIGHLAND FALLS  
PATROLMEN'S BENEVOLENT ASSOCIATION, INC.  
(Part-time Police Officers)**

**JUNE 1, 2001 THROUGH MAY 31, 2004**

**RECEIVED**

**JUN 13 2005**

**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

Highland Falls PT PO 2001-2004 Agr

6/13/05  
Signed 9/1/05

5

## TABLE OF CONTENTS

	<u>PAGE</u>
Preamble .....	1
Article I Definitions .....	1
Article II Statement of Policy .....	1
Article III Recognition of PBA .....	2
Article IV Rights of Employer .....	2
Article V Base Hourly Rate.....	3
Article VI Work Schedule .....	3
Article VII Court Appearances and Call In.....	4
Article VIII Uniforms, Equipment and Personal Property .....	4
Article IX Retirement .....	6
Article X Layoffs.....	6
Article XI Holidays.....	6
Article XII Line of Duty Injury and Pay.....	6
Article XIII Grievance Procedure .....	7
Article XIV Disciplinary Procedure and Personnel Files .....	9
Article XV Leave of Absence .....	10
Article XVI Legal Representation of Police.....	10
Article XVII Police Safety.....	11
Article XVIII General Provisions.....	11
Article XIX Labor/Management Committee .....	11
Article XX Alcohol and Substance Abuse Policy and Procedure .....	12
Article XXI Severability .....	12
Article XXII Legislative Action for Approval .....	12
Article XXIII Duration of Agreement .....	13
Article XXIV Re-Negotiation .....	13
Article XXV Conclusion of Agreement.....	13
Signature Page .....	13
Appendix "A" Alcohol and Substance Abuse Policy and Procedure .....	14

## PREAMBLE

This Agreement made and entered into this \_\_\_ day of \_\_\_\_\_ 2003 by and between the **VILLAGE OF HIGHLAND FALLS** and the **HIGHLAND FALLS PATROLMEN'S BENEVOLENT ASSOCIATION, INC.**, representing all Part-time Police Officers.

## ARTICLE I

### DEFINITIONS

1. For the purposes of this Agreement, the following terms shall be defined as follows:
  - A. **Village** - shall mean the Village of Highland Falls, the Village Board of said Village or any designated representative thereof,
  - B. **PBA** - shall mean the Highland Falls Patrolmen's Benevolent Association, Inc.
  - C. **Police Officers** - shall mean all part-time Police Officers.
  - D. **Tour of Duty** - shall mean the work schedule currently in existence.

## ARTICLE II

### STATEMENT OF POLICY

It is the policy of the Village to continue harmonious and cooperative relationships with its Police Officers and to insure orderly and uninterrupted operation of government. This policy is effectuated by the provisions of the Public Employees' Fair Employment Act granting Police Officers the rights of organizational representation concerning the determination of terms and conditions of employment.

## ARTICLE III

### RECOGNITION OF PBA

1. The Village, pursuant to the Civil Service Law and in accordance with the provisions of the General Municipal Law of the State of New York, hereby recognizes the PBA as the sole and exclusive representative for collective negotiations with respect to wages, hours of work and other terms and conditions of employment for all part time Police Officers.
2. The PBA shall have access to said Police Officers and shall be able to meet with them at any time so long as work schedules are not affected.
3. Dues Deductions/Agency Shop Fee

Upon the written authorization of a Police Officer and unless he/she subsequently revokes such written authorization, the Village shall deduct PBA membership dues from the Police Officer's bi-weekly pay in the amount specified in the written authorization or Agency Shop Fee, as established by the PBA, for each week or any part thereof, whether worked or not, including all arrears, if any. The amounts so deducted shall be forwarded to the PBA after each payroll period payable to the PBA.

## ARTICLE IV

### RIGHTS OF EMPLOYER

1. It is understood and agreed that the Village retains all of the authority, rights and responsibilities possessed by the Village over the Police Officers under applicable laws and regulations of the State of New York and subsequent amendatory legislation and the Rules and Regulations of the Village of Highland Falls Police Department as adopted by the Village.
2. The PBA shall not engage in a strike, sit-in, slowdown, massive sick call; nor cause, instigate, encourage or condone same. The PBA shall exert its best efforts to prevent and terminate any strike, sit-in, slowdown, massive sick call.
3. The PBA recognizes that the management of the Department, the control of the properties and the maintenance of order and efficiency are sole responsibilities of the Village. Accordingly, the Village retains all rights to selection and direction of the working forces; to hire, suspend or discharge for cause, to make reasonable and binding rules which shall not be inconsistent with this Agreement; to assign, promote or transfer; to determine the amount of overtime to be worked; to relieve Police Officers from duty because of lack of work or for other legitimate reasons; to decide on the number and location of facilities, stations, etc., and to determine the work to be performed, amount of supervision

necessary, procurement, designing, engineering and the control of equipment and materials.

4. The above rights are not all-inclusive but indicate the type of matters or rights which belong to and are inherent to the Village. Any and all rights, powers and authority the Village had prior to entering this Agreement are retained, except as expressly and specifically abridged, delegated, granted or modified by this Agreement.
5. The Village shall have the right to institute a "lag" payroll with a "lag" of up to two (2) weeks and/or a bi-weekly pay period, provided however, that the Village gradually institutes such "lag" payroll at the rate of one (1) day per pay period until the entire two (2) week "lag" period is accomplished, and such "lag" period must affect all Village Police Officers.

## ARTICLE V

### BASE HOURLY RATE

The Base Hourly Rate schedule is as follows.

<u>Step</u>	<u>Years of Service</u>	<u>6/1/01</u>	<u>6/1/02</u>	<u>6/1/03</u>
1	Starting	\$12.64/hr	\$13.15/hr	\$13.68/hr
2	Starting 2 <sup>nd</sup> Year	\$13.42/hr	\$13.96/hr	\$14.52/hr
3	Starting 3 <sup>rd</sup> through 4 <sup>th</sup> Years	\$13.94/hr	\$14.50/hr	\$15.08/hr
4	Starting 5 <sup>th</sup> through 6 <sup>th</sup> Years	\$14.72/hr	\$15.31/hr	\$15.92/hr
5	Starting 7 <sup>th</sup> Year and Above	\$17.00/hr	\$17.68/hr	\$18.39/hr

Each Police Officer shall move to the next Step on his/her anniversary date (date of hire) with the Village.

## ARTICLE VI

### WORK SCHEDULE

1. Each Police Officer shall provide his/her availability to work the scheduled tours of duty currently in existence to the Chief of Police or designee, no later than the tenth (10th) day of each calendar month for the ensuing month to be worked. Seniority (date of hire as Police Officer with the Village) shall have preference, if submitted as set forth herein, up to the first (1st) twenty-four (24) hours in each week submitted for that month. Thereafter, a tour of duty may be assigned based on the submission of availability. The Chief of Police or designee shall post the work schedule no later than the twentieth (20th) calendar day of each calendar month for the ensuing month to be worked.

2. After the work schedule has been posted, no Police Officer shall be removed or taken off that schedule, without the mutual consent of the Police Officer.
3. In the event a vacancy occurs, seniority shall be used to fill the tour of duty.
4. A Police Officer who works more than forty (40) hours in any workweek, shall be paid at the rate of time and one-half (1.5X) their hourly rate of pay.

## **ARTICLE VII**

### **COURT APPEARANCES AND CALL IN**

1. Appearances in the Town of Highland Court, Family Court, Grand Jury, County Court, Motor Vehicle Hearings, etc.:
  - a. A Police Officer shall be paid at his/her regular base wage hourly rate, for all court appearances outside his/her regularly scheduled tour of duty.
  - b. A Police Officer scheduled to appear in court under the above guidelines shall be guaranteed a minimum of two (2) hours of pay, or the actual time worked, whichever is greater.
2. Call In - A Police Officer who is called in when not scheduled to work, shall be guaranteed a minimum of three (3) hours of pay, or the actual time worked, whichever is greater.

## **ARTICLE VIII**

### **UNIFORMS, EQUIPMENT AND PERSONAL PROPERTY**

1. All new Police Officers shall receive an initial uniform and equipment allotment by the Village as set forth herein, at no cost to that Police Officer:
  - 2 short sleeve shirts
  - 2 long sleeve shirts
  - 2 service pants
  - 2 hats (one summer and one winter)
  - 2 jackets (one summer and one winter)
  - 1 reflective orange full length raincoat
  - 2 uniform ties
  - 1 tie clip

- 1 pair of shoes
- 1 pair of boots
- 1 pair of gloves
- 1 set of color insignias
- 1 shield/badge
- 1 name plate
- 1 bullet proof vest
- 1 garrison belt
- 1 complete gun belt to include:
- 1 hand cuff case
- 1 cap stun case
- 4 keepers
- 1 flashlight holder
- 1 pr 24 holder/baton holder
- 1 double speedloader case or magazine case
- 2 speedloaders or magazines
- 1 set of handcuffs
- 1 container of capstun (no less than 5%)
- 1 straight baton or 1 pr 24 baton
- 1 service weapon holster

In the event the Village or Chief of Police requires uniforms and equipment in addition to what is set forth above, the Village shall provide, at no cost to the Police Officer, those articles. Thereafter, those articles shall become part of the initial issue.

2. The Village shall provide a cleaning allowance to each Police Officer to be paid on June 1<sup>st</sup> and December 1<sup>st</sup> of each year as follows:

6/1/01	-	300 hours or more (6/1 - 11/30) = \$105.00
		300 hours or more (12/1 - 5/31) = \$105.00
6/1/02	-	300 hours or more (6/1 - 11/30) = \$115.00
		300 hours or more (12/1 - 5/31) = \$115.00
6/1/03	-	300 hours or more (6/1 - 11/30) = \$125.00
		300 hours or more (12/1 - 5/31) = \$125.00

3. The Village shall, at its expense, supply each Police Officer with up to 50 rounds of ammunition per Police Officer, semi-annually, to be delivered as is needed for training. The Village will provide firearms training for Police Officers on an annual basis.
4. Repair of service weapons shall be at the expense of the Village.
5. Any personal property damaged or destroyed while performing in the line of duty shall be repaired or replaced at the expense of the Village, up to a maximum of one hundred dollars (\$100.00) per item.



**ARTICLE IX**

**RETIREMENT**

The Village shall pay the cost in full of a retirement plan for all police officers. Such retirement plan shall be the "noncontributory", 20 year Career Plan (Section 384-d, New York State Retirement and Social Security Law).

**ARTICLE X**

**LAYOFFS**

The parties agree that in the event of any layoffs involving Police Officers covered by this Agreement, that it will be based on seniority (date of hire as a Police Officer with the Village), with the least senior Police Officer being affected first.

**ARTICLE XI**

**HOLIDAYS**

A Police Officer who works on any of the following holidays, or any part of a holiday, shall be paid at the rate of one and one-half times (1.5X) their hourly rate:

- | <u>6/1/01</u>       | <u>6/1/02</u>         | <u>6/1/03</u>            |
|---------------------|-----------------------|--------------------------|
| 1. New Year's Day   | 1. New Year's Day     | 1. New Year's Day        |
| 2. Memorial Day     | 2. Lincoln's Birthday | 2. Lincoln's Birthday    |
| 3. Independence Day | 3. Memorial Day       | 3. Washington's Birthday |
| 4. Labor Day        | 4. Independence Day   | 4. Memorial Day          |
| 5. Thanksgiving Day | 5. Labor Day          | 5. Independence Day      |
| 6. Christmas Day    | 6. Thanksgiving Day   | 6. Labor Day             |
|                     | 7. Christmas Day      | 7. Thanksgiving Day      |
|                     |                       | 8. Christmas Day         |

**ARTICLE XII**

**LINE OF DUTY INJURY AND PAY**

For the purpose of General Municipal Law Section 207-c, a Police Officer's "regular salary or wages" to be paid by the Village to a Police Officer injured in the line of duty shall be based upon the average number of hours per week worked during the year immediately preceding the injury.

## ARTICLE XIII

### GRIEVANCE PROCEDURE

In order to establish a more harmonious and cooperative relationship between the Village and its Police Officers, which will enhance the police protection program of the Village of Highland Falls, it is hereby declared to be the purpose of these procedures to provide a means for the orderly settlement of differences promptly and fairly, as they arise and to assure equitable and proper treatment of Police Officers pursuant to established rules, regulations and policies of the Village. The provisions of these procedures shall be liberally construed for the accomplishment of this purpose.

#### I. **Informal Stage**

- A. The grievance shall be orally presented to the immediate supervisor who shall orally and informally discuss the grievance with the aggrieved. The time to file a grievance is sixty (60) calendar days. The immediate supervisor shall render a determination to the aggrieved within five (5) days after the grievance has been presented. If such grievance is not resolved to the satisfaction of the aggrieved at this stage, it may proceed to the formal stage.
- B. A grievance is a dispute or difference of opinion concerning the meaning, interpretation or application of the express provisions of this Agreement.

#### II. **Formal Stage**

- A. Within five (5) days after a determination has been made at the informal stage the aggrieved may make a written request to the Chief of Police with a copy to the immediate supervisor for review and determination. If the Chief of Police designates a person to act on his or her behalf, he or she shall also delegate full authority to render a determination on his or her behalf.
- B. The Chief of Police or his or her delegate shall render his or her determination within fifteen (15) days after the written statement has been presented to him or her.

#### III. **Board Stage**

- A. The aggrieved shall, within five (5) days of the final determination of the Chief of Police or his or her delegate, make a written request to the Village Board with a copy to the Chief of Police for review and determination. All written statements and records of the case shall be submitted to the Village Board. The Mayor, with the Village Board's approval, shall provide a written determination not later than thirty (30) calendar days after receipt of the grievance.

#### **IV. Arbitration Stage**

- A. If the Police Officer(s) and/or the PBA is not satisfied with the decision at the Board Stage and the PBA determines the grievance is meritorious, it may submit the grievance to arbitration by written notice to the Village Board within fifteen (15) days of the decision at the Board Stage.
- B. Within five (5) days after written notice of submission to arbitration, either party may submit the grievance to the American Arbitration Association for the selection of a mutual Arbitrator under the rules of the American Arbitration Association. The parties will then be bound by the rules of the American Arbitration Association in selection of an Arbitrator.
- C. The selected Arbitrator will hear the matter promptly and will issue a decision no later than thirty (30) calendar days from the date of the close of hearing, or if oral hearings have been waived, then from the date the final statements and proofs are submitted.
- D. The Arbitrator shall have no power or authority to make any decision which requires the commission of an act prohibited by law or which is in violation of any term of this Agreement. The Arbitrator shall have no jurisdiction, power or authority to amend, modify, supplement or vary any provision of this Agreement.
- E. The Arbitrator's award will final and binding on the parties.
- F. The cost of arbitration, including all fee expenses, shall be borne equally by the parties.

#### **Basic Principles:**

- I. It is the intent of these procedures to provide for the orderly settlement of differences in a fair and equitable manner. The resolution of a grievance at the earliest stage is encouraged.
- II. A Police Officer(s) and/or PBA President or Vice-President shall have the right to present grievances in accordance with these procedures, free from coercion, interference, restraint, discrimination or reprisal.
- III. All Police Officers shall have the right to be represented at any stage of the procedure by the PBA and/or its counsel, or by a representative of the Police Officer's own choosing.

- IV. Each Police Officer who is a participant in the grievance procedure, either as an aggrieved party or as a representative of the PBA, shall be allowed such time off from regular duties as may be necessary to attend hearings for the processing of a grievance under these procedures without loss of pay or vacation or their time credits.
- V. Each party to a grievance shall have access at reasonable times to all written statements and records pertaining to such case.
- VI. All hearings shall be confidential.
- VII. It shall be the responsibility of the Village Board to give force and effect to these procedures. At each stage, it shall be the responsibility of the person to whom the grievance is submitted for determination to consider promptly each grievance presented and to make a determination within the authority delegated, within the time specified in these procedures.
- VIII. The purpose of these procedures is to assure equitable and proper treatment under the existing Agreement, laws, rules, regulations and policies which relate to or effect the person in the performance of his/her duty as a Police Officer.

#### **ARTICLE XIV**

##### **DISCIPLINARY PROCEDURE AND PERSONNEL FILES**

1. For the purposes of this Agreement, each Police Officer shall be afforded disciplinary rights, except as may be provided by law, according to the following cumulative hours worked to date, which starts with the date of hire as a Police Officer with the Village:
  - less than 2080 hours - no rights
  - over 2080 but less than 2,500 hours - Section 75 rights
  - over 2,500 hours - arbitration for termination

##### **Command Discipline - Informal Stage**

In the event that the Village determines that a formal procedure is not required due to the relatively minor infraction(s) of the Police Department's Rules and Regulations, the affected Police Officer(s) shall be afforded the opportunity to resolve the matter, with representation, through a written Stipulation of Settlement, setting forth the terms agreed upon between the parties.

The maximum penalty that may be imposed at this level by the Chief of Police is as follows:

- I. A written letter of counseling to be placed in the Police Officer's personnel file, which shall not exceed six (6) months; or
  - II. A written reprimand to be placed in the Police Officer's personnel file, which shall not exceed nine (9) months; and/or
  - III. Loss of seniority for the ensuing month submission of availability for work, in the event the Police Officer has missed twenty-five percent (25%) of their schedule tours of duty the preceding month, without a reasonable explanation as determined by the Chief of Police; and/or
  - IV. Be removed up to three (3) scheduled tours of duty.
2. Police Officers shall have the right to review their personnel files subject to the following procedure:

A Police Officer shall have an opportunity to review his/her personnel file maintained at his/her place of employment in the presence of his/her appointing authority and his/her representative upon five (5) days notice and to place in such file a written response of reasonable length to anything contained therein which such Police Officer deems to be adverse. Notwithstanding any of the above, pre-employment material shall be privileged and shall not be made available to such Police Officer.

## **ARTICLE XV**

### **LEAVE OF ABSENCE**

1. The matter of leave of absence is, and shall remain, the sole right of the Village Board for whatever action they deem necessary and appropriate.
2. Such leave of absence shall be granted for good and sufficient cause, which cause shall be determined by the Village Board after presentation by the affected Police Officer to said Board of all facts relating to the request for said leave of absence.

## **ARTICLE XVI**

### **LEGAL REPRESENTATION OF POLICE**

1. In any action in the Justice Court of the Town of Highlands wherein a charge has been brought by a Police Officer as a complainant under the Penal Law of the State of New York, or under any other state, county or local statute, local law or ordinance for which a criminal penalty is imposed, and the office of the Orange County District Attorney has declined to prosecute said case on the grounds that said charge is not a Class B Misdemeanor or higher offense, the Village shall provide legal counsel for the prosecution of said case through the office of the Village Attorney when such charge is contested, provided that the District Attorney gives a written approval.

- A. In this context, a contested charge shall be defined as any action above in which the defendant(s) has retained legal counsel for defense and has demanded a trial. The penalties for violations and offenses shall be deemed criminal penalties for the purposes of this action.

## **ARTICLE XVII**

### **POLICE SAFETY**

1. No prisoner shall be transported in a vehicle from the scene of arrest unless:
  - A. The vehicle in which the prisoner is transported is equipped with a metal dividing screen separating the front seat from the back seat of said vehicle.
2. All police vehicles shall be inspected quarterly and must pass safety inspection for operation. Public safety vehicles will be given priority over non-safety vehicles for replacement and maintenance. Police Officers shall keep a logbook and be responsible for negligent operation.
3. During the months of May through September of each year, the Chief of Police retains the option to "flex" a Police Officer's starting and ending time of the "C" line tour of duty, up to a maximum of three (3) hours (example: "C" line - 6:00 p.m. to 2:00 a.m.) for bicycle patrol duties. However, it is agreed and understood by and between the parties, that Police Officers on bicycle patrol shall ride in pairs at all times or no such patrol shall occur. The fact that a Police Officer is working flexed hours shall not be a reason for being denied time off. The staffing levels during the coverage hours in which the Police Officers were flexed shall have two (2) other Police Officers working patrol duties.

## **ARTICLE XVIII**

### **GENERAL PROVISIONS**

There shall be a Sign-in/Sign-out sheet for each tour of duty.

## **ARTICLE XIX**

### **LABOR/MANAGEMENT COMMITTEE**

Authorized spokespersons for the Village and PBA, not to exceed three (3) members each, shall meet at the request of either party regarding such matters, but not limited to, safety and health, questions or differences of opinion concerning the administration of this Agreement,

or other terms and conditions of employment. The request shall be in writing, addressed to the Village Mayor or designee, or PBA President or designee, at their respective addresses, and shall contain a statement of the specific matter(s) to be addressed.

The labor/management meeting shall be scheduled at a mutually agreeable date and time. In the event the matter(s) alleges a grievance, the parties may agree to extend the time limits to file a grievance, in order to attempt to resolve the subject matter(s) as stated in the written request.

## **ARTICLE XX**

### **ALCOHOL AND SUBSTANCE ABUSE POLICY AND PROCEDURE**

See Appendix "A", attached hereto and made a part of this Agreement.

## **ARTICLE XXI**

### **SEVERABILITY**

1. In the event that any Article, section or portion of this Agreement is found to be invalid by decision of a tribunal of competent jurisdiction, then such specific Article, section or portion specified in such decision shall be of no force and effect, but the remainder of this Agreement shall continue in full force and effect.
2. In the event of the issuance of such decision, either party shall have the right to re-open negotiations with respect to a substitution for such Article or portion of the Agreement involved.

## **ARTICLE XXII**

### **LEGISLATIVE ACTION FOR APPROVAL**

**IT IS AGREED BY BOTH PARTIES THAT ANY ARTICLE, SECTION OR PORTION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR PROVIDING THAT ADDITIONAL FUNDS THEREFORE BE MADE AVAILABLE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE BODY HAS GIVEN APPROVAL. THE PROVISIONS OF SAID ARTICLE, SECTION OR PORTION SHALL BE RETROACTIVE TO THE DATE OF THIS AGREEMENT UPON APPROVAL BY THE APPROPRIATE BODY.**

**ARTICLE XXIII**

**DURATION OF AGREEMENT**

This Agreement shall become effective as of June 1, 2001 and shall terminate at the close of business on May 31, 2004.

**ARTICLE XXIV**

**RE-NEGOTIATION**

The parties agree to make a good faith effort to commence negotiations for a successor collective bargaining agreement on or about February 1<sup>st</sup> of the year in which the existing Agreement expires, but no later than March 1<sup>st</sup> of that year.

**ARTICLE XXV**

**CONCLUSION OF AGREEMENT**

The parties agree that in the event this Agreement expires, and there is no successor Agreement and/or compulsory interest arbitration award, all terms and conditions of employment shall remain in full force and effect until such time an Agreement and/or award is effectuated.

This Agreement is the entire agreement between the Village and the PBA and terminates all prior Agreements and concludes all negotiations during its term. During the term of this Agreement, neither party will unilaterally seek to change or modify the terms and conditions of this Agreement through legislative or administrative action, or by any other means. Both parties agree to jointly support any legislation or administrative action necessary to implement the terms of this Agreement. The parties acknowledge that they have fully negotiated with respect to the terms of this Agreement and to the conditions of employment and have settled them for the term of this Agreement in accordance with the provisions thereof

**HIGHLAND FALLS PATROLMEN'S  
BENEVOLENT ASSOCIATION, INC.**

**VILLAGE OF HIGHLAND FALLS**

By: \_\_\_\_\_  
Kenneth Scott, President

By: \_\_\_\_\_  
Joseph D'Onofrio, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## APPENDIX "A"

### ALCOHOL AND SUBSTANCE ABUSE POLICY AND PROCEDURE

#### I PURPOSE

The Village and the PBA are desirous of maintaining a safe, healthy and productive work environment for all employees and for the integrity of the Police Department. The parties hereby agree to this policy in order to prevent the use of controlled substances and abuse of alcohol by members of the Police Department and to provide treatment and rehabilitation for members who do so.

#### II PROHIBITED CONDUCT

- A. No employee shall report for duty or remain on duty if that employee has used any non-prescribed controlled substance.
- B. No employee shall possess any non-prescribed controlled substance, except as required for the performance of his/her duties.
- C. No employee shall use any non-prescribed controlled substance, either on or off duty.
- D. No employee shall report for duty when the employee has used alcohol within four (4) hours of the beginning of his/her tour of duty.
- E. No employee shall possess any alcohol while on duty, except as required for the performance of his/her duties.
- F. No employee shall consume any alcohol while on duty, except as required for the performance of his/her duties and only as authorized by the Chief of Police or Acting Chief of Police.
- G. No employee shall refuse to submit to any test to detect the presence of alcohol or controlled substances required under this policy or engage in any conduct which obstructs the proper and orderly administration of such a test.

### III USE OF PRESCRIPTION DRUGS

While prescription drugs are not prohibited, they should not render an employee unfit for duty. Situations of this nature should be brought to the supervisor's attention by the employee, especially if the employee's job responsibilities have an impact on the health and safety of others and/or has been identified as a safety sensitive position. These situations should be addressed confidentially on a case by case basis and it may be necessary for the employee's physician to clarify, in writing, that the substance does not adversely affect the employee's fitness for duty. The request for written clarification can only be made by the Chief of Police or Acting Chief of Police. When the use of a prescribed drug renders the employee unable to perform his/her duties, he/she shall be entitled to use any contractual leave time to his/her credit for any resulting absence. When the use of the prescription drug is to treat an injury or illness incurred in the performance of his/her duties, the employee shall be entitled to leave pursuant to General Municipal Law, Section 207-c.

### IV TYPES OF TESTING

- A. Random Testing - Each employee shall be subject to random testing for non-prescribed controlled substances. The maximum number of employees tested will be three (3) per calendar quarter. No employee will be randomly tested more than once in a calendar quarter.
- B. Reasonable Suspicion - When the Chief of Police or Acting Chief of Police observes an employee acting in a manner indicating a reasonable suspicion of possible use of a controlled substance or alcohol abuse, the Chief of Police or Acting Chief of Police may order that the employee to be tested pursuant to the Drug Testing Procedure, Section V or by a breathalyzer under Alcohol Testing in Section VIII. Reasonable suspicion that a member is abusing drugs exists when objective facts and observations are made by the Chief of Police or Acting Chief of Police and based upon the reliability and weight of such information he/she can reasonably infer or suspect that a member of the Department is abusing drugs or alcohol. Reasonable suspicion must be supported by specific articulable facts which may include, but are not limited to: reports and observations of the member's drug related activities (i.e., purchase, sale or possession of drugs, associations with known drug dealers or users, observation of the member's behavior or work performance and observed impairment of the member's ability to perform his/her duties.

### V DRUG TESTING PROCEDURES

Selection of employees to be tested on a random basis shall be performed by a computer program, which will randomly select the social security numbers of those to be tested. The random selection of an employee will result in that employee's social security number being removed from such selection process for that calendar year.

The employees who are selected shall be tested within thirty (30) calendar days of the date of the selection. In the event the test is not performed within such thirty (30) calendar day period, the Village shall be deemed to have waived its rights to require an employee to submit to a test pursuant to that particular selection.

The Chief of Police, as well as the PBA President or designee, will witness the selection. All representatives will affix their signatures to the random employee selection sheet and computer control sheet. The random selection of an employee(s) shall remain confidential.

Prior to testing, each employee shall complete an employee drug testing questionnaire listing all medications ingested during the preceding ten (10) calendar days. The questionnaire will be sealed in an envelope and the employee's name and date will be written on the outside. If the test results are negative, the envelope will remain sealed and be destroyed in the presence of the PBA President.

Employees will be excused from a random drug test if at the time of the selection for the particular test he/she is unavailable due to vacation, injury, sick leave, military leave and/or bereavement leave. Employees will not be recalled to duty for random testing on their regular scheduled days off.

## VI COLLECTION

The employee shall be ordered to submit to a drug and/or alcohol test and shall at the same time be given a brief verbal statement of the basis for either reasonable suspicion or if it's random testing. Refusal to submit to the test or to cooperate during the testing procedure shall constitute grounds for disciplinary action. A verbal direction to an employee to submit to a drug and/or alcohol test shall be confirmed in writing, but in no event shall the testing process be delayed pending issuance of such written direction. The direction to the employee shall be given in a confidential manner with due regard for the dignity and privacy of the individual employee.

If no prior meeting is held with the Chief of Police and the employee is ordered to submit to a test based on reasonable suspicion or is randomly selected as set forth herein, the employee will be advised of the right to have a Union representative present for collection of the sample, but in no event shall collection be delayed for more than two (2) hours to accommodate the presence of a Union official.

The sample collection process shall be confidential with due regard for the dignity and privacy of the employee, and shall be performed in accordance with standards promulgated by the NIDA. During the course of the collection process, the employee shall cooperate with requests for information concerning use of medications and acknowledgement of giving of the specimen. The details of the sample collection process shall be subject to the evaluation and review by the parties' designated labor management committee in accordance with the parameters set forth in this Agreement.

Any employee shall have the option, at the time of the test, to submit a second (2<sup>nd</sup>) specimen. The second (2<sup>nd</sup>) specimen shall be held in a sealed manner, initialed and dated by the Chief of Police, as well as the employee, and must be kept in a locked container maintained for this purpose within the Highland Falls Police Department. The container shall be locked with two (2) locks and the Chief of Police shall have access to the key to one lock and the PBA President, or designee, shall have access to the second (2<sup>nd</sup>) lock. This process is intended to ensure that access to such second (2<sup>nd</sup>) specimen may be obtained only with the consent of the PBA President or designee. The Chief of Police shall open his/her lock upon request to the PBA President or designee.

## VII LAB TESTING

The specimen shall be sent to a laboratory certified by the Department of Health and Human Services and tested for marihuana, cocaine, amphetamines, opiates and PCP. Any level which tests positive at the highest cutoff levels as used under federal regulations under CFR 40 on an initial screening test will be confirmed by Gas Chromatography/Mass Spectrometry (GC/MS). Only those specimens, which are confirmed as positive in the confirmatory GC/MS tests, are reported as such.

## VIII ALCOHOL TESTING

Upon reasonable suspicion to believe an employee is under the influence of alcohol, the Chief of Police may require any such employee to submit to an alcohol Breathalyzer test. A positive test for alcohol is any result of .05% or more. Reasonable cause to believe an employee is under the influence of alcohol exists when objective facts and observations are brought to the attention of the Chief of Police and based upon the reliability and weight of such information he can reasonably infer or suspect that an employee is under the influence of alcohol. Reasonable cause must be supported by specific articulable facts.

## IX RESULTS

Laboratory test results are reported to the Medical Review Officer (MRO), a physician knowledgeable in drug testing to be mutually agreed upon by the parties. Negative test results will be reported to the Chief of Police. The employee(s) will be notified of the results of their tests and provided a copy of the corresponding test results, as they become available.

X **POSITIVE DRUG OR ALCOHOL TEST RESULTS**

The Medical Review Officer (MRO) will investigate results, to determine if the positive test was caused by use of prescription medications in accordance with a doctor's prescription. Verification of positive opiates will follow federal regulations under CFR 40. If the positive test was caused by the medication with a valid prescription, the MRO will report the test to the Chief of Police as negative; otherwise, the MRO will verify the test results as positive.

An employee who tests positive may request the Village to cause the split (second (2<sup>nd</sup>)) specimen to be delivered to a different certified laboratory for testing at the Village's expense. Such a request must be made within seven (7) calendar days of an employee's notification of a positive test result.

If the test of the split specimen reports the presence of a controlled substance as "negative", then the first (1<sup>st</sup>) positive report is cancelled. If the test of the split specimen reports the presence of a controlled substance as "positive", then the results are reported as positive. The employee will remain on the working schedule until the results of the split specimen are confirmed.

Any employee whose test results in a positive report may, within seven (7) calendar days of receiving notification of the split specimen result, request in writing to the Chief of Police, that the second (2<sup>nd</sup>) specimen be made available for retesting at a licensed/certified laboratory from a list of such laboratories supplied. The Village will be responsible for the costs and expenses in connection with the retesting. If this retesting results in a negative report, the tests will be deemed negative and all specimens will be destroyed.

XI **ADMISSION OF DRUG OR ALCOHOL USE AND REQUEST FOR ASSISTANCE**

Prior to the giving of a urine sample for drug or alcohol testing pursuant to this procedure, an employee may notify the Chief of Police that he/she is abusing drugs or alcohol. An employee who has admitted to such conduct shall be permitted to enter a rehabilitation program for treatment. The time required to be absent from work for such rehabilitation shall be treated as any other illness pursuant to the contract and existing terms and conditions of employment between the Village and the PBA. An employee who admits to such conduct and enters and successfully completes a rehabilitation program shall not be subject to discipline. Any employee who has participated in a drug/alcohol rehabilitation program after being reinstated may be randomly tested on a periodic basis for one (1) year, not to exceed twelve (12) tests in said year.

## **XII CONSEQUENCES OF A VIOLATION OF THE DRUG AND ALCOHOL POLICY**

An employee who tests positive for alcohol or drug use may be suspended for no more than thirty (30) calendar days and will be required to submit to an evaluation by a substance abuse professional (SAP). If the SAP determines that treatment is necessary, the employee will be required to participate in and successfully complete a drug/alcohol rehabilitation program. A refusal to participate in or successfully complete rehabilitation as described herein shall constitute just cause for discharge. Successful completion includes participation in such follow-up care as is recommended by the rehabilitation provided. The employee must agree to give the Village access to such records of the rehabilitation program and will establish that the employee is cooperating in the recommended rehabilitation treatment. The results of any testing for drug/alcohol use performed by the rehabilitation program shall be made available to the Village.

Any employee who has successfully completed a drug/alcohol rehabilitation program after being reinstated may be randomly tested on a periodic basis for one (1) year, not to exceed twelve (12) tests in said year.

Any employee who violates the drug/alcohol policy for a second (2<sup>nd</sup>) time within five (5) years of each other shall be immediately suspended as set forth above and subject to discipline, up to and including dismissal in accordance with the Rules and Regulations of the Department and applicable provisions of law.