

ORDINANCE NO. 18-2015

AN ORDINANCE AMENDING THE EVERGREEN PARK MUNICIPAL
CODE BY ADDING CHAPTER 2, ADMINISTRATION, ARTICLE IX,
PUBLIC SAFETY EMPLOYEE BENEFITS ACT

JAMES J. SEXTON
Mayor

DANIEL F. McKEOWN
MARY KEANE
CAROL E. KYLE
MARK MARZULLO
JAMES A. McQUILLAN
MARK T. PHELAN
Trustees

CATHERINE T. APARO
Village Clerk

LOUIS F. CAINKAR, LTD.
Village Attorney

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WHEREAS, the Village of Evergreen Park is a home rule municipality duly operating under the Constitution and laws of the State of Illinois; and

WHEREAS, the Village, under its home rule powers, is authorized to establish administrative procedures for determining claims for benefits under the Public Safety Employee Benefits Act, 820 ILCS 320/1, *et seq.*; and

WHEREAS, as a result of Illinois Appellate Court decisions, it is in the best interest of the Village to create an administrative procedure to determine eligibility for benefits under the Public Safety Employee Benefits Act;

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

Section 1

That Chapter 2, Administration, of the Evergreen Park Municipal Code be amended by adding Article IX, Public Safety Employee Benefits Act, to read as follows:

Sec. 2-460. Application Process

A public safety employee, or family member of an injured or deceased public safety employee who is otherwise not capable of applying for benefits, must file with the Village Clerk a full and complete application, on a form provided by the Village, for benefits under the Public Safety Employee Benefits Act ("PSEBA"). Upon receipt of the application, and any supporting documentation necessary to make an initial determination, the information shall be submitted to the Village Treasurer. The Village Treasurer shall review the application and supporting documents to make an initial determination on whether:

1. The application for benefits should be granted or denied based upon the facts in the application and supporting documentation;
2. Set the matter for an administrative hearing to make a determination, based upon the results of the administrative hearing, on whether the application should be granted; and
3. Enter such other finding as is consistent with the evidence or by agreement of the applicant and the Village.

Sec. 2-461. Initial Grant or Denial of Benefits

If the Village Treasurer grants the benefits based upon the application and supporting documentation, the applicant will be contacted by the Village Clerk's office within 30 days of the decision. If the Village Treasurer denies the application for benefits, the applicant shall receive written notice of such denial from the Village Clerk's office. The notice of denial shall include the right to request an administrative hearing to appeal the initial determination. The applicant shall have the right to request an administrative hearing, in writing, within 30 days after being served with the written notice of denial. The applicant's failure to file a timely written request for an administrative hearing shall result in the forfeiture of benefits under the PSEBA. The administrative hearing officer shall preside over any hearing relating to a referral made by the Village Treasurer pursuant to Section 2-460(2) or an appeal of the Village Treasurer's denial of the application of benefits.

Sec. 2-462. Administrative Hearing Officer

- (a) *Appointment.* The Mayor, with the consent of the Board of Trustees, is hereby authorized to appoint a person to hold the position of an administrative hearing officer for each and every individual hearing that shall come before this Village.
- (b) *Qualifications for office.* The administrative hearing officer must be an attorney who has been licensed to practice law in the this state for at least three years and who has knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence and administrative practice. In addition, in making the administrative hearing officer appointment, the Mayor shall consider all pertinent information, including, at a minimum, the candidate's ability to comply with the requirements of the position and background and performance data made available to the Mayor, on file with the Village or otherwise obtained by the Village.
- (c) *Compensation.* The compensation to be paid for the administrative hearing officer at any individual hearing procedure shall be approved by the Mayor and Board of Trustees.
- (d) *Authority.* The administrative hearing officer shall have all of the powers granted to him under the common law relative to the conduct of an administrative hearing, including the power to:
 - (1) Preside over all hearings under the PSEBA;
 - (2) Administer oaths;
 - (3) Hear testimony and accept evidence that is relevant to the issue of benefits under the 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 introduced into evidence 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.

Sec. 2-463. Conduct of Hearing

- (a) *Scheduling.* An administrative hearing shall be held to adjudicate and determine whether the subject public safety employee is entitled to the benefits under PSEBA on the date, time and place as established by the Village with appropriate notice served upon the public safety employee. A pretrial hearing may be required in order to schedule the administrative hearing and to stipulate to certain facts.
- (b) *Record.* All hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter.
- (c) *Hearings rights.* The Village and the petitioning public safety employee 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) *Evidentiary standard.* The rules of evidence as set forth in the Illinois Code of Evidence shall apply.
- (e) *Final determination.* The determination of whether the petitioning public safety employee is entitled to the benefits of the PSEBA by the administrative hearing officer shall constitute a final determination for the purpose of judicial review under the common law writ of certiorari.
- (f) *Burden of Proof.* The applicant shall have the burden of proof to establish qualification for benefits by a preponderance of the evidence standard.

Section 2

This ordinance was passed pursuant to the Village of Evergreen Park's home rule powers under the Illinois Constitution.

Section 3

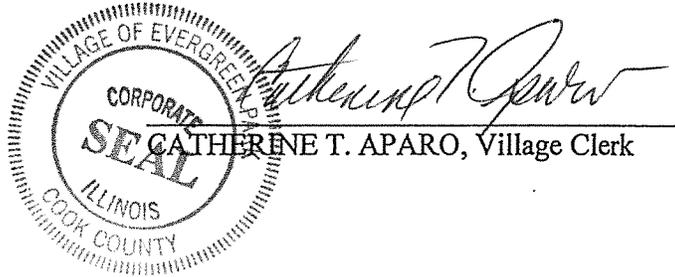
If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

Section 4

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

Section 5

This ordinance was passed and deposited in my office the 17th day of August, 2015.



APPROVED by me this 17th
day of August, 2015.

James J. Sexton
JAMES J. SEXTON, Mayor