

# Village of Avoca – Employment of the Village Clerk / Treasurer

Purpose: <b>Employment of the Village Clerk / Treasurer</b>						Policy <b>#28</b>	
Effective: <b>September 1, 2023</b>				Author: <b>Eric R. Tyner</b>			
Approved by Board:	Mayor:	Trustee:	Trustee:	Trustee:	Trustee:	Filed:	Clerk:
	<i>ERT</i>	<i>AJR</i>	<i>MSPS</i>	<i>WJG</i>	<i>AJH</i>		<i>CA</i>

This Village Policy sets forth the Agreement between the Village of Avoca and the appointed Village Clerk / Treasurer to include all duties and responsibilities as outlined for both parties.

**I. Purpose:**

To establish a standardized policy outlining the job duties and responsibilities of the appointed Village of Avoca Village Clerk / Treasurer for the Village of Avoca. This policy will also outline the compensation and benefits provided to the appointed Village of Avoca Village Clerk / Treasurer by the Village of Avoca on an annual basis as outlined in the annual budget for the Village of Avoca.

**II. Definitions:**

**A. Avoca Village Board of Trustees**

1. The Board of Trustees is the legislative body of a village. The Board of Trustees is comprised of the Mayor and four Trustees. The board may increase or decrease the number of trustees, subject to a permissive referendum.
2. The general powers of the Board of Trustees are set forth in Village Law § 4-412, which provides that: In addition to any other powers conferred upon villages, the Board of Trustees of a village shall have management of village property and finances, may take all measures and do all acts, by local law, not inconsistent with the provisions of the constitution, and not inconsistent with a general law except as authorized by the municipal home rule.
3. The Board of Trustees shall act expedient or desirable for the good government of the village, its management and business, the protection of its property, the safety, health, comfort, and general welfare of its inhabitants, the protection of their property, the preservation of peace and good order, the suppression of vice, the benefit of trade, and the preservation and protection of public works.
4. The Board of Trustees may create or abolish by resolution offices, boards, agencies and commissions and delegate to said offices, boards, agencies and

necessary for effectuating or administering the Board of Trustees duties and functions. This extremely broad grant of power enables the Board of Trustees to adopt a wide range of local laws to address village concerns if the action is not inconsistent with the constitution or certain State laws.

5. Trustees do not possess any inherent authority to supervise or direct the work of subordinate village officers or employees. The responsibility and power to supervise all subordinate village officers and employees is vested in the Village Mayor.

#### **B. Village Mayor:**

1. The Village Mayor is the Chief Executive Officer (CEO) of the Village of Avoca
2. Village Law § 4-400 empowers the Mayor to:
  - a. Preside at the meetings of the Board of Trustees within the parameters of the rules of procedure adopted by a majority vote of the Board of Trustees. The Mayor may vote on any matter before the board. The Mayor must vote in the case of a tie. While the Mayor has the power to preside over these meetings, the Mayor has only one vote, which is equal to the vote of each Trustee. Village Mayors do not have the power to veto any board action.
  - b. Appoint all non-elected officers and employees. Mayoral appointments are subject to approval by the Board of Trustees. The Mayor is permitted to vote on all board approvals of Mayoral appointments, in this case being the Village of Avoca Village Clerk / Treasurer.
  - c. Pursuant to Village Law § 4-400, the Mayor can appoint one of the Trustees to serve as Deputy Mayor, who serves in the Mayor's absence or inability to serve. This appointment is not subject to Board approval and the Deputy Mayor is vested with all the powers of the Mayor in his / her absence. The Mayor's appointment of the Deputy Mayor may be rescinded at any time.
  - d. The Mayor appoints individuals to fill vacancies in both elected and appointed offices when the vacancy occurs before the expiration of the official's term of office, to include the event if the Village Clerk / Treasurer position is vacated for any reason.
  - e. The Mayor shall enforce and prosecute all violations of the laws, rules, and regulations of the Village of Avoca and oversee any disciplinary action to be taken on any Village of Avoca employee or appointed official, to include the Village of Avoca Village Clerk / Treasurer. Any action by the Mayor shall be reported immediately to the Board of Trustees and a Special Meeting shall be called if deemed necessary to address any actions taken.
  - f. The Mayor shall be the supervising authority of the Village of Avoca Village Clerk / Treasurer and in the absence of the Village Clerk / Treasurer, the Deputy Clerk for the Village of Avoca. **Note that members of the Village**

**Board of Trustees do not have any authority to supervise or direct subordinate village officers or employees.**

- g. The Mayor shall execute all contracts in the village's name, to include all contracts entered for the Village Clerk's Office / Treasurer's position.
- h. The Mayor shall have supervisory authority over the Village of Avoca Village Clerk / Treasurer for village projects approved by the Board of Trustees and being conducted by the Village Clerk's Office.
- i. The Mayor shall be the sole appointing authority for the Village of Avoca Village Clerk / Treasurer position, subject to the approval of the Board of Trustees. The Mayor, as acting CEO of the Village of Avoca, shall ensure all duties of the Village Clerk / Treasurer are carried out on a weekly basis and review and sign the Village Clerk / Treasurer's bi-weekly time card before being processed by the Village Clerk for the bi-weekly payroll.
- j. The Mayor shall, appoint the Village of Avoca Village Clerk / Treasurer for a period to coincide with the Mayor's elected term of office. At no time shall any Mayoral appointment of the Village Clerk / Treasurer exceed that Mayor's term of office, but the Mayor can reappoint the same person as the Village Clerk / Treasurer upon a new term of office.
- k. For employees to be hired for the Deputy Clerk position, the Mayor, the Village Clerk / Treasurer, and one selected member of the Board of Trustees shall be the body empaneled for the interviews of potential candidates for employment with the Village of Avoca. In the event two or more qualified applicants are agreed upon by the panel, the Village Clerk / Treasurer shall recommend the candidate for the Mayor's decision on the candidate for Board of Trustees approval. However, the Mayor retains to sole authority to hire, suspend or terminate the employment of any employee for the Village of Avoca with the Board of Trustees confirmation.
- l. The Mayor, or Deputy Mayor in the Mayor's absence, shall retain the sole authority of declaring a local state of emergency.

**C. Village Clerk / Treasurer:**

- 1. The Village of Avoca Village Clerk / Treasurer shall be any person who is appointed to the job description for the Village of Avoca for the Village Clerk / Treasurer position as outlined below.
- 2. The Village of Avoca Village Clerk / Treasurer is a Mayoral appointment which will be presented to the Board of Trustees for confirmation. The appointment of the Village Clerk / Treasurer shall run concurrent with the term of office for the Mayor. In the event the Mayor's Office is vacated by the elected person, for such events as the election of a new Mayor, retirement, resignation, etc., the new Mayor may reappoint the current Village Clerk / Treasurer to these positions.

3. The Village Clerk / Treasurer is here after considered to be a confidential position for the Village of Avoca and will be a salaried position with specific wage compensation and benefits. The provisions of the confidential duties and requirement for the Village Clerk / Treasurer are outlined below in this agreement.
4. The Village Clerk / Treasurer shall be defined as outlined below.

In the Public Officer's Law, the position of Village Clerk / Treasurer for the Village of Avoca is considered to be an official of the Village of Avoca. While there is some discretion across New York State if appointed officials exist in villages across the State and some villages treat these positions as public employees, the Village of Avoca considers this position as the Office of Village Clerk. Individuals may serve a local government in one of three ways: they may be public officers, employees, or independent contractors. Each type of service is governed by its own set of rules. Therefore, this position is a public office and the Village Clerk / Treasurer does have duties involving the exercise of some sovereign power or powers of the municipality. Therefore, the position of Village Clerk / Treasurer shall be appointed as an official of the Village of Avoca and shall follow the general rules and regulations for appointed officials for the State of New York.

5. The Village Clerk / Treasurer position with the Village of Avoca shall not be vacated or terminated, except under the provisions of New York Public Officers Law, Sections 30 through 36, as applicable.

**D. Deputy Village Clerk:**

1. The Village Board of Trustees shall establish and maintain an employee of the Village of Avoca as a Deputy Clerk to serve under the daily supervision of the Mayor, as the Village Clerk has no supervisory authority over any village employee. However, the Mayor may delegate the issuance of instructions or daily work assignments to be completed by the Deputy Village Clerk to the Village Clerk / Treasurer, as needed. The person assigned as Deputy Clerk shall fall under the general appointment of the Mayor, with consideration on the recommendation of the Village Clerk, and the approval of the Board of Trustees. The Deputy Clerk shall serve as a clerical assistant to the Village Clerk but;
  - a. The Deputy Clerk shall have no powers or duties for the Village financial accounts or databases, other than the collection of payment from members of the public. *The Deputy Clerk is not a Deputy Treasurer for the Village of Avoca.*
  - b. The basic outline for the Deputy Clerk shall be outlined in Article XI below.

**E. New York State Definitions**

1. In no event, shall the definitions as outlined above override over any New York State legal definition for any position (employees or officials) for the Village of Avoca and in the event of any conflict in terms, the New York State definition will take precedence.

#### **IV. Job Description:**

1. The job description for the position of Village Clerk / Treasurer for the Village of Avoca shall be defined as follows per the Civil Service definition currently in place at the implementation of this policy.
2. The minimum qualification for the position of Village Clerk / Treasurer is two years of experience in general book keeping, accounting or other clerical work.

Although not required, the Mayor and the Board of Trustees would prefer the Village Clerk to have:

- a. Local government experience is highly preferred
  - b. One-year of supervisory experience
  - c. Current local law requires the Village Clerk to reside in Steuben County
3. The general description of duties the Village Clerk serves as the administrator of the Village Clerk's office and is responsible for supervising clerical support staff and is expected to exercise a considerable amount of independent judgement and initiative. Work is reviewed by the Village Mayor through meetings and written reports. The position serves as the official record keeper of the Village and does related work as required.
  4. Following is a list of the primary duties and responsibilities for this position. It is not intended to encompass all duties and responsibilities, but merely highlights the major responsibilities of the position. Additional duties may be assigned or develop over time.
  5. The Clerk is responsible for the efficient day-to-day operation of the Village Office as it relates to the following:
    - a. High quality customer service.
    - b. Effective communication with the general public, employees, Village Board members and other public officials.
    - c. The equitable and ethical treatment of all who seek to use our services; and
    - d. Maintains a number and variety of files and records, trains employees in the maintenance of these files and records.
    - e. Prepares reports for Village Board of Trustees meeting and keeps detailed meeting notes consistent with NYS law
    - f. Assists in the hiring and recommends to the Mayor and Board of Trustees personnel for the Deputy Clerk position.

- g. The Village Clerk is a Mayoral appointee and as such reports to the Mayor and as directed the Village Board of Trustees.
- h. The Village Clerk supervises office employees, the Deputy Clerk, or other clerical employees so hired by the Mayor and Board of Trustees.
- i. Supervise office staff; oversee daily office operations, develop and maintain standard
- j. Office Operating Procedures
- k. Act as liaison between general public and Village Board of Trustees or other village employees
- l. Records management officer, records access officer – oversee the records management for the Village of Avoca and handles all official personnel files.
- m. program and maintain good records management practices; write or assist with writing of records management grant applications; administer or assist with the administration of Grant and Grant funds for the Village
- n. Conducts the Village election in accordance with standard election procedure
- o. Attends Village Board meetings; prepare meeting resolutions, reports, and
- p. other documents for the Board of Trustee meeting; record and distribute meeting minutes; follow through on agenda items at the direction of the Village Mayor and Board of Trustees
- q. Responsible for timely filing of local laws with the state; maintain local law records
- r. and update Village Code to reflect new regulations
- s. Assists other Village Committees or Boards in the conduct of their jobs/duties in order to keep the Village Mayor and Board of Trustees apprised of vacancies that need to be filled

6. Full Performance Knowledges, Skills, Abilities and Personal Characteristics

Knowledge of the principles of office management and supervision and the ability to apply this knowledge; some knowledge of clerical and record keeping procedures; ability to plan, assign and work to the Deputy Clerk in a manner conducive to full performance and high morale; ability to develop effective office practices and training programs; ability to acquire knowledge of the legal, administrative and procedure regulations applicable to the department; ability to promote and maintain effective inter-departmental and public relations; ability to maintain accurate and complete records and to prepare reports; ability to express oneself clearly and concisely, both orally and in writing; physical condition commensurate with the demands of the position.

**V. Confidential Responsibilities of the Village Clerk / Treasurer**

**A. Village Clerk**

The village clerk is subject to the direction and control of the mayor. However, State law imposes numerous responsibilities upon the clerk, which the clerk has an independent responsibility to perform. Most of the village clerk's duties are set forth in Village Law § 4-402, which provides as follows:

- 1. Custody of books and records. The clerk is responsible for maintaining custody of the village's books, records, papers, and the village seal, as well as all of the

Board of Trustees' official reports and communications. The clerk serves as the village's records management officer and is typically, although not always, appointed as the village's records access officer for purposes of the Freedom of Information Law (FOIL) (see Chapter 10, Village Records on page 10.1 for a further understanding of those duties).

2. Local Legislation. The clerk is responsible for maintaining a record of all village resolutions and local laws (see Chapter 8, Local Legislation on page 8.1 for a further understanding of these responsibilities).
3. Order to Pay Claims. The clerk must prepare, sign, and transmit to the Treasurer an order directing the payment of all claims, which the Board of Trustees has ordered paid. The order to pay claims must contain an abstract of all the claims that the board of trustees has audited and ordered to be paid. The abstract must contain the names of the claimants, the amounts approved for payment, and the appropriations chargeable. A duplicate of the order must also be filed in the Village Clerk's Office. If the village has consolidated the positions of clerk and treasurer, the mayor, not the clerk, signs the order to pay claims. Note that municipalities are no longer required to make and file an annual report of tort claims with the Office of the State Comptroller (OSC).
4. Transmitting Funds. Except when the village clerk serves as tax collector pursuant to Real Property Tax Law § 1438, the clerk must transmit all village money received each month to the Village Treasurer on or before the tenth day of the next month. The Board of Trustees may decide by resolution that the Village Clerk will also act as the Village's Tax Collector.
5. Production of Books and Records. The clerk is also responsible for producing books, records and papers for inspection. When an attorney or a court subpoenas records or when the village is investigated or audited in contrast to the FOIL, Village Law, § 4-402.e provides that, the clerk must furnish certified copies suitable for reading into evidence, at the price of \$0.20 per page. All other requests for records are governed by FOIL, which provides the maximum amount that may be charged for copies.
6. Notice of Defect. The clerk must keep an indexed record of all written notices of defect which are reported pursuant to Village Law § 6-628.
7. Oath of Office. The clerk may administer the oath of office to all village officers. The clerk is also responsible for coordinating various village functions and performing administrative tasks that are not assigned to other village officials, including but not limited to:
  - a. Filing, publishing, and posting notices relating to resolutions, local laws, public hearings, open meetings, and referenda;
  - b. Complying with the notice and filing requirements for all village boards;
  - c. Maintaining postings which are required to be permanently displayed;
  - d. Notifying the proper State and municipal officials, as required by law, of certain village business;

- e. Serving as the point of contact for citizens with questions about the village; and
  - f. Acting as liaison between the citizens and the Village Board of Trustees.
8. The Village Board of Trustees establishes the Village Clerk's office hours. If the village board has not established the clerk's office hours, then the mayor may establish the clerk's office hours. If the mayor fails to establish the clerk's office hours, then the clerk may establish his or her own office hours. If the mayor or the clerk has established the office hours, the Board of Trustees may supersede any previously established hours.
9. Minutes. The clerk serves as the clerk of the Board of Trustees and of all other boards, (e.g., planning board, zoning board of appeals, etc.), unless another employee or officer has been designated. Even if a village uses separate clerks for each of the boards, the village clerk is still responsible for ensuring that the minutes of those meetings are correctly prepared within the established time limits.
- A. Minutes must be taken of every meeting of a public body.
  - B. The minutes must indicate which members of the public body were present at the meeting.
  - C. Additionally, the minutes must contain a summary of all motions, proposals, resolutions, and any other matters voted upon, and the actual votes.
  - D. The minutes of an open meeting, as opposed to an executive session, must be made available to the public within two weeks of the meeting.
  - E. The minutes of an open meeting during which the public body entered into executive session must indicate who made the motion to enter into executive session, the reason given for entering into the executive session, and which members of the body were present when the body entered into executive session. Minutes of an executive session must be made available to the public within one week of the executive session.
  - F. Meeting minutes must be made available to the public within the specified period regardless of whether the board requires minutes to be "approved." Approval of meeting minutes by the members of a public body at a subsequent meeting is a local procedure and not required by State law. The State's OML requires minutes to include an accurate and complete record or summary of all:
    - 1. Motions,
    - 2. Proposals,
    - 3. Resolutions, and
    - 4. Any other matter formally voted upon by the board as well as the actual vote of each member of the public body.
  - G. It is a recommendation of the Conference of Mayors that a copy of any resolution or local law acted on should be appended to the minutes.



- H. While not expressly required by the OML, it is implied that minutes must begin by noting the time, date, and location of the meeting and which members of the public body are present
- I. Although the minutes must reflect which of the public body's members are present, there is no requirement to identify all of the individuals present.
- J. The Open Meetings Law (2017)  
Minutes are not required to be and should not be a verbatim account of the meeting. Nor should the minutes include a reference to each comment made during the meeting. However, the public body may require that an audio or video tape be made of its meetings to ensure accuracy and to resolve any disputes. Furthermore, the public body may, by a majority vote of its membership, require that a specific statement, text of a resolution or agreement, etc., be included verbatim in the minutes. State Law does not require the clerk to record an individual's remarks made during an open meeting or an executive session merely because the speaker so requests. Without a resolution or board directive requiring the clerk to include more information in the minutes, a trustee may not require the clerk to correct or amend the minutes to include any more detailed information.
- K. Boards interested in expanding the scope of what is included in the minutes should amend their rules of procedure to outline the clerk's additional responsibilities. There is no specific statutory procedure for amending meeting minutes. Minutes may never include a statement that was not made at the meeting nor may it include record of an action that was not taken at the meeting, as this is tantamount to creating a false record.

#### **B. Treasurer**

The treasurer serves as the chief fiscal officer of the village. Pursuant to Village Law § 4-408, the treasurer is responsible for:

1. Accounting. The treasurer must maintain custody of all village funds and keep the accounts of all village receipts and expenditures. The accounting must comply with the Office of the State Comptroller's uniform system of accounts. For more information, see the Office of the State Comptroller's Accounting and Reporting Manual for Cities, Villages, Counties, and Towns, which is available online at <http://osc.state.ny.us/localgov/pubs/arm.pdf>.
2. Bank Deposits. The treasurer must deposit, in a commercial bank or trust company as designated by the board of trustees, all village funds within 10 days of receipt. Savings banks (defined as savings banks, savings and loan associations, federal savings banks, and federal savings and loan associations) may participate in the banking development district program to the same extent that commercial banks may participate. Municipal deposits are allowed in a savings bank only as part of the banking development district program. This authorization expires on January 1, 2023.

3. **Signing Checks.** The treasurer is the authorized signatory of village checks. The Board of Trustees may authorize, by local law or resolution, the treasurer to use a facsimile signature or e-signature. However, the OSC recommends that the village put in place significant internal controls to protect against theft and fraud. For information on internal controls, please see the Office of the State Comptroller's publication "The Practice of Internal Controls," which is available online at [www.osc.state.ny.us/localgov/pubs/lgmg/practiceinternalcontrols.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/practiceinternalcontrols.pdf)
4. **Payments.** The treasurer must pay out village funds pursuant to Village Law §§ 5-524 and 5-526. Generally, such payments must be by check except in the case of petty cash payments made pursuant to Village Law § 5-526.
5. **Annual Financial Statement.** The treasurer is responsible for filing an annual financial statement of the village's revenues, expenditures, and outstanding indebtedness in the village clerk's office within 60 days of the end of the fiscal year. Alternatively, the Board of Trustees may authorize the Treasurer to file in the Village Clerk's Office a copy of the annual financial report, which must be filed with the OSC pursuant to General Municipal Law § 30. Within 10 days of filing the annual financial statement, a notice must be published in the village's official newspaper stating that the annual financial statement has been filed and is available for inspection in the Village Clerk's Office. The Board of Trustees, not the treasurer, is responsible for ensuring that the notice is published. In addition, the statement must be audited by either the Board of Trustees, a village officer or employee who is designated by the board, or a public accountant hired by the board.

**C. Term of Office**

Pursuant to Village Law § 3-302 (6), a Board of Trustees that has changed the terms of office for the Mayor and Trustees to four years may also enact a resolution or local law, subject to permissive referendum, extending the term of office of the Village Clerk and/or Treasurer to four years. The Board of Trustees must provide in the resolution or local law that the first term of the Village Clerk and/or Treasurer expires at the end of the term of office of the Mayor then in office, so that the terms of office of the Village Clerk, Treasurer, and Mayor all expire in the same year.

**VII. Provisions Covering the Position of Village Clerk / Treasurer**

1. The position of Village Clerk / Treasurer is an appointed employee position of the Village of Avoca where the appointed person serves at the discretion of the Mayor after approval of the Board of Trustees. The position shall be appointed for a period that runs concurrent with the term of the Mayor, but this appointment is also subject to the provisions of employment for a municipality under the rules a regulation of the State of New York. The all-encompassing laws listed below will not be outlined in this document, but the provisions of these laws and rules shall have authority over the continued employment or the person appointed to this position. Such governing rules and laws shall be:
  - a. The "Taylor Law" of the State of New York;
  - b. New York State Civil Service Law Section 75, Chapter 7, Article 5, Title B
  - c. The Village of Avoca Human Resource Manual (Revised 2021)

- d. All other applicable labor laws of the State of New York not specifically mentioned in this document.

### **VIII. Compensation and Benefits**

As outlined in Article XI, Section 3 of this policy for the Village of Avoca, Christine Haar is the person assigned to the positions of Village Clerk / Treasurer position effective from May 30, 2023 until May 31, 2024.

For salary compensation for the assigned Village Clerk / Treasurer see Appendix I attached to the end of this policy.

As these positions are part-time and all compensation is based on a (20) hour work schedule, the benefits provided are applied at a part-time rate:

All other benefits allocated to the positions of Village Clerk / Treasurer are outlined below.

1. The position of Village of Avoca Village Clerk / Treasurer shall be provided the following benefits package for the duties performed by the employee:
  - a. **Hours Worked** – A minimum of **1040** hours of work annually in the two outlined salaried positions is required, to include the other authorized leave as outlined in the other provisions of this policy. Due to this provision, the position of Village Clerk / Treasurer **will not** be eligible for overtime at the rate of 1.5 times regular pay in accordance with the other provisions as outlined. The hours worked will be monitored bi-weekly in accordance with the other provisions of this policy.
  - b. **Authorized Leave** - Authorized Paid Leave as outlined:
    1. Jury Duty Leave – When selected for jury duty, subpoenaed to appear as a witness in any proceeding, or otherwise compelled to appear in any proceeding will be allowed leave as needed and will receive their normal pay. However, any employee on jury duty is expected to work when not actively serving. Under normal circumstances, the Village will not request a deferment from jury duty for its employees.
    2. Employees enlisting in or entering the military service of the United States, including being called to active duty, shall be granted all rights and privileges provided by the Uniformed Services and Reemployment Rights Act of 1994, or as such Act be amended.
  - c. **Paid Holidays** - The Village Clerk / Treasurer shall receive the following paid holidays for the calendar year under the terms of this policy. For the purposes of this agreement the day off provided shall

the actual day of the holiday, (or observed day in some circumstances) and no further compensation shall granted:

New Year's Day	Labor Day
Martin Luther King Day	Veterans Day
Presidents Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Fourth of July	Christmas Day

- d. **Vacation Leave** - The Village Clerk / Treasurer shall be provided with the following vacation leave as outlined below. For the purpose of computing annual leave, years of service will mean continuous years of employment. Vacation will be credited on June 1<sup>st</sup> of each year. This position provided by this policy shall receive vacation time off with pay in accordance with the following schedule:

<u>Year of Continuous Service</u>	<u>Vacation Time Off</u>
1 thru 5 years	5 days
5 thru 10 years	10 days
10 thru 15 years	15 days
15 years +	20 days

In regards to vacation time off the following shall apply:

1. Vacation time must be used in (1) hour increments
  2. Vacation time of two or more consecutive weeks scheduled work days is subject to two weeks prior notice and approval of the Mayor.
  3. Prior notice as much as is possible shall be given to the Mayor for all days off.
  4. Employee may accumulate up to thirty (15) day' vacation time as of May 31. For each fiscal year the Village Clerk / Treasurer may have more than thirty (15) days' vacation time to their credit as of May 31, of each fiscal year.
  5. If the employee is terminated for cause any unused vacation pay will not be paid out.
  6. If the employee terminates his employment with the Village vacation pay will not be paid out.
  7. If the employee dies any accumulated vacation time shall be paid out to his/her spouse or estate.
- e. **Sick Leave** - The Village Clerk / Treasurer is eligible for sick leave as follows:
1. The Village Clerk / Treasurer shall receive (20) hours of sick days per year (accumulated on the first day of the first pay period each year).
  2. Any unused sick leave will roll over into the next year and shall be permitted to rollover up to 240 hours of sick leave.

3. Any payout of sick leave upon retirement, severance, etc. will be capped at 240 hours.
  4. If Village Clerk / Treasurer is terminated for cause any unused sick pay will not be paid out.
  5. If Village Clerk / Treasurer terminates his employment with the Village any unused sick pay will not be paid out.
  6. If Village Clerk / Treasurer dies any accumulated sick leave (up to 240 hours) shall be paid out to his/her spouse or estate.
  7. Sick leave shall receive normal days' compensation as applicable in addition to all other benefits provided by this policy.
  8. Sick leave must be used in (1) hour increments.
  9. The Village Clerk / Treasurer shall give prior notice as much as possible to the Mayor for all days off.
  10. If Village Clerk / Treasurer is off on sick leave for more than three (3) days a doctors' note will be required to return to work.
- f. **Disability Coverage** - The Village Clerk / Treasurer is provided Disability Coverage under the NYS Disability Law and must use all unused accumulated leave before going on disability. Upon returning to work from disability must provide written verification from a doctor as to their fitness to perform their duties prior to them returning to work.
- g. **Personal Leave** - The Village Clerk / Treasurer is eligible for Personal Leave under the following provisions:
1. The Village Clerk / Treasurer shall receive (20) hours of personal per year (accumulated on the first day of the first pay period each year)
  2. Any unused personal leave shall roll over into the next year and added to the accumulated sick leave.
  3. If the Village Clerk / Treasurer is terminated for cause any unused personal time will not be paid out.
  4. If the Village Clerk / Treasurer terminates employment with the Town any unused personal time will not be paid out.
  5. If the Village Clerk / Treasurer dies any unused personal time will be paid out to his/her spouse or estate.
  6. The Village Clerk / Treasurer must give prior notice as much as possible to the Mayor for all days off.
  7. Personal leave must be used in (1) hour increments.
- h. **Workman's Compensation** - The Village Clerk / Treasurer is covered for job connected injuries. It is the responsibility of Village Clerk / Treasurer to notify the Mayor of all job-related injuries, including to himself / herself, as soon as they occur (within 24 hours) whether or not time is lost from work or medical cost are incurred. Employees will be required to verify all information relating to the accident and assist the Mayor/Village Clerk/Treasurer with any information necessary to submit paperwork to the Insurance Agent. Employees will continue to receive their regular pay/salary while on workers'

compensation. Employees must furnish a doctor's statement as to their fitness to perform their duties prior to their return to work.

- i. **Retirement** - The Village Clerk / Treasurer will be provided the applicable New York State Retirement that the Village of Avoca participates in the New York State and Local Employees Retirement System. Participation is mandatory for all full-time employees and the Village Clerk / Treasurer. The Village of Avoca participates in the NYS Deferred Compensation Plan, participation in this plan is voluntary.
- j. **Medical Insurance** - The Village of Avoca *will not* provide the Village Clerk / Treasurer with any medical insurance coverage.
- k. **Unpaid Leave of Absence** – As New York State defines the position of Village Clerk as a confidential official, leave of absence without pay *cannot be applied* to this position as the assigned Village Clerk is entitled to the outlined compensation if the duties of this position are completed and maintained. However, the Village Board retains the authority to the appointment of the employee to this position to ensure the proper functioning and operation of the Village of Avoca.
- l. **Employment Longevity** – The employee assigned to these position, which are in accordance with the term of Mayor for the Village of Avoca, make this position a short- term position with reappointment required as outlined, therefore longevity as such *is not provided* to the position of Village Clerk / Treasurer.
- m. **Mileage** – The Village Clerk / Treasurer has no access to village vehicles for all transportation to such work-related activities as official assignments or training seminars. The Village Clerk / Treasurer will be reimbursed for mileage at the rate set by the Village. The Village Clerk / Treasurer must submit a voucher with the following information: name, date, meeting or event, and mileage to the Mayor. The Mayor will sign the voucher and present it for approval to the Village Board of Trustees.

## **IX. Disciplinary Process**

1. The positions of Village Clerk / Treasurer are considered a confidential position in the Village of Avoca, but as outlined in this document the position is still an employee of the Village of Avoca and the person assigned to these two positions must maintain the highest standard of integrity and professionalism when representing the Village of Avoca. In the event a justified issue arises with the performance on the person assigned to these two positions, the following Progressive Disciplinary System will be in place and utilized.

2. The Village of Avoca will administer a system of Progressive Discipline for all employee who fails to follow any and all policies and guidelines of the Village of Avoca, to include the Village Clerk / Treasurer. It is the policy of the Village of Avoca to consistently administer a fair and effective program of employee counseling and discipline relating to rules of conduct governing employee's activity in the workplace, job performance and other work practices. The practice is designed to provide a system of due process intended to correct employee behavior and to improve job performance of the individual, provide employees with a systematic opportunity to discuss and correct inappropriate behavior, inform employees of what specific "on the job" conduct is considered unacceptable and what corrective action may be administered when unacceptable behavior has occurred.
3. The term "discipline" is not used in a threatening or punitive sense. When discipline occurs, "corrective action" and "willing cooperation" is anticipated to be the outcome.
4. The Village of Avoca's Code of Ethics, Standard Rules of Conduct, and other adopted policies apply to employee actions which interfere with the safe and proper operation of the Village of Avoca or the performance of a job. These rules are reasonable and apply to all employees.
5. Employee violations will call for some form of counseling or disciplinary activity. In most cases, action will be in the form of Preliminary Progressive Discipline. In more serious cases of conduct violations, such as any form of insubordination, immediate suspension and/or involuntary termination may result. Documentation of any disciplinary action will be signed by the employee and/or Mayor who will provide the counseling, and placed in the employee's personnel file. If an employee refuses to sign the document, refusal will be noted.
6. In most cases there is no mechanical formula for establishing disciplinary action however, four (4) important factors will be considered in cases which are not clear-cut rule/policy violations:
  - a. The seriousness of the offense
  - b. The employees past record
  - c. The circumstances surrounding a particular case
  - d. Past practice in similar cases
7. A system of Progressive Discipline will be administered by the Village of Avoca when an employee fails to follow any and all policies and guidelines of the Village of Avoca. However, in the event of a serious violation by the employees, suspension with or without pay or involuntary termination may be warranted, subject to the provisions of New York Public Officers Law Sections 30 through 36. In all other cases, Progressive Discipline will be administered as outlined below:

**a. Step One – Employee Counseling Session**

An employee counseling process will be administered as a non-disciplinary means of informing employees of problems concerning their individual standards of work performance, minor rule infractions of policies and procedures. The Mayor will offer the employee specific suggestions or corrective action to be taken. A written report will be created to record the counseling and be presented to the Board of Trustees in Executive Session at the next monthly meeting along with an explanation for the counseling. These reports will be kept in a file within the personnel file for the employee.

**b. Step Two – First Written Notice**

Employees who have not responded to previous counseling sessions will be issued a preliminary written warning notifying the employee that continued unacceptable activity will initiate formal Progressive Discipline.

The employees' signature will be requested to verify presentation of the notice. Copies will be given to the employee and placed in the employee's personnel file. Since these positions are confidential in nature, these notices will remain in the employees file indefinitely.

**c. Step Three – Second Written Notice and Action**

A second written notice will be sent informing the employee of his/her continued failure to comply with Village of Avoca policies, procedures, Code of Ethics, an inability to carry out job responsibilities in an acceptable manner, or to exhibit work behavior which is deemed acceptable and professional. This will be accompanied by a recommendation by the Mayor for suspension or removal or other action pursuant to New York Public Officers Law, and then reported to the Board of Trustees for final approval and /or further action.

The employee's signature will be requested to verify presentation of the notice and copies will be forwarded to the employee and the letter will be included in the employee's official personnel file.

**d. Immediate Suspension (with or without pay – subject to State Law)**

Immediate suspension with or without pay may result at the time when an employee's actions are deemed unacceptable and action is warranted and/or have been issued a second written notice.

Due to the employee occupying the positions of Village Clerk and Village Treasurer, the offense committed will have to be examined on the basis of the position being employed at the time of the incident. In the event of an incident as the Village Clerk and the



official nature of this position, the appropriate steps for action will be dictated under New York State Law.

The Mayor should work closely with the Board of Trustees and the Village's legal counsel to investigate all related incidents and to determine and implement an appropriate course of action.

- a. In most cases, the provisions of Progressive Discipline notices will remain in the employees personnel file for the duration of his/her employment, but in the event the employee maintains an acceptable record for a period of at least one (1) year following the last notice, the employee may request to the Mayor a record review. This employee may be eligible to have the record removed as determined by the Mayor after presenting the request to the Board of Trustees to have the specific previously administered discipline notice voided and removed from his/her personnel file.

**e. Involuntary Termination**

1. When circumstances warrant, at any point throughout the discipline process an employee may be involuntarily terminated (discharged, dismissed, and fired). (See New York Public Officers Law Section 36). While an action for removal may be brought by any citizen resident of the Village, any official action brought by the Village should be by action of the Board of Trustees, taking into consideration the Mayor's recommendations.
2. Any final settlement will be withheld until all keys, records, property and other relevant items have been turned over to the Village of Avoca by the employee.

**f. Hearing Before Action for Discharge or Suspension without Pay**

1. Unless there is reasonable cause to forego such a hearing, before any action is brought by the Village of Avoca to discharge or suspend a Village Clerk, Treasurer, or Deputy thereof without pay, the Village of Avoca shall provide to such employee written notice of the charges against the employee, an explanation of the employer's evidence, and an opportunity for the employee to present their side of the story, including reasons why the employer's proposed action should not be taken. The employee's side of the story may be presented orally, in writing, or both.
2. The employee shall be responsible for any and all representation for their employment purposes and be responsible to cover all costs incurred in their own defense, whether the charges and specifications as outlined are confirmed or overturned.
3. Unless otherwise provided by law, the Hearing shall be held in Executive Session with the Board of Trustees and the Hearing Officer assigned as prescribed by law.

## **X. Personnel File**

1. An employee shall, within five (5) working days of presenting a written request to the Mayor, be provided the opportunity to review his/her official personal history folder in the presence of the Mayor or a Trustee designated by the Mayor. This right shall not be abused. The employee shall be allowed to take notes of any documents located within the personnel file, but at no time shall any copies or photographs be made of the file, except under the direction of the Mayor. During the review of the personnel file, no documents shall be added or removed from the file for any reason.
2. The official personal history folder shall contain all memoranda and documents relating to the employee which contain criticism, commendation, appraisal, or rating of the employee's performance on his job. Copies of such memoranda and documents shall be sent to the employee simultaneously with their being placed in the official personal history folder.

## **XI. Deputy Clerk Position**

- A. The Village of Avoca Deputy Village Clerk shall be any person who is appointed to the job description for the Village of Avoca for the Deputy Village Clerk position as outlined below. This position is clerical in nature and is outlined as a fill-in for the Village Clerk when he/she is unavailable for work during the normal business office hours. The outline and provisions covering the Deputy Clerk position are listed in Article XI below.
  - a. The Deputy Clerk shall be appointed by the Mayor with the Board of Trustees approval.
  - b. The Deputy Clerk will work under the daily supervision of the Village Clerk / Treasurer.
  - c. This position is not a Civil Service appointment and therefore is a non-competitive, non-tested position with the Village of Avoca.
  - d. The position will have a (10) hours a month guarantee with additional hours scheduled through the Village Clerk.
  - e. The Deputy Clerk's schedule is to be set by the Village Clerk / Treasurer to best fit the needs of the Village of Avoca, maintain the established office hours, and allow for training and other functions in the best operation of the Village Clerk's Office.
  - f. All work to be performed by the Deputy Clerk will be done at the Village Hall located at 3 Chase Street in the Village of Avoca. The Deputy Clerk will not be required to travel to banks, post offices or any other location during the scheduled work hours.
  - g. The primary duty of the Deputy Clerk is customer service to the residents of the Village of Avoca. When working the Deputy Clerk will work with the public daily in answering telephone, working the main counter, and attending to other questions or needs of the public by the Village of Avoca.

- h. The Deputy Clerk will be required to take payments from the public for Water Bills and Village Taxes. A proper receipt will be given and the bills and funds will be secured as outlined by the Village Clerk / Treasurer for processing by the Village Clerk.
- i. The Deputy Clerk will be required to perform computer work and entries on various computer systems for the Village of Avoca. On-the-job training for these systems will be provided by the Village Clerk / Treasurer.
- j. The Deputy Clerk will also be responsible to sort mail, handle general correspondence, prepare cemetery deeds as outlined by the Village Clerk / Treasurer.
- k. The Deputy Clerk will also perform all other duties as delegated and assigned by the Village Clerk.
- l. The compensation for employment for the Deputy Clerk will be set and outlined in Appendix I of this document.

## **XII. Exceptions**

1. The Village of Avoca has made the appointed Village Clerk / Treasurer / aware that the current Collecting Bargaining Agreement in place at the time of the signing of this policy between the Village of Avoca and the Teamsters Local Union No. 118 has no affect or implication on the position of Village Clerk / Treasurer and no provisions of that agreement in any way attach or can be implemented by the person appointed to these positions, unless specifically mentioned in the CBA, such as providing Health Insurance Coverage to non-members.
2. As this policy is in place to outline the duties and responsivities place both on the Village of Avoca and the person assigned to these positions, this is still a policy of the Village of Avoca, not a contract, and the Mayor with the approval of the Board of Trustees maintains all rights to reexamine, discuss and modify certain provisions of this agreement, such a provisions for compensation and benefits, if the circumstances of the person assigned to these positions' changes in the future for unforeseen circumstances.

## **XIII. Employee Assignment**

1. After careful consideration and review of the all provisions of this policy with the responsibilities as outlined for the positions of Village of Avoca Village Clerk / Treasurer, the following provisions are in place.
2. The provisions of this policy shall be in full effect from September 1, 2023 until May 31, 2024.
3. The employee assigned to the positions of Village Clerk / Treasurer is **Christine Haar**.
4. The employee assigned to the position of Deputy Clerk is Sara Hunn.

# Appendix I

Annual Salary Compensation for Village Clerk / Treasurer, Budget Officer and Deputy Village Clerk shall be as outlined below, to include the other benefits as outlined in Article VIII. When making the determination for the salary applied to any position in the Village of Avoca, the Board of Trustees must take careful consideration as to the spending of taxpayer dollars in conjunction with fairly and accurately providing compensation to an employee based upon tenure, work expertise and knowledge of the position.

New York State has standardized the basic work week as being 40 hours a week for (52) weeks a year, or 2080 hours annually. While this number is a baseline for full-time positions, but as the positions outlined in this policy are part-time with a cumulative 20-hour work week, compensation has been adjusted accordingly. The Village of Avoca has established hours the Village Office Hours of Operations, these hours can be modified to accommodate the monthly Board Meeting, Saturday office hours and other events that arise throughout the year. As stated above, none of the positions outlined will be eligible for overtime at the rate of 1.5 times regular pay. The salary applied to the positions outlined in this policy is based upon the experience and work product of the employee as an individual.

A. Therefore, **Christine Haar**, as outlined above, will be required to work the outlined business office hours for the Village Clerk / Treasurer positions to ensure the Village of Avoca continues to operate and function in the manner that historically has been observed, and her annual salary is being established as outlined below.

1. **Annual Salary** - The annual salary for the outlined positions shall be **\$27,500.00** annually, to be further defined as follows:

- a. The Village Clerk / Treasurer position shall be an annually salaried position with compensation in the amount of **\$27,000** annually to be paid bi-weekly to the appointed person.
- b. The Budget Officer position shall be an annually salaried position with compensation in the amount of **\$500.00** annually to be paid separately in the first pay period of March each year to the appointed person.

2. **Annual Salary Increases** – Whereas this is a policy for the Village of Avoca and not considered as a contract between two parties, any increases in the annual salary compensation for Christine Haar while assigned to the two positions outlined above will be presented and discussed by the Village Board of Trustees during the annual budget planning meetings for implementation during the next fiscal year for the Village of Avoca.

B. Therefore, Sara Hunn, as outlined above, is appointed as the Deputy Village Clerk for the term of this appointment. The hourly salary for the position of Deputy Clerk has been established at \$20.00 an hour for each hour worked, with no other compensation, benefits, accrued leave or other monetary amount being applied to this position.