

# **BOROUGH OF BERNARDSVILLE PERSONNEL POLICIES AND PROCEDURES MANUAL**

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The Borough of Bernardsville is an Equal Opportunity Employer



## **IMPORTANT NOTICE - READ THIS FIRST** **EMPLOYMENT AT WILL POLICY**

**This Personnel Policies and Procedures Manual ("Manual") is for your information only. No promise of any kind is made by the Borough of Bernardsville ("Borough") in this Manual. The Borough is free to change the policies and procedures contained in this Manual at any time in its sole discretion and without consent by or prior notice to anyone. The interpretation of these policies and procedures will be made solely by the Borough. Also, remember that there may be other rules that apply to you and your job which are not contained in this Manual.**

**This Manual is not an employment contract. Neither this Manual, nor anything you are told by someone from the Borough, is a promise to you of a job with the Borough, of continued employment, or of employment under any specific terms or conditions.**

**To the maximum extent permitted by law, you are an "employee at will." That means that the Borough has the right to terminate your employment at any time and for any reason or for no reason, with or without cause, and with or without notice, subject only to applicable statutory restrictions and any individual written employment contract or applicable collective bargaining agreement. Likewise, you may resign at any time for any reason or no reason, with or without notice, subject only to contractual limitations for those employees who are under an individual employment contract with the Borough.**

**This notice is important. If you do not understand this notice, you should ask for help now. We will be happy to explain anything to you that you do not understand. Be sure to get help if you need it because you will be held responsible to understand this notice, as well as to understand and abide by the contents of this Manual.**

Questions about this Manual or the policies contained in this manual should be directed to the Borough Clerk or the Assistant Administrator.

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# INTRODUCTION

The Borough of Bernardsville ("Borough") has described its policies in this Personnel Policies and Procedures Manual ("Manual") to ensure fair and consistent application of policies and procedures by managerial/supervisory employees and to promote continuity and understanding within the organization.

This Manual contains statements of employee guidelines and procedures, which are intended for consistent interpretation and administration of matters relevant to personnel by the Borough's managerial/supervisory staff. The Borough reserves the right to modify or amend this Manual at any time, at its discretion.

If any employee has questions regarding the interpretation of items in this Manual, requests for clarification should be forwarded to the Borough Clerk or the Assistant Administrator either in writing or by scheduling an appointment.

The terms set forth in this Manual may only be modified in writing by the Borough. All employees receiving this Manual are required to complete the Acknowledgment form, on the last page, and return it to the Borough Clerk.

This Manual replaces all previous handbooks, manuals, or other Borough policies, in any form, which have preceded it, other than Borough Ordinances, and is intended to operate in conjunction with the Borough's Employee Handbook being distributed simultaneously herewith.

# **PERSONNEL POLICIES AND PROCEDURES**

## **1. GENERAL PROVISIONS; POLICIES; APPOINTMENT AUTHORITY.**

### **1.1 General Personnel Policy.**

It is the policy of the Borough to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations. As a general principle, the Borough has a "no tolerance" policy towards workplace wrongdoing. Borough officials, employees, volunteers, and independent contractors are to report anything they perceive to be improper. The Borough believes strongly in an open door policy and encourages employees and volunteers to talk with their supervisor, their Department Head, the Borough Administrator, the Borough Clerk, or the Assistant Administrator concerning any problem.<sup>1</sup> Borough officials and independent contractors should direct questions or concerns to the Business Administrator, the Borough Clerk, or the Assistant Administrator.

### **1.2 Implementation and Enforcement of Personnel Policies.**

The Borough Administrator and all managerial/supervisory personnel are authorized and responsible for personnel policies and procedures. The Borough Council has assigned the Borough Clerk and the Assistant Administrator to assist the Borough Administrator in implementing personnel practices. The Borough Administrator, Assistant Administrator, and the Borough Clerk shall also have access to the Employment Attorney appointed by the Borough Council for guidance in personnel matters.

### **1.3 Purpose.**

These policies are enacted by the Borough in order to further the following goals:

- A. To provide a uniform system of personnel administration throughout the Borough.
- B. To ensure that recruitment, selection, placement, promotion, retention and separation of Borough employees is based upon employees' qualifications and fitness, and are in compliance with federal and State laws.
- C. To assist managers in the development of sound management practices and procedures, and to make effective, consistent use of human resources throughout the Borough.
- D. To promote communication between management, supervisors and employees.
- E. To ensure, protect and clarify the rights and responsibilities of employees.

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<sup>1</sup> To the extent appropriate, the policies contained in this Manual shall be applicable to Borough officials, volunteers, and/or independent contractors of the Borough.

In the event of the amendment of any ordinance, rule or law incorporated in this Manual or upon which these provisions rely, this Manual shall be deemed amended in conformance with those changes.

#### **1.4 Appointment Authority.**

All Borough employees shall be appointed by the Mayor and Council based upon recommendations of the Borough Administrator, Department Head and appropriate Council Committee. Department Heads hired by autonomous agencies will also be recommended by the appropriate Council Committee and Administrator, except as otherwise provided herein or as provided by general law.

No person shall be employed or promoted unless there exists a position created by an ordinance adopted by the Borough Council as well as the necessary budget appropriation and salary ordinance.

#### **1.5 Scope of Chapter.**

The Borough's personnel policies, as set forth in this Manual, shall apply to all Borough employees, officials, volunteers, and independent contractors. In the event of conflict between this Manual and any collective bargaining agreement, individual employment contract, Borough ordinance, or State or federal law, the terms and conditions of that contract or law shall prevail. Employees of the Police Department are subject to Police Department Rules and Regulations and Standard Operating Procedures ("SOP's") and directives issued by the Police Chief, the Attorney General, the Governor and the Somerset County Prosecutor, all of which shall supersede these policies and procedures for sworn officers and civilian employees of the Police Department. In all other cases, these policies shall apply.

#### **1.6 Definitions.**

As used in this Manual:

*Base salary* shall mean the employee's salary most recently established by resolution of the governing body, exclusive of additional pay or allowances. Each employee's base salary shall fall within the salary range for that position authorized by the annual salary ordinance.

*Continuous service* shall mean employment by the Borough without actual interruption due to resignation, retirement or removal.

*Contractual employee* shall mean a Borough employee the terms of whose employment are stated in a written contract or collective negotiations agreement.

*Full-time employee* shall mean a Borough employee who works thirty-five (35) hours or more per week on a regular basis, except as otherwise defined by law for a particular purpose.

*Increment* shall mean annual or other increase in compensation paid to employees of the Borough.

*Part-time employee* shall mean a Borough employee other than a full-time employee.

*Promotion* shall mean an advancement in classification having: (a) new duties of greater difficulty or responsibility, and/or (b) a salary range having a greater maximum amount.

*Temporary employee* shall mean a Borough employee employed for a limited term or for a specific project and includes seasonal and occasional employees.

*Tenured employee* shall mean those employees of the Borough who have achieved tenure under applicable laws of the State of New Jersey.

## **2. ADMINISTRATION OF CLASSIFICATION PLAN.**

### **2.1 Basis of Position Classification.**

Each position shall be assigned or allocated to an appropriate job classification on the basis of the kind and level of its duties and responsibilities.

The Borough Administrator shall, from time to time, review the job classification and submit a report to the Mayor and Council setting forth his recommendations.

### **2.2 Abolishment of Position.**

A position may be abolished, or the number of personnel or budget reduced, by the Borough Administrator, following review and approval by the Borough Council, for reasons of economy or efficiency or to facilitate reorganization within a department or departments. A permanent employee, whose employment is affected by such action, must receive written notice of such action forty-five (45) days prior to its effective date. In the Police Department, such actions shall be governed by the provisions of N.J.S.A. 40A:14-143, et seq. Every effort shall be made by the Borough Administrator to reassign any affected permanent employee to another position in the Borough service for which the employee may be qualified. If no such position is available immediately, the name of the affected employee shall be kept on file on a "Preferred List" and the affected employee may be considered for employment should a vacancy occur in a position for which he or she is qualified, prior to offering employment to candidates not on such a Preferred List. If an employee is demoted because of economy or efficiency or to facilitate a departmental reorganization, he or she shall be placed in a lower salary range as indicated by resolution of the Mayor and Council.

### **3. ADMINISTRATION OF PAY PLAN.**

Salary ranges for the various positions in Borough government shall be established by the governing body in the Annual Salary Ordinance. Salaries for individual employees within those ranges shall be established by resolution of the governing body. A new employee shall be placed within the salary range in accordance with his or her relevant qualifications and experience.

### **4. APPOINTMENTS; COMPETITIVE EXAMINATIONS; PERMANENT EMPLOYMENT STATUS.**

The Borough Administrator will coordinate the employment recruitment process for all vacancies to ensure compliance with contractual, legal, and equal employment requirements. When a vacancy occurs, it is the responsibility of the Department Head to notify the administrator who will distribute notification of the vacancy to all departments. The administrator will undertake to recruit qualified applicants in accordance with applicable federal and State law. Where positions are advertised, the media or other periodical utilized must have as wide circulation as possible to encourage applications from candidates from diverse backgrounds and must prominently state that the Borough is an Equal Opportunity Employer.

#### **4.1 Selection and Appointment.**

##### **A. Permanent Appointments**

Permanent appointments shall be made by the governing body in compliance with Section 1.4 of this Manual.

##### **B. Provisional Appointments**

The following conditions must be met for the Borough Administrator to make a provisional appointment:

1. The appointee meets the minimum qualifications for the job at the time of the appointment;
2. The Borough Administrator certifies that the failure to make the provisional appointment will seriously impair the work of the Borough; and
3. The governing body confirms the provisional appointment at its next regularly scheduled meeting.

##### **C. Temporary Appointments**

The governing body may approve appointments of temporary or permanent employees to existing open positions and/or to temporary positions where the job assignment is for an aggregate period of not more than six (6) months in a twelve

(12) month period. A temporary appointment for a maximum of twelve (12) months may be approved by the governing body to a position established as a result of a short-term grant. Temporary appointees shall meet the minimum qualifications for the title.

The governing body may also make temporary appointments for the necessary duration dictated by the circumstances where an existing position is held by a permanent employee who:

1. is on a leave of absence;
2. is on indefinite suspension;
3. has been removed or demoted for disciplinary reasons and is awaiting final action by the courts; or
4. has accepted a temporary appointment to another position.

D. Emergency Appointments

The Borough Administrator may authorize an emergency appointment for a period not to exceed thirty (30) days when he or she certifies that the failure to make such appointment will result in harm to persons or property or will seriously hinder the operations of the Borough.

**4.2 Examinations.**

- A. The governing body may administer examinations for appointment to Borough positions which may include any one or more of the following:
1. Written tests;
  2. Oral tests;
  3. Performance tests;
  4. Physical performance tests;
  5. Evaluation of education, training or experience;
  6. Assessment exercises; and
  7. Other appropriate measures of knowledge, skills and abilities.

### **4.3 Medical Examinations**

The Borough may require a medical and/or psychological examination after an offer of employment has been made and prior to appointment, and may condition the offer of employment on the results of such examination. Such examinations shall be required and conducted in full compliance with the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. ("ADA"), the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et. seq.* ("NJLAD"), and other applicable law.

The Borough may also require an employee to submit to a medical or psychological fitness for duty examination at the Borough's expense to the extent it is job related and consistent with business necessity and otherwise compliant with the ADA, NJLAD, and/or other applicable law.

Any information obtained by the Borough in accordance with this Section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the ADA, the NJLAD, and/or other applicable law. All requests for medical information or certification shall be consistent with the Genetic Information Nondiscrimination Act of 2008 and appropriate notice given to providers at the time of any request.

Information obtained pursuant to this Section regarding the medical or psychological condition or history of an employee shall be collected and maintained on separate forms and in separate medical files from other applicant information or personnel files and treated as confidential medical records, except that:

1. Such information shall be available to the governing body and the Borough Administrator in connection with inquiries into the ability of an applicant to perform essential job functions; and
2. Department Heads and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; and
3. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation.

### **4.4 Nepotism.**

- A. Relatives of managerial employees and appointed or elected municipal officials shall not be considered for municipal appointment to the particular agency employing the managerial employee or of which the official is a member.
- B. For the purpose of this policy the term "relatives" refers to spouse, civil union or domestic partner, mother, father, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, child, aunt, uncle, niece, nephew and child of a spouse or civil union or domestic partner.



- C. This policy is not intended to deprive any citizen of any equal opportunity for a government position, but is intended to eliminate the possibility of preferential treatment being accorded to relatives of Borough managerial employees or officials.
- D. This policy shall not affect the status of current employees but only apply to future hiring, promotion or transfer.

## **5. PROMOTIONS.**

### **5.1 Permanent Promotions.**

- A. Vacancies may be filled by utilizing promotional examinations, which may include any one or more of the following:
  - 1. Written tests;
  - 2. Oral tests;
  - 3. Performance tests;
  - 4. Physical performance tests;
  - 5. Evaluation of education, training or experience;
  - 6. Assessment exercises; and
  - 7. Other appropriate measures of knowledge, skills and abilities.

This provision shall not preclude the filling of vacancies with candidates from outside the Borough's employ unless otherwise prohibited by law.

- B. Promotions of members or officers of the Police Department shall be subject to N.J.S.A. 40A:14-122.6 (preference to residents); N.J.S.A. 40A:14-129 (promotions from within the department; preference to seniority and merit); and N.J.S.A. 40A: 14-130 (service of at least three [3] years).

The Council may authorize the promotion of a qualified permanent employee by appointment without competitive examination if the employee has been successfully tested in the basic skills required for the promotional title.

### **5.2 Temporary Promotions.**

The Mayor and Council of the Borough may fill vacancies by a temporary promotion by way of resolution, without promotional examination. Such temporary promotion shall have a maximum

initial duration of six (6) months, and may be extended once for an additional period of up to three (3) months.

## **6. COMPENSATION AND SALARY INCREMENTS.**

### **6.1 Pay Periods; Computation of Hourly Rate.**

- A. The Borough shall pay its employees on a schedule established by the governing body.
- B. The employee's hourly rate shall be computed by dividing the annual rate of pay of the employee, as set forth in the Borough Salary Ordinance, by 1820 for employees working a thirty-five (35) hour per week schedule, and by 2080 for employees working a forty (40) hour per week schedule.

### **6.2 Overtime Eligibility, Authorization and Compensation.**

- A. Eligibility - The Borough pays overtime in accordance with the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. ("FLSA"). Certain employees employed in executive, administrative and professional positions are exempt from the FLSA's overtime provisions and may be required to work as many hours as necessary to fulfill their responsibilities without receiving overtime pay or compensatory time. The Borough Clerk shall notify all such Borough personnel that they are exempt. All non-exempt employees receive overtime compensation as set forth herein. Non-exempt employees working overtime without prior approval will be subject to disciplinary action.
- B. Authorization - All overtime for eligible employees must be approved in advance by the Department Head with the approval of the Borough Administrator. Overtime forms must be completed and approved by the Department Head in advance and must specify the amount of overtime which is approved.
- C. Compensation - Employees shall receive either cash payment or compensatory time off, for time worked in excess of forty (40) hours per week as provided by any applicable collective bargaining agreement or as agreed in advance with the employee's Department Head. Approved overtime forms must reflect whether the overtime will be compensated by cash payment or compensatory time. Cash compensation for overtime work shall be at the rate of one and one-half (1.5) times the employee's regular rate, as set forth in the Borough's salary ordinance or computed in accordance with Section 6.1B hereof or applicable law, for each hour worked in excess of forty (40). Compensatory time, in lieu of cash compensation, shall be at the rate of one and one-half (1.5) hours of compensatory time for each hour worked in excess of forty (40).

Compensatory time off, when granted, must be scheduled and used within ninety (90) days from the time earned unless otherwise approved by the Borough Administrator.

- D. For full-time office employees who work a scheduled 35-hour week or employees who are normally scheduled to work fewer than 35 hours per week, hours worked in excess of their normal schedule and up to 40 will be paid at the employee's hourly rate as set forth in the Borough's salary ordinance or computed in accordance with Section 6.1B hereof. Hours worked over 40 hours in a week will be compensated as set forth in Section 6.2C.
- E. Members of the Police Department shall be paid overtime in accordance with the collective bargaining agreement or the policy and procedures which govern said relationship.
- F. Full-time employees acting as secretaries at evening meetings held after 6:00 p.m. shall be paid one and one half (1.5) times their hourly rate, as set forth in the Borough's salary ordinance or computed in accordance with Section 6.1B hereof.
- G. The Court Administrator shall receive compensatory time for call-outs (show up) and for work performed outside his or her normal work schedule, with a 2-hour minimum for each such instance. This compensatory time shall be provided on a one hour of compensatory time for each hour worked basis, unless it results in the Court Administrator working in excess of forty (40) hours in a week, in which event any such time worked in excess of forty (40) hours shall be compensated at the rate of one and one-half (1.5) hours of compensatory time for each hour worked in excess of forty (40).
- H. Police matrons/interpreters who are part-time employees shall be compensated for call-out (show up) at a 2-hour minimum.
- I. In addition to the above provisions, the Road Foreman shall be compensated for overtime for working in excess of eight (8) hours per day at a rate of one and one half times his or her hourly rate and shall be compensated at two (2) times his or her hourly rate, as set forth in the Borough's salary ordinance or computed in accordance with Section 6.1B hereof, for emergency work on Sundays.
- J. Part-time employees must receive written approval from the Borough Administrator to work in excess of twenty-eight (28) hours in any work week.

### **6.3 Salary Increases.**

Salary increases shall be as established in the Salary Ordinance adopted from time to time by the Mayor and Council.

**7. HOURS OF WORK; LEAVES; OTHER BENEFITS.**

**7.1 Hours and Attendance.**

- A. The official work week of the Borough shall be a five (5) day, forty (40) hour week, except for office staff who shall work a five (5) day, thirty-five (35) hour week. This applies to full-time office employees assigned to the Police Department. Part-time employees assigned to the Police Department will be subject to a working schedule approved by the Chief of Police.
- B. The Borough Administrator shall set the hours of work for each department, including the amount of time that shall be allowed for lunch. At the Borough Administrator's discretion, employees with certain specialized functions, such as Sewer Plant employees, may be scheduled for work according to a schedule other than the typical five (5) day, forty (40) hour work week.
- C. All employees are expected to be at work and ready to perform their duties at the beginning of each employee's scheduled work day. Except in the event of an emergency, lateness or absence will only be tolerated where the employee's supervisor has been informed prior to the scheduled start of the workday and approval has been obtained. Violation of this policy may subject the employee to discipline, up to and including termination.

**7.2 Holidays.**

- A. Holidays observed by Borough employees shall be adopted by the Mayor and Council. Compensation for work on Saturdays, Sundays and holidays will be as indicated in the annual Salary Ordinance.
- B. Holidays which fall on Saturday will be observed the preceding Friday and those which fall on Sunday will be observed the following Monday. If an official holiday is observed during an employee's vacation, he shall be entitled to an additional vacation day.
- C. The following shall be official Borough holidays:

New Year's Day	Labor Day
Lincoln's Birthday	Columbus Day
President's Day	General Election Day
Good Friday	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day
- D. Employees also receive one (1) floating holiday in celebration of Martin Luther King's Birthday, to be taken on the actual holiday or at any other time during the year, with the approval of the Department Head.

- E. Regular part-time employees, who work at least 20 hours per week, shall be entitled to three (3) paid holidays per year as follows:

- Fourth of July
- Thanksgiving
- Christmas

- F. Temporary employees shall not receive holiday pay.

### **7.3 Vacation for Full-Time Employees.**

- A. Employees shall not accrue any vacation until the one year anniversary of the date of their hire.

- B. On the employee's one year anniversary, full-time employees shall be credited with vacation for the *preceding initial employment year* as follows:

1. Employees who have been in the service of the Borough continuously for the preceding ten (10) months prior to January 1 of the current calendar year are entitled to two (2) weeks vacation with pay [ten (10) working days] during each calendar year. A week's vacation for employees working a six (6) day cycle shall be defined as six (6) working days.
2. New employees with less than ten (10) months of continuous service prior to January 1 of the current calendar year are entitled to one (1) day of paid vacation for each month of service prior to the beginning of the calendar year.
3. An employee hired on or before the fifteenth day of the month shall be credited with a full month of service in computing vacation time.
4. An employee hired after the fifteenth day of the month shall not be credited with any vacation for the first partial month of service.

- C. In all following years, 2 weeks of vacation shall be credited to the employee on January 1, for the vacation earned in the *preceding year*.

- D. Full-time employees shall also be entitled to additional vacation days with pay *which shall be credited on their employment anniversary date* as follows:

1. After four (4) years of continuous employment; three (3) days.
2. After seven (7) years of continuous employment; five (5) days [six (6) days for those working a six (6) day cycle].

3. After fourteen (14) years of continuous employment; ten (10) days [twelve (12) days for those working a six (6) day cycle].
- E. All vacation days must be taken prior to May 31 of the year following the year in which the vacation days *are credited*. Unused vacation days may only be carried over beyond this deadline with the consent of the Borough Administrator and the appropriate Council Committee. Absent such express approval, unused vacation will expire and be forfeited.
- F. Upon separation from the Borough's service, employees will be paid for their credited, unused, and unexpired vacation time at a rate equivalent to their normal salary.
- G. Vacations shall be scheduled by Department Heads in such manner as to insure adequate levels of personnel to operate the departments efficiently.

#### **7.4 Vacation for Other Employees.**

- A. Part-time, permanent employees who began employment before October 27, 2014, and work a minimum of twenty-five (25) hours per week shall receive vacation leave on a pro-rated basis. Part-time employees who began employment after October 27, 2014, and work a minimum of twenty-five (25) hours per week shall receive vacation on a pro-rated basis, up to a maximum of ten days per year.
- B. Accumulation of vacation leave shall be governed by subsection 7.3.
- C. Part-time employees who work less than twenty-five (25) hours per week and all temporary and seasonal employees shall not be eligible for vacation leave.
- D. Temporary employees shall receive service credit for purposes of vacation accrual upon permanent appointment by the governing body.

#### **7.5 Paid Sick Leave.**

- A. New employees shall accrue paid sick leave at the rate of one (1) day per month of service, up to a maximum of eight (8) days during the first year of employment. Thereafter employees shall be entitled to eight (8) days of paid sick leave per year. Sick leave in excess of the employee's available sick days shall be unpaid, unless the employee has available and elects to use vacation or compensatory time.
- B. As of October 29, 2018, all part-time and temporary employees shall accrue sick leave at the rate of one (1) hour for every thirty (30) hours worked and are entitled to accrue up to five (5) days of paid sick leave per year. Sick leave in excess of the employee's available sick days shall be unpaid, unless the employee has

available and elects to use vacation or compensatory time. Part-time and temporary employees are not permitted to start utilizing accrued paid sick leave benefits until 120 days after October 29, 2018 or their start date, whichever is earlier.

- C. Employees are entitled to carry over up to (5) days of paid sick leave from one year to the next. Employees will not be paid for sick leave upon separation of employment.
- D. Accrued paid sick leave may be utilized to take time off for:
- time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
  - time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member;
  - absence necessary due to circumstances resulting from the employee, or a family member of the employee, being a victim of domestic or sexual violence, if the leave is to allow the employee to obtain for the employee or the family member: medical attention needed to recover from physical or psychological injury or disability caused by domestic or sexual violence; services from a designated domestic violence agency or other victim services organization; psychological or other counseling; relocation; or legal services, including obtaining a restraining order or preparing for, or participating in, any civil or criminal legal proceeding related to the domestic or sexual violence;
  - time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others; or
  - time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, function or other event requested or required by a school administrator, teacher, or other professional staff member responsible for the child's education, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability.
- E. If use of paid sick leave is foreseeable, the employee must notify his or her immediate supervisor of the need to utilize paid sick time seven (7) days in advance, or if such notice is not possible, as soon as practicable. Employees should make reasonable efforts to schedule foreseeable paid sick leave so as not to disrupt Borough operations. If use of paid sick time is not foreseeable, it shall

be the responsibility of the employee to notify his or her supervisor of the absence as soon as reasonably practicable.

- F. A certificate from a physician designated by the Borough, or the employee's own health care provider, may be required as proof of the need for sick leave whenever such requirement appears reasonable and warranted under the circumstances. An employee who is absent on sick leave for five (5) or more consecutive working days shall be required to submit acceptable medical evidence substantiating the illness. An employee who has been absent on sick leave for a period totaling eight (8) or more days in one (1) calendar year shall be required to submit acceptable medical evidence for any additional sick leave in that year. Abuse of sick leave may subject an employee to disciplinary action, up to and including termination.

## **7.6 Family Leave.**

A leave of absence may be granted in accordance with the provisions and requirements of the Family and Medical Leave Act ("FMLA") (29 U.S.C. § 2601, *et seq.*); New Jersey Family Leave Act ("NJFLA") (N.J.S.A. 34:11 B-1, *et seq.*); and/or New Jersey Security and Financial Empowerment Act ("NJSAFE") (N.J.S.A. 34:11C-2, *et seq.*).

## **I. THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

The Family and Medical Leave Act ("FMLA") entitles eligible employees to take up to twelve (12) weeks of job-protected leave in a twelve (12) month period for specified family and medical reasons.<sup>2</sup> The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protection for employees who request or take FMLA leave.

### **1. EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits, an employee must:

- a) have worked for the Borough for a total of twelve (12) months; and
- b) have worked at least 1,250 hours (including overtime) over the previous twelve (12) months (subject to special rules applicable to returning reservists pursuant to the Uniformed Services Employment and Reemployment Rights Act); and
- c) work at a site where the employer employs 50 or more employees within a 75 mile radius of the site.

The Borough Administrator will determine if the employee meets the eligibility requirements.

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<sup>2</sup> An eligible employee may utilize up to twenty-six (26) weeks of FMLA leave for care of a covered servicemember with a serious injury or illness.



## 2. LEAVE ENTITLEMENT

An eligible employee may take up to a total of twelve (12) work-weeks of FMLA leave during a twelve (12) month period for one or more of the following reasons:

- Incapacity due to pregnancy, prenatal medical care, or child birth;
- To care for the employee's child after birth, or placement with the employee of a child for adoption or foster care;
- To care for an immediate family member (spouse, child, or parent) with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition;
- In order to address certain qualifying exigencies while the employee's spouse, son, daughter, or parent is on (or has been notified of) covered active duty or call to covered active duty status (including, but not necessarily limited to addressing issues arising from short-notice deployment, attending certain military events, arranging for alternative child care or school, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment briefings, arranging for parental care, to spend time with a military member on rest and recuperation leave (up to 15 days), etc.); or
- To care for a covered service member with a serious illness or injury (up to 26 weeks during a single 12-month period).<sup>3</sup>

The Borough will calculate the twelve (12) month FMLA "leave year" as the twelve (12) month period forward of the date *FMLA* leave is first taken.<sup>4</sup>

When an employee takes leave for a reason covered by the New Jersey Family Leave Act ("FLA") and the FMLA, the leave shall be simultaneously counted against an employee's entitlement under both statutes to the extent permitted by law.

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<sup>3</sup> A "covered servicemember" is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. A "covered veteran" is an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. For an individual who was a member of the Armed Forces (including the National Guard or Reserves) and who was discharged or released under conditions other than dishonorable prior to March 8, 2013, the period between October 28, 2009 and March 8, 2013 shall not count towards the determination of the five-year period for covered veteran status.

<sup>4</sup> In the case of leave to care for a covered service member (including covered veteran), the twenty-six (26) week period will be calculated forward of the first such leave taken. The definition of "serious injury or illness" is different than the definition of "serious health condition." Refer any questions to the Borough Clerk or the Assistant Administrator.

Spouses employed by the Borough are jointly entitled to a combined total of 12 work-weeks of family leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.<sup>5</sup>

Leave for birth and care or placement for adoption or foster care must conclude within twelve (12) months of a birth or placement.

### **3. INTERMITTENT AND REDUCED SCHEDULE LEAVE**

Under some circumstances, employees may take FMLA leave intermittently, which means taking leave in separate blocks of time due to a single qualifying reason, or on a reduced schedule leave, which means reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent or reduced schedule leave is subject to the Borough's approval.
- FMLA leave may be taken intermittently or on a reduced schedule whenever medically necessary to care for a seriously ill family member or covered service member, for a qualifying exigency relative to deployment of a spouse, son, daughter, or parent, or because the employee is seriously ill and unable to work.
- When FMLA leave is taken intermittently or on a reduced leave schedule for foreseeable planned medical treatment or if the Borough permits for birth or placement of a child, the Borough may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule. Once the reduced schedule or intermittent leave is no longer necessary, the employee will be returned to the same or equivalent job he/she held when the leave commenced.
- Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Borough's operations.

### **4. PAY WHILE ON LEAVE**

FMLA leave will be unpaid unless the employee has applicable earned paid time off. In the event the employee has such applicable earned paid time off, the employee will be required to first use any such earned sick and/or disability leave, and may thereafter, at the employee's election, use any other applicable earned paid time off, all of which time will be counted as FMLA leave. Once such applicable paid time off is exhausted, the remainder of the FMLA leave will be unpaid.

The Borough is responsible for designating an employee's use of paid leave as FMLA leave, based upon information from the employee.

### **5. HEALTH CONDITIONS**

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<sup>5</sup> In the case of military caregiver leave, spouses employed by Borough are jointly entitled to a combined total of 26 weeks of such FMLA leave.

A "**serious health condition**" is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy,<sup>6</sup> or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**"Health Care Provider"** for purposes of the FMLA means:

- Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or
- Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice under state law; or
- Nurse practitioners, nurse-midwives, clinical social workers, and physician assistants authorized to practice, and performing within the scope of their practice, as defined under State law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
- Any health care provider recognized by the Borough or the Borough's group health plan benefits manager.

## **6. MAINTENANCE OF HEALTH BENEFITS**

During FMLA leave, the employee's health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave, where consistent with applicable collective bargaining agreements, state law, and/or health insurance plans in effect at the time of the leave. Employees who are required to contribute part of the cost of health insurance must make arrangements with the Borough for timely payment of premiums.

In some instances, the Borough may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

## **7. JOB RESTORATION**

Generally, upon return from FMLA leave, the employee will be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and

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<sup>6</sup> Prenatal care also qualifies as a "serious health condition" under the FMLA.

conditions of employment. If the Borough should experience a reduction in force or layoff, an employee who would have been affected by such a reduction in force or layoff had he/she not been on FMLA leave is not entitled to be returned to work following exhaustion or completion of FMLA leave, however, the employee retains all rights under any applicable lay off or recall system.

#### **8. MAINTENANCE OF BENEFIT STATUS**

An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave and FMLA leave will not be considered in discipline related to tardiness and/or attendance.

#### **9. KEY EMPLOYEES**

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the Borough may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. In order to do so, the Borough will:

- Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
- Notify the employee as soon as the Borough decides that it will deny job restoration and explain the reasons for this decision;
- Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and
- Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration and notify the employee in writing of that decision.

A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees.

#### **10. NOTICE AND CERTIFICATION PROCEDURE**

Employees seeking to use FMLA leave are required to provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

Employees must provide sufficient information for the Borough to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Borough if the requested leave is for a reason for which FMLA was previously taken or certified.

The Borough may also require employees to provide:

- Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member; or
- Certification of Qualifying Exigency; or
- Second or third medical opinions (at the Borough’s expense) and/or periodic recertification; or
- Periodic reports during FMLA leave regarding the employee’s status and intent to return to work; and
- Medical certification of fitness for return to duty.

The Borough will notify employees requesting leave whether they are eligible for FMLA leave, and if they are not, the reasons for their ineligibility. If the employee is eligible, the notice will specify any additional information required. Where leave is being designated as FMLA leave, the employee will be so notified in writing.

#### **11. NO RETALIATION**

There shall be no retaliation against any employee for exercising his/her rights under the FMLA and/or for taking leave and no interference with FMLA rights. Any such concerns should be immediately reported to the Borough Clerk or the Assistant Administrator or to any manager or supervisor, who shall in turn immediately report same to the Business Administrator.

#### **12. QUESTIONS**

Any questions regarding this policy or FMLA leave should be directed to the Borough Clerk or the Assistant Administrator.

### **II. THE NEW JERSEY FAMILY LEAVE ACT**

The New Jersey Family Leave Act (“FLA”) entitles eligible employees to take up to twelve (12) weeks of job-protected leave in a twenty-four (24) month period for specified reasons. The law contains provisions on employer coverage; employee eligibility for the law’s benefits; entitlement to leave; notice and certification of the need for FLA leave; and protection for employees who request or take FLA leave.

#### **1. EMPLOYEE ELIGIBILITY**

To be eligible for FLA benefits, an employee must:

- Have worked for the Borough for a total of twelve (12) months; and
- Have worked at least 1,000 hours (including overtime) over the previous twelve (12) months.

The Business Administrator will determine if the employee meets the eligibility requirements.

#### **2. LEAVE ENTITLEMENT**

An eligible employee may take up to a total of twelve (12) work-weeks of FLA leave during a twenty-four (24) month period for one or more of the following reasons:

- For the birth of a child of the employee; or
- For the placement with the employee of a child for adoption; or
- To care for the employee's family member (spouse, civil union partner, child, or parent) with a serious medical condition.

The Borough will calculate the twenty-four (24) month FLA "leave period" as the twenty-four (24) month period forward of the date *FLA* leave is first taken.

When an employee takes leave for a reason covered by the federal Family and Medical Leave Act ("FMLA"), the leave shall be simultaneously counted against an employee's entitlement under both statutes to the extent applicable and permitted by law. However, if an employee takes FMLA because of his or her own disability, including a disability related to pregnancy or childbirth, and a family member becomes seriously ill or a child is born or adopted while he or she is still on FMLA disability leave, the intervening birth, adoption, or serious family illness does not convert the FMLA leave to FLA leave. For as long as the employee continues to be eligible for FMLA leave based upon his or her own disability, the leave does not simultaneously count against the employee's FLA entitlement. After the employee is released by his or her healthcare provider, any remaining FMLA leave will run concurrently with the employee's FLA leave entitlement.

Leave for birth and care or placement for adoption of a child must be commenced within twelve (12) months of the birth or placement of that child.

### **3. INTERMITTENT LEAVE OR REDUCED LEAVE SCHEDULE**

Under some circumstances, employees may take FLA leave intermittently – which means taking leave in blocks of time, or on a reduced leave schedule, by reducing their normal weekly work schedule.

- If FLA is for birth and care or placement for adoption, use of intermittent or reduced schedule leave is subject to Borough approval.
- FLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member. Such intermittent leave may not exceed twelve (12) months.
- FLA leave may be taken on a reduced leave schedule in increments of not less than one day and for a period not to exceed twenty-four (24) weeks.
- When FLA leave is taken intermittently or on a reduced leave schedule for foreseeable planned medical treatment or if the Borough permits for birth or placement of a child, the Borough may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the

employee's intermittent or reduced leave schedule. Once the reduced schedule or intermittent leave is no longer necessary, the employee will be returned to the same or equivalent job he/she held when the leave commenced.

- When requesting intermittent or reduced schedule leave, employees shall make reasonable efforts to schedule such leave so as not to unduly disrupt operations of the Borough.

#### **4. PAY WHILE ON LEAVE**

FLA leave will be unpaid unless the employee has applicable earned paid time off. In the event the employee has such available and applicable earned paid time off, the employee may elect to use such applicable earned paid time off, all of which time will be counted as FLA leave. Once such applicable paid time off is exhausted, the remainder of the FLA leave will be unpaid.

The Borough is responsible for designating an employee's use of paid leave as FLA leave, based upon information from the employee.

#### **5. HEALTH CONDITIONS**

“Serious health condition” for purposes of the FLA means an illness, injury, impairment or physical or mental condition that requires:

- Inpatient care in a hospital, hospice or residential medical-care facility; or
- Continuing medical treatment or continuing supervision by a health care provider.
- For FLA purposes, “continuing medical treatment or continuing supervision by a health care provider” means:
  1. A period of incapacity (that is inability to work, attend school or perform regular daily activities due to a serious health condition, treatment therefore and recovery there from) for more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
    - i. Treatment two or more times by a health care provider; or
    - ii. Treatment by a health care provider on one occasion which results in a regimen of continuing treatment under the supervision of a health care provider;
  2. Any period of incapacity due to pregnancy, or for prenatal care;
  3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
  4. Any period of incapacity, which is permanent or long term, due to a condition for which treatment may not be effective (such as Alzheimer's disease, a severe stroke or the terminal stages of a disease) where the individual is under continuing supervision of, but need not be receiving active treatment by, a health care provider; or

5. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity for more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy) or kidney disease (dialysis).

“Health Care Provider” for purposes of the FLA means any person licensed under Federal, State or local law, or the laws of a foreign nation, to provide health care services; or any other person who has been authorized to provide health care by a licensed health care provider.

## **6. MAINTENANCE OF HEALTH BENEFITS**

During FLA leave, the employee’s health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave, where consistent with applicable collective bargaining agreements, state law, and/or health insurance plans in effect at the time of the leave. Employees who are required to contribute part of the cost of health insurance must make arrangements with the Borough for timely payment of premiums.

## **7. JOB RESTORATION**

Generally, upon return from FLA leave, the employee will be restored to his /her original job or to an equivalent job with like seniority, status, employment benefits, pay and conditions of employment.

If the Borough should experience a reduction in force or layoffs, an employee who would have been affected by such a reduction in force or layoff had he/she not been on FLA leave is not entitled to be returned to work following exhaustion or completion of FLA leave, however, the employee retains all rights under any applicable layoff or recall system.

The Borough may deny FLA leave to certain of its highest paid 5% of salaried employees to the extent such denial is necessary to prevent substantial and grievous economic injury to the Borough, upon notice to such employee. If such leave has already commenced, such employee shall be given ten (10) working days to return to work.

## **8. NOTICE AND CERTIFICATION**

When FLA leave is sought due to the birth or placement of a child for adoption, the employee must provide at least thirty (30) days’ notice of the intention to take FLA leave when reasonably practicable. When FLA leave is sought due to a family member’s serious illness, the employee must provide at least thirty (30) days’ notice of the intention to take FLA leave, except where emergent circumstances warrant shorter notice.



An employee requesting FLA leave in order to care for the employee's seriously ill spouse, civil union partner, child, or parent may be required to provide a certification issued by a health care provider supporting the need for the requested FLA leave.

#### **9. NO RETALIATION**

There shall be no retaliation against any employee for exercising his/her rights under the FLA and/or for taking leave and no interference with FLA rights. Any such concerns should be immediately reported to the Borough Clerk or the Assistant Administrator or to any manager or supervisor, who shall in turn immediately report same to the Business Administrator.

#### **10. QUESTIONS**

Any questions regarding this policy or FLA leave should be directed to the Borough Clerk or Assistant Administrator.

### **III. THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT LEAVE**

The New Jersey Security and Financial Empowerment Act ("NJSAFE") entitles eligible employees to take up to twenty (20) days of job-protected leave in a twelve (12) month period to address circumstances resulting from an incident of domestic violence or a sexually violent offense. The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave; notice and certification of the need for NJSAFE leave; and protection for employees who request or take NJSAFE leave.

#### **1. EMPLOYEE ELIGIBILITY**

To be eligible for FLA benefits, an employee must:

- Have worked for the Borough for a total of twelve (12) months; and
- Have worked at least 1,000 hours (including overtime) over the previous twelve (12) months.

The Business Administrator will determine if the employee meets the eligibility requirements.

NJSAFE leave may be taken by an employee who is a victim of an incident of domestic violence or a sexually violent offense or by an employee whose child, parent, spouse, domestic partner, or civil union partner is a victim of domestic violence or a sexually violent offense.

#### **2. LEAVE ENTITLEMENT**

An eligible employee may take up to a total of twenty (20) work days of NJSAFE leave in the year following each incident of domestic violence or sexually violent offense for the following reasons:

- (1) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's child, parent, spouse, domestic partner, or civil union partner;
- (2) obtaining services from a victim services organization for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner;
- (3) obtaining psychological or other counseling for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner;
- (4) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner from future domestic or sexual violence or to ensure economic security;
- (5) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, including preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic or sexual violence; or
- (6) attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, was a victim.

An employee is not entitled to more than twenty (20) days of combined NJSAFE leave in any twelve (12) month period.

When an employee takes leave for a reason covered by NJSAFE, the leave shall be simultaneously counted against an employee's entitlement under the FMLA and/or the FLA to the extent applicable and permitted by law.

### **3. INTERMITTENT LEAVE**

NJSAFE leave may be taken intermittently in increments of not less than one (1) day.

### **4. PAY WHILE ON LEAVE**

NJSAFE leave will be unpaid unless the employee has applicable earned paid time off. In the event the employee has such applicable earned paid time off, the employee will be required to first use any applicable earned sick leave and/or disability, and may, thereafter, at the employee's election, use any other applicable earned paid time off, all of which time will be counted as NJSAFE leave. Once such applicable paid time off is exhausted, the remainder of the NJSAFE leave will be unpaid.

The Borough is responsible for designating an employee's use of paid leave as NJSAFE leave, based upon information from the employee.

**5. MAINTENANCE OF HEALTH BENEFITS**

During NJSAFE leave, the employee's health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave, where consistent with applicable collective bargaining agreements and/or health insurance plans in effect at the time of the leave. Employees who are required to contribute part of the cost of health insurance must make arrangements with the Borough for timely payment of premiums.

**6. JOB RESTORATION**

Generally, upon return from NJSAFE leave, the employee will be restored to his/her original job or to an equivalent job with like seniority, status, employment benefits, pay and conditions of employment.

**7. NOTICE AND CERTIFICATION**

Prior to taking NJSAFE leave, the employee must notify the Borough *in writing* of the need for leave giving as much notice as reasonable and practical under the circumstances.

The Borough may require documentation to support the incident of domestic violence or sexually violent offense which is the basis for the leave. The employee will be considered to have provided sufficient documentation if the employee provides one (1) or more of the following:

- (1) a domestic violence restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;
- (2) a letter or other written documentation from the county or municipal prosecutor documenting the domestic violence or sexually violent offense;
- (3) documentation of the conviction of a person for the domestic violence or sexually violent offense;
- (4) medical documentation of the domestic violence or sexually violent offense;
- (5) certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency or Rape Crisis Center, that the employee or employee's child, parent, spouse, domestic partner, or civil union partner is a victim of domestic violence or a sexually violent offense; or
- (6) other documentation or certification of the domestic violence or sexually violent offense provided by a social worker, member of the

clergy, shelter worker, or other professional who has assisted the employee or employee's child, parent, spouse, domestic partner, or civil union partner in dealing with the domestic violence or sexually violent offenses.

*All information provided in connection with NJSAFE leave shall be retained in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is required by State or federal law, rule or regulation.*

#### **8. NO RETALIATION**

There shall be no retaliation against any employee for exercising his/her rights under the NJSAFE and/or for requesting or taking leave and no interference with NJSAFE rights. Any such concerns should be immediately reported to the Borough Clerk or Assistant Administrator or to any manager or supervisor, who shall in turn immediately report same to the Borough Administrator.

#### **9. QUESTIONS**

Any questions regarding this policy or NJSAFE leave should be directed to the Borough Clerk or Assistant Administrator.

### **IV. NEW JERSEY FAMILY LEAVE INSURANCE BENEFITS**

New Jersey Family Leave Insurance benefits ("NJFLI") may be available for eligible employees who are caring for a seriously ill family member or a newborn or adopted child for up to six (6) weeks in a twelve (12) month period. NJFLI benefits will run concurrently with FMLA, NJFLA and/or NJSAFE leave to the extent applicable. Information on NJFLI benefits is available from the State of New Jersey Department of Labor and Workforce Development Division of Temporary Disability Insurance.

#### **7.7 Personal Days.**

In recognition of the numerous night meetings that they are expected to attend with no additional remuneration, the Borough Administrator/C.M.F.O., the Borough Clerk, the Assistant Administrator, and the Assistant Engineer shall be entitled to three (3) personal days per calendar year. These three (3) personal days are in addition to all vacation days and holidays to which they are entitled. Personal days shall not accrue or be accumulated beyond the year of entitlement and shall lapse if not taken during the year of entitlement.

#### **7.8 Injury or Disability Leave.**

##### **7.8.1 Injury or Disability Resulting From or Arising Out of Employment.**

- A. When a full-time or part-time Borough employee shall be injured or disabled resulting from or arising out of his or her employment and such injury or disability shall be evidenced by the certificate of a physician designated by the Mayor and Council of the Borough to examine such person, the Mayor and

Council of the Borough may, by resolution pursuant to N.J.S.A. 40A:9-7, grant the injured or disabled employee a leave of absence with pay for a period not exceeding twenty-six (26) weeks. The employee shall not be charged any sick leave time for time lost due to the injury or disability.

- B. Prior to the passage of a resolution referred to in subsection 7.8A, a contract shall be executed between the employee and the Borough setting forth that the employee shall reimburse the Borough from monies he may receive as Workmen’s Compensation, temporary benefits or from possible legal settlement from, or judgment against, the person or persons responsible for the injury.

**7.8.2 Other Injury or Disability.**

- A. For disability not resulting from or arising out of the employee's employment or for which the Mayor and Borough Council choose not to provide a leave of absence with pay under Section 7.8.1A, each full-time employee is entitled to the disability benefit shown in the following table during the continuance of the disability, provided the disability is evidenced by the certificate of a physician designated by the Mayor and Council of the Borough to examine such person and exceeds seven (7) days, at which point disability payments will be retroactive and any utilize sick leave credited.

<b>Length of Continuous Service at Date of Disability</b>	<b>100% Salary for</b>	<b>2/3 of Salary for</b>	<b>1/3 of Salary for</b>
1 <sup>st</sup> year of continuous service	1 week	4 weeks	4 weeks
2 <sup>nd</sup> year of continuous service	2 weeks	6 weeks	8 weeks
3 <sup>rd</sup> year of continuous service	4 weeks	8 weeks	12 weeks
4 <sup>th</sup> year of continuous service	6 weeks	10 weeks	16 weeks
5 <sup>th</sup> year of continuous service	8 weeks	12 weeks	20 weeks
6 <sup>th</sup> year of continuous service	10 weeks	14 weeks	24 weeks
7 <sup>th</sup> year of continuous service	13 weeks	16 weeks	23 weeks
8 <sup>th</sup> year of continuous service	16 weeks	18 weeks	18 weeks
9 <sup>th</sup> year of continuous service	21 weeks	22 weeks	9 weeks
10 <sup>th</sup> year of continuous service	26 weeks	26 weeks	0

Length of service means full years of continuing service completed at the time disability occurs, parts of years shall not be pro-rated.

- B. A second period of disability is considered a new disability with benefits beginning anew at one hundred (100%) percent of salary level and follows the above schedule if it arises from a different cause or if the employee has been back at work for a period of six (6) or more continuous weeks since the conclusion of the first period of disability. In either case, the maximum number of weeks during which any benefit will be paid shall be reduced by the number of weeks disability benefits were paid in the fifty-two (52) weeks preceding the date of disability. Borough approved leaves of absence, including FMLA, FLA, and NJSAFE leave or leaves for Military Service, do not constitute a break in service for purposes of computing disability benefits. The Borough reserves the right to require a medical examination at any time during disability at the expense of the Borough.
- C. The payments provided for in section 7.8.2A shall not be allowed under the following conditions:
  - 1. If the employee, when under medical care, fails to carry out the instructions of the attending health care provider.
  - 2. If, in the opinion of the Borough Medical Examiner, the employee's disability is self-imposed or results from the employee's own actions.
  - 3. If, in the opinion of the Borough Medical Examiner, the disability or illness is not of sufficient severity to justify the employee's absence from duty.
- D. Any employee receiving disability payments from the Borough under this section or section 7.8.1 who, in addition, qualifies for payments under Worker's Compensation benefits and/or applies for and receives disability benefits from the State shall have his or her disability payments reduced by the amount of said Worker's Compensation or State disability benefits.

## **7.9 Bereavement Leave.**

Each full-time employee shall be entitled to three (3) days bereavement leave with pay for the loss of a spouse, civil union or domestic partner, child, father, mother, brother, sister, mother-in-law, father-in-law, grandparent, grandchild or relative in the same household. Such period of time shall not be charged to vacation.

## **7.10 Reserved.**

## **7.11 Military Leave.**

### **(1) Leave of Absence for Military Service**

Pursuant to the Uniformed Services Employment and Reemployment Rights Act, any employee whose absence from a position of employment with the Borough is necessitated by reason of service in the uniformed services shall be entitled to reemployment rights and benefits provided:

- (a) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such military service to the Borough;
- (b) the cumulative length of the absence for military service and of all previous absences from a position of employment with the Borough employer by reason of service in the uniformed services does not exceed five years; and
- (c) the employee returns to work after discharge or release in a timely manner as set forth below.

Employees on active military service will continue to receive paid health insurance coverage during the period of any paid leave plus an additional thirty days calendar days after the paid leave is exhausted. After this period has expired, employees may continue coverage for themselves or their eligible family members under the Borough's group plan by taking advantage of the COBRA provision.

Members of the State administered retirement systems (PERS and PFRS) will continue accruing service credit in the system during the period of military leave. However, the member is responsible to make up any contributions in order to receive full service credit for the period of military service.

An employee reinstated after a period of military service is entitled to seniority and all rights based on seniority that they would have attained had they remained employed. In order to be eligible for reinstatement the employee must be released from active duty under honorable circumstances and return to work within the following time limits:

- (a) for service less than thirty-one (31) calendar days, the employee must return to work on the beginning of the first regularly scheduled workday or eight (8) hours after the end of military duty, with reasonable allowance for commuting;
- (b) for service of thirty-one (31) to one hundred eighty (180) calendar days, the employee must submit an application for reinstatement within fourteen (14) calendar days after completing military duty;

- (c) for service greater than one hundred and eighty (180) calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

**(2) Paid Military Leave**

When a permanent or full-time temporary employee who is a member of the reserve component of any United States armed force or the National Guard of any state and is called for Federal active duty, the employee will receive a military leave of absence for the duration of the service. The first thirty (30) workdays of the military leave of absence in any calendar year shall be with full pay. Any member of the New Jersey National Guard shall be entitled to a military leave of absence without loss of pay for the first 90 work days in the aggregate in any calendar year, during which he or she shall be engaged in State or federal active duty or active duty for training.

After exhaustion of the mandated 30 or 90 days of statutory paid leave for military service in a calendar year, employees remaining on active duty shall be entitled to continue their leave but without pay for the remainder of the calendar year.

**(3) Temporary Employees.**

A full-time temporary officer or employee who has served under such temporary appointment for less than one year shall receive for the service hereinabove described leave without pay but without loss of time.

**(4) Military Leave without Pay**

In accordance with State and/or federal regulations, a qualifying employee who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State is eligible for a leave of absence, without pay, for Inactive Duty Service.

Inactive Duty Service is defined by Army, Air Force, National Guard and State Regulations and includes, but is not limited to:

- a. Unit Training Assemblies (UTA): This training is commonly known as weekend drill;
- b. Rescheduled Unit Training Assemblies (RUTA): This training is a makeup period for a UTA;
- c. Split Unit Training Assemblies (SUTA): This training is a makeup period for a UTA;
- d. Additional Flight Training Period (AFTP): Additional time authorized for flight training/validation;



- e. Readiness Management Assemblies (RMA): Used to plan/prepare training;
- f. Additional Training Assemblies (ATA): Used to accomplish administrative actions in support of training;
- g. M-COFT AUTA: Authorized additional training time authorized for instruction of operation of M-COFT training device;
- h. Proficiency Training (PT); and
- i. Training Period Preparation Assembly (TPPA)

**(5) Accrual of Benefits**

A qualifying employee on Military Leave of Absence with pay will continue to accrue vacation, personal and sick leave.

A qualifying employee on military leave of absence without pay that is less than two (2) consecutive weeks shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a military leave of absence, without pay that is more than two (2) consecutive weeks shall not accrue vacation, personal, and/or sick leave during such leave of absence.

**(6) Use of Accrued Time/Rescheduling**

A qualifying employee eligible for a military leave of absence without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays during such military leave of absence. Sick leave shall not be used for military leave of absence.

A qualifying employee may, with prior authorization, be permitted to change their work schedule to accommodate the need for military leave and to avoid periods of unpaid leave if circumstances allow such change in schedule without substantial disruption to other employees and/or the operations of the Borough.

**(7) Verification of Leave**

Any employee who requests a leave of absence for a military leave of absence, whether paid or unpaid, must provide their Department Head and/or the Borough Administrator with a copy of their military orders and military base pay documentation, and subsequently with a copy of their orders terminating their active duty.

Failure to provide required documentation may result in the delay or denial of salary for the period of the military leave.

### **7.12 Leave Without Pay.**

Leave without pay may be granted to full-time and part-time employees. Such leave shall be granted only when the employee has used his or her applicable accumulated sick, disability, compensatory, and vacation time in the case of leave for illness, or his or her compensatory and vacation time in the case of leave for reasons other than illness. Written request for leave without pay must be initialed by the employee, favorably endorsed by his or her Department Head and the Business Administrator and approved by resolution of the Mayor and Council before becoming effective. Such leave, except for military leave without pay, shall not be approved for a period longer than three (3) months at one time. The Mayor and Council may, by resolution, extend such leave for an additional nine (9) months or any portion thereof upon recommendation in writing of the Borough Administrator. When an approved Leave of Absence without pay under this Section ends, every effort will be made to return the employee to the same position, if it is still available, or to a similar position for which the employee is qualified. However, the Borough cannot guarantee reinstatement in all cases, except as required by law.

This Section shall not apply to FMLA, FLA, and/or NJSAFE leaves which are governed by Section 7.6 and/or any leave granted as a reasonable accommodation pursuant to Section 18 or otherwise.

### **7.13 Retirement Leave.**

All full-time, non-contractual personnel who were employed by the Borough on or before October 27, 2014 and have worked a minimum of twenty (20) years shall be entitled to retirement leave, with pay, equivalent to one (1) week for each year of service less five (5). In the event service with the Borough has been non-continuous, the employee must have served the last five (5) years continuously up to the date of retirement to qualify for this benefit.

### **7.14 Request for Leave.**

Except as otherwise indicated in this section, a request for any type of leave shall be made to the Borough Administrator. Such request, whenever possible, shall be made far enough in advance to permit approval or within the time frame required by law or specific policy, and at the same time, to permit coverage for the particular employment so that municipal services shall not suffer.

### **7.15 Medical Insurance.**

- A. All full-time employees and eligible family members shall become eligible for enrollment in the Borough's group health insurance plan on the first day of the month following completion of sixty (60) days of employment. Other employees will be offered coverage as required by law.
- B. The Borough shall pay the full premium for such insurance for the employee and eligible family members. Payment of such premiums by the Borough shall terminate one (1) month after the employee's separation from service. The

employee may thereafter elect continuing coverage at the employee's expense in accordance with COBRA and/or other applicable law.

- C. Full-time employees may elect to receive a term life insurance policy instead of group health insurance, to be purchased by the Borough. The Borough will contribute to paying the premium for the policy in an amount not to exceed, in any year, the annual cost of the appropriate group health insurance plan for which the employee is eligible, except where such benefits are otherwise set by an existing collective agreement.

#### **7.15a Flexible Spending Accounts**

The Borough authorized Flexible Spending Accounts pursuant to Resolution Nos. 12-47 and 12-68. Additional information about Flexible Spending Accounts is available from the Borough Clerk.

#### **7.16 Use of Personal Vehicle; Reimbursement.**

Employees shall be reimbursed for the use of the employee's personal vehicle for Borough business provided:

- A. Use of the personal vehicle is considered necessary and is authorized in advance by the Department Head.
- B. A Borough vehicle was not reasonably available when the personal vehicle was used.
- C. An adequate record showing the date the vehicle was used, the miles driven and the nature of trip or business is maintained and submitted to the Borough Administrator.
- D. Reimbursement to employees for use of personal vehicles while on Borough business shall be at the IRS's standard mileage rate.
- E. Private automobile mileage reimbursement for Borough business is allowed from the point of origin to the point of destination (but not for commuting between home and work). When Borough business trips originate or terminate at the employee's home because of convenience to the employee, mileage reimbursement to the employee must be the lesser of: (a) an amount based on the distance between home and destination; or (b) an amount based on the distance between office and destination. This policy will be applicable to all official travel irrespective of the time of day (including non-business hours) or day of week (including weekends and holidays) on which it occurs. The mileage rate covers all expenses incurred by the use of a privately owned automobile for Borough business, including gasoline, insurance, maintenance and car washes.

## **7.17 Jury Duty.**

Full-time employees selected for Jury Duty shall be excused from work while on Jury Duty. Such employee's salary and related benefits shall continue as if such employee were present for work and they will be compensated at their regular rate of pay, minus any payments received for jury duty. Other employees will not be compensated.

## **8. POLITICAL ACTIVITY.**

### **8.1 Certain Political Activities Prohibited; Penalty for Violation.**

- A. It is the declared policy of the Borough to appoint all employees in all categories without regard to political consideration. For the purposes of this section, Borough employees are defined to include full-time, temporary, introductory or part-time personnel receiving annual or hourly compensation for their services.
- B. Borough employees shall not engage in any political activities during working hours or on municipal property, whether during working hours or not. Political activity is defined to mean canvassing voters, soliciting votes, making telephone calls or preparing press releases, distributing campaign literature and similar activities conducted on behalf of, or in opposition to, a candidate for public office or a political party or public question scheduled to be voted upon at an election or referendum. Employees are also prohibited from using Borough supplies or equipment in any political activities.
- C. No employee covered by this section shall declare his or her candidacy for any Borough elective office or accept the nomination of a political party for Borough elective office without first applying for a leave of absence, without pay, from Borough employment. This leave of absence application shall be made in writing to the Borough Administrator. If the employee is unsuccessful in the election in which he is a candidate, then the leave of absence shall terminate no later than thirty (30) days following the election and the employee may return to the Borough position held prior to his or her being granted a leave of absence.
- D. Nothing in this section shall be construed to prevent Borough employees from becoming or continuing to be members of any political party, club or organization, attending political meetings, expressing their views on partisan political matters, or voting with complete freedom in any election provided, however, that no employee may be an officer or director of any political party.
- E. Violations of any provisions of this section may subject the employee to disciplinary action, up to and including termination and should be reported immediately to the Borough Administrator.

## **9. MISCELLANEOUS RULES AND REGULATIONS.**

### **9.1 Maintenance of Personnel Records.**

The Borough Administrator shall maintain comprehensive personnel records for each employee of the Borough in a Central Personnel File. Such records should include employment application forms, dates of appointments and promotions, job titles, salaries, commendations, disciplinary actions, leave of any type taken and accumulated, merit ratings and all documents relating to benefits, insurance, retirement, etc. The following provisions shall apply to maintenance and accessibility of the Central Personnel File.

- A. Central Personnel Files are confidential and shall be maintained in a locked file cabinet under the direct supervision of the Borough Administrator. Personnel files will only be available to authorized managerial and supervisory personnel on a need-to-know basis. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access.
- B. Any municipal employee may review his or her own Central Personnel File folder in the presence of the Borough Administrator, Borough Clerk or some other employee designated by the Administrator, provided an appointment is made in advance with the Borough Administrator or the Borough Clerk. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.
- C. Personnel files do not contain confidential employee medical information. Any such information that the Borough may obtain will be maintained in separate files and treated at all times as confidential information. Any such medical information may be disclosed under very limited circumstances in accordance with any applicable legal requirements.
- D. The Borough Council may review the Central Personnel File at any time in the course of performing its duties.
- E. Any committee or subcommittee of the Borough Council may review the Central Personnel File in the course of performing its duties.
- F. The Borough endeavors to maintain the privacy of personnel records. There are limited circumstances in which the Borough will release information contained in personnel or medical records to persons outside the Borough. These circumstances may include:

- In response to a valid subpoena, court order or order of an authorized administrative agency;
- To an authorized governmental agency as part of an investigation of the Borough's compliance with applicable law;
- To the Borough's agents and attorneys, when necessary;
- In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the Borough are parties;
- In a workers' compensation proceeding;
- To administer benefit plans;
- To an authorized health care provider;
- To first aid or safety personnel, when necessary; and
- To a potential future employer or other person requesting a verification employment in accordance with Borough Policy 9.14.

Personnel records aside from the Central Personnel File may be maintained within any department but shall be limited to personnel of that individual department and shall contain only such documents as shall be necessary to evaluate the performance of the employee in the position or positions held within that department and to record basic information such as job attendance, vacation and sick records. All such personnel records must also be contained in the Central Personnel File. No medical records shall be maintained in personnel or departmental files.

No derogatory information, except disciplinary actions, shall be placed in any employee's personnel file whether such file be in the Central Personnel File or a departmental file, without first advising the employee that such derogatory information is to be placed in his or her file and allowing the employee to appeal such action to the Borough Administrator.

Results of any disciplinary actions taken against an employee shall be recorded in the employee's Central Personnel File only, except when the final result of such action is a dismissal of charges.

The Borough reserves the right to remove any pre-employment inquiries and background investigations from an employee's Central Personnel File prior to review of the file by the employee.

The employee shall have the right to prepare a written statement for submission into his or her file to rebut or clarify information prepared by the employer.

Neither a Central Personnel File nor any copies of material contained therein shall be made available to parties for reasons other than indicated in this Section.

The provisions of this Section shall apply equally to Departmental Personnel Files and Central Personnel Files, except that such Departmental Personnel Files shall be under the immediate supervision and control of the Department Head.

## **9.2 Outside Employment; Full-Time Employees.**

- A. Full-time employees of the Borough shall not accept outside employment or engage in outside business activities without the prior approval of the Borough Administrator and appropriate Council Committee. Application for permission to accept outside employment shall be made in writing to the Borough Administrator through the employee's Department Head. The Department Head shall indicate approval or disapproval of the request.
- B. Requests to accept outside employment or engage in outside business activities shall set forth the nature of such employment or business activity and shall indicate the approximate hours per week that such work or business activity is expected to entail.
- C. No application for permission to accept outside employment shall be approved if there is any reasonable probability that such outside employment will interfere with an employee's performance of his or her municipal job or compromise an employee's position with the Borough through a conflict of interest.

## **9.3 Ethical Standards and Conflicts of Interest.**

Employees, including Borough officials, must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Borough. Violations of this policy may subject the employee to disciplinary action, up to and including termination.

The Borough recognizes the right of employees to engage in outside activities that are private in nature and unrelated to Borough business. However, business dealings that appear to create a conflict between the employee and the Borough's interests are unlawful under the New Jersey Local Government Ethics Act ("the Act"). In addition, under the Act, certain employees and officials are required to annually file with the Borough Clerk a state mandated disclosure form. The Borough Clerk will notify employees and Borough officials subject to the filing requirements of the Act and provide them with the appropriate form.

A potential or actual conflict of interest occurs whenever an employee is in a position to influence a Borough decision that may result in a personal gain for the employee or an immediate relative including a spouse, civil union or domestic partner or significant other, child, parent, stepchild, sibling, grandparent, daughter-in-law, son-in-law, grandchild, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the Borough may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, employees should immediately contact the Borough Administrator to obtain clarification.

Any employee who holds an interest in, or is employed by, any business doing business with the Borough must submit a written notice of these outside interests to the Borough Administrator.

#### **9.4 Safety Policy.**

The Borough will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (“PEOSHA”). The Borough is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Employees must immediately report any occupational or public unsafe condition, practice, procedure or act to their supervisor or Department Head.

The Borough has appointed a Safety Committee that meets on a regular basis to discuss and recommend solutions to safety problems. Employees are encouraged to discuss safety concerns with their Safety Committee Representative.

#### **9.5 Reporting Accidents; Personal Injury; Occupational Illnesses.**

An employee who is injured in the performance of his or her duties or who suffers from a work-related illness shall immediately report the accident or illness to his or her supervisor. The employee shall immediately complete a form provided by the Borough Clerk for such reports and submit it to the Borough Clerk.

#### **9.6 Reporting Accidents; Property Damage.**

An employee involved in an accident where damage to either Borough-owned property or private property is involved shall immediately report such accident to his or her supervisor and shall also file a written report of such accident in the Borough Clerk’s Office.

#### **9.7 Gratuities.**

It is the intent of the Borough to discourage the public from offering gratuities to public officials and employees. Therefore, employees shall neither accept nor solicit gratuities and shall discourage that practice whenever possible.

#### **9.8 Alternate Work Station.**

Whenever an employee's usual work station is unavailable for any reason, the employee shall perform his or her duties at an alternate workplace designated by the Borough Administrator, the Borough Clerk, or the Assistant Administrator.

#### **9.9 Workplace Violence.**

The Borough will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property may result in immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Borough property or at work sites, at



Borough functions, events, or activities and/or communicated electronically or by way of social media.

Prohibited conduct includes, but is not limited to:

1. Causing physical injury to another person.
2. Making threatening remarks.
3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
4. Intentionally damaging Borough property or the property of another employee.
5. Possession of a weapon while on Borough property or while on Borough business or at any time during working hours, except with the authority of the Police Chief.

Any potentially dangerous situations and/or incidents of workplace violence must be immediately reported to the Borough Administrator.

#### **9.10 Communication Media/Social Media Policy**

The Borough's Communication Media are the property of the Borough, and as such, to be used for legitimate business purposes. For purpose of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the Borough including, but not limited to e-mail, voicemail, Internet access, Borough issued cellular devices, computers, computer networks, and any other Borough technology. Employees are restricted from accessing or using the Borough's Communication Media for personal purposes during working hours on the Borough's equipment, without prior authorization from the Business Administrator.

All e-mail, voice mail, Internet, and/or other electronic communications and messages are public records subject to possible disclosure to the public pursuant to the provisions of the Open Public Records Act ("OPRA"), N.J.S.A 74:1A-1

Employees of the Borough are required to use the assigned municipal email account for ALL Borough business and correspondence. The use of private email accounts for ANY Borough business or during business hours is strictly prohibited.

Employees are advised that if they conduct work-related business on their personal emails, cell phones, or other personal Communication Media, these communications are also subject to the provisions of OPRA. However, nothing in this Communications Media/Social Media Policy prevents any employee from using his or her own personal Communication Media during the employee's non-

working hours to engage or participate in “protected concerted activities” pursuant to applicable law.

Protected concerted activities include but are not limited to: situations where an employee addresses group concerns with the employer; forms, joins, or assists an employment or labor organization; initiates, induces, or prepares for group action against an employer; or speaks on behalf of or represents other employees.

Yet, employees are encouraged to resolve workplace grievances internally by discussing issues with their supervisor and/or the Borough, and are asked to refrain from posting comments or materials on Communication Media that can be viewed as malicious, obscene, threatening, intimidating; or that could create a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law if the employee chooses to address their grievances using Communication Media.

**a. Management’s Right to Access Information**

All data stored on and/or transmitted through Communication Media is the property of the Borough. For purposes of this policy, “data” includes electronically-stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or through any of the Borough’s mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the Borough’s local or wide-area networks.

Employee communications transmitted by the Borough’s Communication Media are not private to the individual. **All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the Borough. The Borough reserves the absolute right to access, review, audit, and disclose all matters entered, sent over, placed in storage in the Borough’s Communication Media.** By using the Borough’s equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by Borough personnel. Employees have no expectation of privacy with respect to information accessed, communicated, or stored in or through these Borough systems.

The existence of passwords does not restrict or eliminate the Borough’s ability or right to access electronic communications. However, pursuant to New Jersey law, the Borough cannot require any employee to provide his or her user name(s) and/or password(s) to his/her personal account(s).

**b. Forbidden Content**

Employees are strictly forbidden from using Borough e-mail, voicemail, Internet or computer network systems, or any Borough Communication Media in any way that may be seen as discriminatory, defamatory, obscene, threatening, or harassing, or in violation of the Borough's Equal Opportunity, Anti-Harassment, Sexual Harassment and/or other Policies.

Discriminatory remarks, harassment, bullying, threats of violence, and similar otherwise disparaging comments are prohibited in the workplace and on social media.

Employees are prohibited from disclosing any confidential or proprietary information of the Borough without permission in any manner, including on an employee's personal Communications Media accounts. Such information includes but is not limited to employer records or documents, trade secrets, internal reports, tips based on inside information that may be considered insider trading, screenshots of computer stations, pictures of monitors and/or actual documents of the employer, any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incidents or occurrences.

Further, no employee shall post internal working documents to workplace or personal Communications Media accounts. This includes, but is not limited to, screenshots from computer stations, pictures of monitors, and/or the actual documents themselves without prior approval of the Borough. Employees are also prohibited from releasing or disclosing any photographs, pictures, or digital images of any people or job-related incident or occurrence taken with the Borough's Communications Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of Borough Administration.

No media advertisement, electronic bulletin board posting, or any other communication via the Internet about or on behalf of the Borough through the use of the Borough's Communications Media may be issued unless it has first been approved by the Borough's Administration. Specifically, employees are forbidden from using the Borough's Communication Media to impersonate the employer; to make statements on behalf of the employer without authorization; and/or to make statements that can be construed as establishing what the employer's official position or policy is on any issue.

**c. Unauthorized Access**

Employees are prohibited from the unauthorized use of the password(s) of other employees to gain access to another employee's messages in the e-mail, voicemail, Internet or computer network systems including but not limited to all secured access software that employees may have access to.

All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by the Borough. Certain data, or applications that process data, may require additional security measures as determined by the Borough. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

Employees may only access data that the Borough has given the employee permission to access.. All employees must take appropriate actions to ensure that Borough data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.

Employees must not disable anti-virus and other implemented security software for any reason, in to minimize the risk of introducing computer viruses into the Borough's computing environment.

Employees may not install, modify, or remove ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough, or licensed to the Borough. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized. Office device settings, configurations, and network settings must not be modified by unauthorized employees. Internet security settings (where applicable) must not be changed. The foregoing includes but is not limited to the System's Network ID (or Computer Name), IP Address, Gateway and DNS addresses etc.

**d. Violations**

Violations of the Borough's Communication Media Policy will subject the employee to discipline, up to and including immediate termination.

**9.11 Reserved.**

**9.12 Bulletin Board Policy.**

The bulletin boards located in the Borough administrative building and other facilities are intended for official notices regarding policies, procedures, meetings and special events. Only personnel authorized by the Borough Administrator may post, remove, or alter any notices.

### **9.13 Driver's License Policy.**

Any employee whose work requires the operation of Borough vehicles must hold a valid New Jersey driver's license, unless exempt by provision of applicable law.

All new employees who will be assigned work entailing the operating of a Borough vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. A report indicating a suspended or revoked license status may result in denial or termination of employment.

Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks shall be made by Department Heads or division supervisors. Any employee who does not hold a valid driver's license will not be allowed to operate a Borough vehicle until such time as a valid license is obtained.

Any employee performing work which requires the operation of a Borough vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee, who fails to report such an instance, is subject to disciplinary action, up to and including termination. An employee who fails to immediately report such revocation or suspension to their supervisor and continues to operate a Borough vehicle shall be subject to discipline, up to and including termination.

Any information obtained by the Borough in accordance with this section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. § 2721, et seq.)

### **9.14 Request for Employment Verification and Reference Procedure**

Inquiries and written requests for references or employment verification regarding a current or former employee must be referred to the Borough Clerk. No employee may issue a reference letter without the permission of the Borough Clerk. Under no circumstances should any information be released over the phone.

In response to a request for information, the Borough Clerk will only verify an employee's name, dates of employment, job title, department and final salary. No other data or information will be furnished unless (1) the Borough is required to release the information by law or (2) the employee or former employee authorizes the Borough in writing to furnish this information and releases the Borough from liability.

## **10. PERFORMANCE EVALUATIONS.**

Performance evaluations of each employee shall be conducted on an annual basis. Evaluations shall ordinarily be conducted by the employee's Department Head. The evaluation process and evaluations are intended to assist the employee in identifying strengths and weaknesses in his or

her job performance and establishing objectives or goals for improvement and potential promotion or reassignment.

Neither the annual evaluation process nor the evaluations prepared in that process will change the at-will nature of the employment relationship between the Borough and any employee as more fully explained on the first page of this Manual.

## **11. SEPARATION FROM SERVICE.**

### **11.1 Types of Separation and Applicability.**

Employees may be separated from Borough employment by layoff, termination, resignation or retirement, as set forth in this section.

#### **11.2 Layoff.**

The Borough may institute layoff actions for economy, efficiency or other related reasons.

#### **11.3 Termination.**

- A. As at-will employees, Borough employees may be involuntarily terminated with or without cause (i.e., reason) and with or without notice, subject only to applicable statutory or tenure protection or as provided by an applicable collective bargaining agreement as explained more fully on the first page of this Manual.
- B. The Borough complies with all applicable federal and State laws as well as applicable collective bargaining agreements in connection with termination of employment.
- C. Any employees who are employed by written contract with the Borough, the terms of which provide for the method by which employment may be terminated, shall be terminated in accordance with those terms rather than the provisions of this section.

#### **11.4 Resignation, Notice, and Unapproved Absence from Duty.**

- A. Employees resigning employment should give the Borough at least fourteen (14) days written notice. The resignation shall be considered accepted by the Borough upon receipt of the notice of resignation.
- B. Any employee who is absent from duty for five (5) or more consecutive business days without the approval of his or her Department Head shall be considered to have abandoned his or her position and shall be recorded as a resignation. Approval of the absence shall not be unreasonably denied.

## **11.5 Retirement.**

- A. All Borough employees enrolled in the Public Employees Retirement System or Police and Fireman's Retirement System are subject to the requirements and provisions of those Plans.
- B. The employees' contribution to those Plans shall be deducted from the salary paid to such employees and remitted to the State as prescribed by law.
- C. The Borough's contribution for such employees shall be determined by the Borough and subsequently remitted to the State in accordance with the provisions of applicable law.
- D. Borough employees having completed the required years of service, and having attained the specified age, may apply for retirement as provided by the Plans.

## **11.6 Exit Interview and COBRA.**

When an employee gives notice of resignation or is terminated, the Borough Clerk will attempt to schedule a confidential exit interview to discuss benefits, including COBRA options, pension issues, and vacation pay due. The Borough Administrator may also be present at the exit interview. Regardless of whether or not an exit interview takes place, the Borough Clerk or a representative will send a COBRA notification letter to the employee's home address following the employee's separation from service.

## **11.7 Suspension in Actions Involving Criminal Matters.**

When the Borough suspends an employee based on a pending criminal complaint or indictment, the employee shall be served with a notice advising him that N.J.S.A. 2C:51-2 may apply and that the employee may choose to consult with an attorney concerning the provisions of that statute. In determining whether to suspend an employee until disposition of the criminal complaint or indictment, the standard shall be whether the employee is unfit for duty or is a hazard to any person if permitted to remain on the job or that an immediate suspension is necessary to maintain safety, health or effective direction of public services.

## **12. DISCIPLINARY ACTION.**

An employee may be subject to discipline, up to and including termination, for any performance deficiency or misconduct, including, but not limited to the following:

1. Falsification of public records.
2. Misrepresentations on or falsification of employment application, attendance and other personnel or employment records or benefits claim forms.
3. Failure to report absence.

4. Failure to report to work one or more days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized absence.
5. Chronic or excessive absenteeism or lateness.
6. Failure to perform duties, inefficiency or substandard performance.
7. Incompetence.
8. Neglect of duty.
9. Insubordination.
10. Conduct unbecoming a public employee.
11. Theft or attempted theft of property belonging to the Borough, fellow employees, volunteers or visitors.
12. Fighting on Borough property at any time, or while on Borough business or during working hours.
13. Manufacture, possession, sale, transfer or use of alcohol or other intoxicants or of illegal drugs or other controlled dangerous substances or misuse or abuse of prescription medication on Borough property, while on Borough business, or at any time during work hours.
14. Being under the influence of alcohol or other intoxicants or of illegal drugs or other controlled dangerous substances on Borough property, while on Borough business, or at any time during work hours.
15. Violation of federal, State or Borough laws or regulations concerning drug and/or alcohol use and possession.
16. Entering building without permission during non-scheduled work hours.
17. Soliciting on Borough premises during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and/or sales of Avon, Amway, Girl Scout cookies, etc.
18. Careless waste of materials or abuse of tools, equipment or supplies.
19. Misuse of public property, including motor vehicles.
20. Deliberate destruction or damage to Borough or suppliers' property.



21. Defacing walls, bulletin boards or any other Borough or supplier property.
22. Sleeping on the job.
23. Possession or display of weapons of any kind on Borough premises and/or during work hours, unless carrying a weapon is a function of your job duties and is approved by the Chief of Police.
24. Threatening, intimidating or coercing others.
25. Violation of established safety and fire regulations.
26. Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
27. Gambling on Borough premises or while on Borough business or during working hours.
28. Horseplay, disorderly conduct and use of abusive and/or obscene language on Borough property, while on Borough business or at any time during working hours.
29. Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort.
30. Conviction of a crime.
31. Unauthorized use or disclosure of confidential Borough information.
32. Discrimination, sexual or other harassment, and/or retaliation.
33. Unauthorized or improper use of Borough computers, Internet, e-mail, or other technology or systems.
34. Violation of any Borough policy.
35. Other sufficient reason.

Discipline may include verbal or written reprimand, suspension, demotion, termination or other appropriate action, and will be related to the severity of the offense and other appropriate considerations. The discipline imposed is at the discretion of the Department Head, Borough Administrator or Borough Council. Employees may be terminated for first offenses where the offense is sufficiently serious.

### **13. GRIEVANCE PROCEDURES.**

#### **13.1 Verbal Grievance.**

Whenever an employee has a grievance, he or she should first present it verbally to his or her supervisor. It is the responsibility of the supervisor to arrange a mutually satisfactory settlement of the grievance within forty-eight (48) hours of the time when it was first presented to him or her, or failing that, the supervisor must within that time advise the employee of his or her inability to do so.

#### **13.2 Formal Written Grievance.**

- A. When an employee is informed by his or her supervisor that the supervisor is unable to arrange a mutually satisfactory solution to his or her verbal grievance the employee must, if he or she wishes to continue to pursue the grievance, do so in writing. A written grievance, stated as completely and as clearly as possible, must be prepared in duplicate and one (1) copy of the grievance immediately submitted to the Borough Administrator. The other copy of the grievance shall be presented by the employee to his or her immediate supervisor (to whom the grievance was made verbally).
- B. Within twenty-four (24) hours after receipt of the written grievance, the supervisor must present a written report reciting the facts and events which led up to the employee's written grievance, including any verbal answer the supervisor may have previously given to the employee concerning this grievance, to the Borough Administrator.
- C. The Borough Administrator shall attempt to find a mutually satisfactory solution to the grievance within seventy-two (72) hours of receipt of the supervisor's written report. If he or she is unable to do so, the written grievance, the supervisor's written report, and a written report prepared by the Borough Administrator must be forwarded to the Borough Council. The Borough Council shall then consider and formally act on the grievance.
- D. No grievance will be heard or considered by the Borough Council which has not first passed through the above described steps.
- E. All papers and documents relating to a grievance and its disposition shall be placed in the employee's Central Personnel File.
- F. This section does not apply to employees who are covered by a collective bargaining agreement.

**14. FLEX POOL.**

Employees in those positions designated as “flex pool positions” by resolution of the governing body shall be trained and qualified to perform any administrative function in Borough Hall and not just those in the specific position for which they were hired. Those positions currently included in the flex pool are:

Deputy Clerk	Finance Department Clerical
Recreation Department Clerical	Engineering Clerical
Registrar/Clerical	Tax Collector’s Office Clerical
Construction/Assessor Clerical	Clerk’s Office Clerical

**15. BOROUGH POLICY ON DRUG AND ALCOHOL ABUSE.**

**15.1 Policy.**

- A. The Borough has a strong commitment to the health, safety and welfare of its employees, their families and the residents of the Borough. Drug and alcohol abuse by Borough employees could endanger the safety of the Borough's employees and the general public. The Borough's commitment to maintaining a safe and secure work place requires a clear policy and supportive programs relating to the detection, treatment and prevention of substance abuse by employees.
- B. This policy applies to all employees of the Borough while on the job and to situations where employee's off-the-job or off-premises conduct impairs work performance, undermines the public confidence in, or harms the reputation of, the Borough. The Police Department, due to the nature of the services it provides, has an additional drug and alcohol policy which it must follow.
- C. Although the Borough does not wish to intrude into the private lives of its employees, the use or abuse of alcohol or other drugs off the job may adversely affect job performance. The Borough's concern is to assure that employees report to work in condition to perform their duties safely and efficiently in the interest of their fellow workers and taxpayers, as well as themselves.

**15.2 Goal.**

It is the goal of the Borough to provide a safe work place by eliminating the hazards to health and job safety created by alcohol and other drug abuse. The Borough believes this goal to be in the best interest of its employees and the taxpayers of the Borough.

**15.3 Definitions.**

- A. The term *illegal drug* means a drug or controlled substance, the possession or use of which is unlawful, pursuant to federal, state and local laws and regulations.

- B. The term *controlled substance abuse* includes prescription drugs not being used by the person for whom they were prescribed, for prescribed purpose, and/or in the prescribed manner.

#### **15.4 Sanctions.**

The Borough will not tolerate the manufacture, distribution, dispensation, sale, use, possession or transfer of alcohol or other intoxicants, illegal drugs or other controlled substances; or offers to buy or sell such substances on Borough property, while on Borough business, or at any time during working hours. Any of these actions will subject an employee to disciplinary action, up to and including termination.

#### **15.5 Employee Responsibilities.**

Every employee has the responsibility to:

- A. Report to work at all times free of alcohol or other intoxicants, illegal drugs or other controlled substances and their effects;
- B. Seek assistance for alcohol and substance abuse related problems through the Borough-sponsored Employee Assistance Program or other approved program before job performance is affected; and
- C. Support the Borough's efforts to eliminate alcohol and substance abuse among employees where it exists.

#### **15.6 Drug and Alcohol Policy.**

The Borough recognizes that the unlawful use of drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is observed by a supervisor or Department Head to be impaired, intoxicated, or under the influence of alcohol or drugs during working hours or is under reasonable suspicion of same shall be immediately tested and is subject to discipline up to and including termination upon failure of alcohol or drug testing. The supervisor or Department Head will immediately report any reasonable suspicions to the Borough Administrator and document the basis for same at the earliest possible opportunity.

An employee will be required to submit to alcohol, drug or controlled substance testing when the employee's work performance or conduct causes a reasonable suspicion that that employee is impaired due to current intoxication, detoxified drug or controlled substance use; or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action, up to and including termination. Supervisors or Department Heads that observe behavior constituting reasonable suspicion are required to immediately report such reasonable suspicion to the Business Administrator and in conjunction therewith institute testing.

Supervisors and Department Heads do not have the option of sending the employee home as an alternative.

The manufacturing, distribution, dispensation, possession, and use of alcohol, controlled substances, or unlawful drugs on Borough premises or during work hours by employees are strictly prohibited.

Employees must notify their supervisor within five (5) days of conviction for a drug violation in the workplace.

Employees who are required to maintain a commercial driver's license (CDL) are subject to random drug testing as required by federal or other statute and or regulation.

### **15.7 Authorized Use of Prescribed Medicine.**

Employees using prescription drugs that may affect job performance or safety must notify their supervisor or Department Head. Supervisors and Department Heads receiving such information have a responsibility to maintain the confidentiality of employee medical information. Inappropriate disclosure of such information shall result in disciplinary action, up to and including termination.

Borough personnel who hold a commercial driver's license (CDL) are subject to the provisions of the Commercial Driver's Licenses Drug and Alcohol Testing Policy. (A program to assist employees who may have a drug/alcohol problem is provided through the Borough's Employee Assistance Program.)

No prescription drug should be used by any person other than the individual to whom it is prescribed. Such substances or non-prescription (over-the-counter) drugs should be used only as prescribed or indicated. Employees are prohibited from consuming prescription drugs that are not prescribed in their name on Borough property, while performing Borough business, or at any time during working hours. Soliciting or distributing prescription drugs for or to other employees is also strictly prohibited.

### **15.8 Testing.**

- A. The Borough will test all applicants, whether new employees or re-hires, consistent with and as permitted under State and federal law. The Borough requires that every hired and re-hired employee be free of illegal drug use and controlled substance abuse. Each offer of employment will be conditioned upon the successful completion of the test for illegal drugs and controlled substances as prescribed by the Borough. Any applicant who tests positive in the pre-employment drug test shall be rejected and shall be ineligible for hire for twenty-four (24) months in the case of new employees and twelve (12) months in the case of re-hires, unless the applicant adequately establishes a legal basis for the use of the drug or controlled substance for which the applicant tested positive.

- B. Applicants and employees subject to testing must, prior to testing, sign an approved form agreeing to the testing, authorizing the release of test results to the Borough Administrator and authorizing the disclosure of the results to any other persons the Borough Administrator determines needs to know for the safety and welfare of the other employees and the residents of the Borough.
- C. Whenever the Borough has reasonable suspicion that an employee is under the influence of alcohol or drugs, the following procedure shall immediately be applied:
  - 1. The employee shall be prevented from engaging in further work and shall be instructed to wait until an authorized Borough representative can transport the employee from the work site.
  - 2. The employee shall be transported to a testing facility where a drug and/or alcohol test will be required. If an employee refuses to sign the approved form agreeing to the testing, the individual shall be notified that he or she may be subject to disciplinary action for insubordination, up to and including termination.
- D. The Borough will afford the applicant or employee subject to testing the opportunity, prior to testing, to list all prescription and non-prescription drugs and controlled substances they have used and to explain the circumstances surrounding the uses of such drugs and controlled substances. Failure of any employee to establish adequately a legal basis for the use of any drug or controlled substance with respect to which the employee tests positive shall constitute a violation of this policy and may subject the employee to disciplinary action, up to and including termination.
- E. The Borough's officers, employees, agents and representatives may use the results of any drug tests administered under this section in connection with Borough business and for purposes of employment and disciplinary actions, and disclose it when required to government agencies and to others upon valid legal requests, in connection with legal proceedings and in other appropriate situations to protect the interests of the Borough. In doing so, the Borough will comply with its policies and any applicable federal or state law or regulation regarding the dissemination of employee medical records and information.
- F. The Borough, prior to taking any adverse employment action, will give all employees who test positive the opportunity for a hearing before the Borough Council. Adequate notice shall be given the employee prior to the hearing.
- G. The Borough will establish and maintain any and all additional testing programs and requirements that may be necessary or appropriate to comply with applicable federal and state laws and regulations.

## **15.9 Hearing.**

- A. After receipt of a request for a hearing by an employee who tests positive for the use of drugs or controlled substances and upon receipt of the completed investigative report by the Borough Administrator, the Borough Council shall conduct a hearing with notice to the employee as set forth below.
- B. The accused employee shall be notified, in writing, at least ten (10) days prior to the hearing. It is recommended that the accused employee seek legal counsel. The accused employee may request one (1) postponement of the hearing upon receipt of the notice in order to obtain legal counsel at the employee's expense, however, the delay occasioned by such request shall not exceed thirty (30) days from the date of receipt of the notice by the accused employee.
- C. The accused employee shall be entitled to attend the hearing, to testify in his or her own behalf and to be represented by legal counsel at the hearing. The employee shall also have the right to confront and cross-examine witnesses, including, but not limited to the employee who made the allegations.
- D. The accused employee shall be entitled to call witnesses on his or her behalf and to introduce evidence which bears upon the issues presented by the investigative report.
- E. At the conclusion of the hearing, the Borough Council shall have the sole discretion to impose discipline, up to and including termination.

## **16. LIFE THREATENING ILLNESS.**

The Borough encourages employees with contagious diseases or life-threatening illnesses such as cancer, heart disease, Hepatitis C and HIV/AIDS to continue their normal pursuits, including work, to the extent allowed by their condition. As in the case of other disabilities, the Borough shall make reasonable accommodations in accordance with legal requirements to allow qualified employees with contagious or life-threatening illnesses to safely perform the essential functions of their jobs.

Medical information shall be treated confidentially. The Borough will take reasonable precautions to protect such information from inappropriate disclosure. Managers and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action, up to and including termination.

- Medical information may be disclosed upon the prior written informed consent of the person who is the subject of the information.
- Information may be disclosed without the prior written consent to qualified individuals for the purpose of conducting management audits, financial audits and program

evaluations, but these individuals shall not identify, either directly or indirectly, the person who is the subject of the record in a report or evaluation, or otherwise disclose the person's identity in any manner. Information shall not be released to these individuals unless it is vital to the audit or evaluation.

- Information may be disclosed to the Department of Health as required by State or federal law.

Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact the Borough Administrator.

## **17. EQUAL OPPORTUNITY/ANTI-DISCRIMINATION.**

The Borough is committed to the principles of equal opportunity and anti-discrimination and complies with the provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, as amended by the Older Workers' Benefit Protect Act, the Americans with Disabilities Act, as amended by the Americans with Disabilities Act Amendments Act, the Genetic Information Nondiscrimination Act of 2008, the Equal Pay Act, the New Jersey Law Against Discrimination, as amended by the New Jersey Pregnant Workers' Fairness Act, and all other applicable state, federal, and/or local laws prohibiting discrimination and/or retaliation. It is the policy of the Borough to prohibit discrimination and to promote and afford equal treatment and service to all citizens and to insure equal employment opportunity for all persons, regardless of actual or perceived race, religion, creed, color, national origin, nationality, ancestry, age, sex/gender, gender identity or expression, affectional or sexual orientation, genetic information (including refusal to submit to a genetic test or make genetic test results available), marital or familial status, political affiliation or status, domestic partnership or civil union status, disability (including AIDS or HIV infection), pregnancy (including pregnancy related medical condition), childbirth, breastfeeding, atypical heredity, cellular or blood trait, veteran status, liability for service in the armed forces of the United States or nationality of any individual, and/or any other characteristic protected by law.

- A. The policy established herein shall be applied to all employment practices, including recruitment, selection, appointment, placement, promotion, demotion, transfer, training, salaries and wages, benefits, working conditions, reductions in force, recalls, disciplinary and dismissal actions, job performance evaluations and/or any other employment actions.
- B. The Borough cooperates with all organizations and commissions organized to promote fair employment practices and equal employment opportunity.
- C. Violation of this equal opportunity/anti-discrimination policy will subject employees to disciplinary action, up to and including immediate discharge.
- D. Any person who is a witness to or believes he or she has been a victim of discrimination or other violation of this policy should immediately report it under



the Employee Complaint Procedure set forth in Section 22. Retaliation for making such report is also expressly prohibited by this policy.

- E. The Borough complies with provisions of NJLAD as it is amended by the Allen Equal Pay Act. In Compliance with the Allen Amendment to NJLAD, the Borough does not pay employees at a lower rate because of their race, color, national origin, religion, age, gender, disability, veteran status, or genetic information, creed, sexual orientation, pregnancy, pregnancy related medical condition, childbirth, breastfeeding, gender identity or expression, marital status, domestic partner status, civil union status, ancestry, nationality, atypical hereditary cellular or blood trait in comparison to employees who perform substantially similar work. In compliance with New Jersey law, the Borough will not take adverse employment action, including demotion or termination, against any employee because he or she discussed or disclosed a current or former employee's job title, occupational categories, or rate of compensation. Employees may discuss these issues at will and will not be asked to sign any agreement where the employee is required to keep silent on such disclosures.

## **18. DISABILITY AND PREGNANCY ACCOMMODATION.**

The Borough complies with the provisions of the Americans With Disabilities Act of 1990, as amended by the Americans with Disabilities Act (the “ADA”), the ADA Amendments Act, and the New Jersey Law Against Discrimination, as amended by the Pregnant Workers’ Fairness Act (“NJLAD”). In compliance with the ADA and NJLAD, the Borough does not discriminate based on disability, pregnancy, pregnancy related medical condition, childbirth, or breastfeeding. The Borough will endeavor to make every work environment handicapped accessible and all future construction and renovation of facilities will be in accordance with applicable barrier-free federal and state regulations and the ADA Accessibility Guidelines, as well as the ADA Amendments Act.

The Borough will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment based on a known or perceived disability, pregnancy, pregnancy related medical condition, childbirth, or breastfeeding. The Borough will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and provided that the accommodation does not impose undue hardship on the Borough.

An employee or volunteer requiring a reasonable accommodation should contact the Borough Clerk or Assistant Administrator. Any Supervisor or Department Head who receives a request for reasonable accommodation or is on notice of an employee’s need for accommodation under this policy must immediately notify the Borough Clerk or the Assistant Administrator who will in turn notify the Business Administrator. Upon receipt of a request or other notice of a disabled or pregnant employee or prospective employee's need for an accommodation, the Borough Administrator shall engage in an interactive dialogue with the disabled or pregnant employee or prospective employee to identify reasonable accommodations that will not create an undue

hardship for the Borough. Such accommodations might include, but are not limited to, modifications to facilities, equipment and work procedures; the provision of auxiliary aides and/or services; and/or permanent reassignment to vacant positions. Employees who are reassigned to a vacant position shall receive the salary of their new position.

In the case of an employee breastfeeding or pumping breast milk, accommodations shall include reasonable break time each day for the employee to breastfeed or pump; and a private room or location, other than a bathroom stall, that is in close proximity to the employee's work area where she may breastfeed or pump.

All decisions with respect to accommodations shall be made by the Borough Administrator or the Borough Council as appropriate.

The ADA and NJLAD do not require the Borough to offer permanent "light duty," eliminate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

Employees should offer assistance, to the extent possible, to any member of the public who requests or needs an accommodation when visiting Borough facilities. Any questions concerning proper assistance should be directed to the Borough Clerk or the Assistant Administrator.

## **19. ANTI-HARASSMENT.**

It is the policy of this Borough that all employees are entitled to work in an environment free from all forms of illegal discrimination and harassment, including sexual harassment.

It is the Borough's policy to prohibit harassment of an employee by another employee, management representative, official, supplier, volunteer, or business invitee on the basis of actual or perceived race, religion, creed, color, national origin, nationality, ancestry, age, sex/gender, pregnancy, pregnancy related medical condition, childbirth, or breastfeeding, gender identity or expression, affectional or sexual orientation, genetic information (including refusal to submit to a genetic test or make genetic test results available), marital or familial status, political affiliation or status, domestic partnership or civil union status, disability (including AIDS or HIV infection), atypical heredity, cellular or blood trait, veteran status, liability for service in the armed forces of the United States or nationality of any individual, and/or any other characteristic protected by law.

While it is not always easy to define precisely what harassment is, it includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, and other similar verbal or physical conduct and/or differential treatment based upon a protected characteristic. Harassment includes conduct which has the purpose or effect of unreasonably interfering with a person's work performance; or creates an intimidating, hostile or offensive work environment. Prohibited harassment may occur on Borough property, at any work site, or at any work related function, event, or activity. Any form of electronic harassment or harassment via social media is also prohibited.

Any person who is a witness to or believes he or she has been a victim of harassment or other violation of this policy should immediately report it under the Employee Complaint Procedure set forth in Section 22. Supervisors and managers witnessing or receiving a verbal or written report of harassment shall immediately report it to the Borough Clerk or Assistant Administrator

Notification by employees to appropriate personnel of any harassment problem is essential to the success of this policy and the Borough generally. The Borough cannot resolve a harassment problem unless it is aware of it. Therefore, it is the responsibility of all employees to bring those kinds of problems to the attention of management so that steps necessary to correct them may be taken as appropriate.

Violation of this harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

## **20. SEXUAL HARASSMENT.**

It is also the Borough's policy to prohibit sexual harassment.

*Sexual harassment* is defined as any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct including, but not limited to, the use of offensive materials of sexual nature, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or
2. Submission to or rejection of such conduct by a person is used as a basis for employment decisions affecting that person; or
3. Such conduct has the purpose or effect of unreasonably interfering with a person's work performance; or
4. Such conduct creates an intimidating, hostile or offensive work environment.

While it is not always easy to define exactly what sexual harassment is, it may include unwanted sexual advances; offering employment benefits in exchange for sexual favors; visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters); verbal sexual advances, propositions or requests; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, caricatures or representations of persons using electronically or physically altered photos, drawings, or images; notes or invitations; and/or, physical conduct (invasions of personal space, touching, assault, impeding blocking movements, etc.). Sexual harassment may also be differential treatment based upon gender.

Prohibited sexual harassment may occur on Borough property, at any work site, or at any work related function, event, or activity. Similarly, any form of electronic sexual harassment or sexual harassment via social media is prohibited.

Any person who is a witness to or believes he or she has been a victim of sexual harassment or other violation of this policy should immediately report it under the Employee Complaint Procedure set forth in Section 22. Supervisors and managers witnessing or receiving a verbal or written report of harassment shall immediately report it to the Borough Clerk or Assistant Administrator.

Notification by employees to appropriate personnel of any sexual harassment problem is essential to the success of this policy and the Borough generally. The Borough cannot resolve a sexual harassment problem unless it is aware of it. Therefore, it is the responsibility of all employees to bring those kinds of problems to the attention of management so that steps necessary to correct them may be taken as appropriate.

Violation of this sexual harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

## **21. WHISTLEBLOWER POLICY.**

Employees have the right to complain regarding anything they reasonably perceive to be unlawful or unethical. All complaints will be taken seriously and promptly investigated. In accordance with the New Jersey Conscientious Employee Protection Act (“CEPA”), the Borough shall not take any retaliatory action or tolerate any reprisal against an employee because the employee:

- Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
- Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.

- Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
  - is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
  - is fraudulent or criminal; or
  - is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. Such notice should be directed to the Business Administrator. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergency in nature.

If an employee is witness to or believes that he/she has experienced retaliation, they should immediately report it under the Employee Complaint Procedure set forth in Section 22. Any supervisor or Department Head receiving such report shall immediately report it to the Business Administrator. Retaliation for making such report is also expressly prohibited by this policy.

Violation of this policy will subject employees to disciplinary action, up to and including immediate discharge.

Employees shall receive annual notification of their rights under CEPA.

## **22. EMPLOYEE COMPLAINTS; INVESTIGATIONS; AND HEARINGS.**

Employees should report harassment, including sexual harassment, discrimination, violation of the whistleblower policy, denial of or interference with FMLA, NJLFA, and/or NJSAFE rights, and/or any other actions which they reasonably believe to be discriminatory, harassing, retaliatory, unlawful or unethical. Employee reports of harassment, including sexual harassment, discrimination, violation of the Borough's whistleblower policy, denial of or interference with FMLA, NJLFA, and/or NJSAFE rights or any other actions which they perceive as discriminatory, harassing, retaliatory, unlawful or unethical shall be governed by the following procedures rather than the Grievance Procedures set forth in Section 13.

### **22.1 Procedure for Filing a Complaint.**

- A. Any employee who believes that another employee, supervisor, member of management or official is engaging in harassment, including sexual harassment,

or discrimination, or that the Borough's whistle blower policy has been violated, should file a report as soon as practicable after the event. All reports shall be filed with the employee's immediate supervisor, the Department Head, the Borough Administrator, the Assistant Administrator, or the Borough Clerk. No person filing a report or complaint under this policy or who legitimately assists another in the prosecution of any such report or complaint shall be subjected to retribution or retaliation of any kind for doing so. Verbal and/or written reports or complaints received by the Borough Clerk, Assistant Administrator, a supervisor, or Department Head shall be immediately referred to the Borough Administrator.

- B. Reports and complaints filed under this policy shall be promptly and thoroughly investigated by a designee of the Borough Administrator.
- C. Within fifteen (15) days after the receipt of the report or complaint the designee shall complete the investigation, prepare a comprehensive investigative report addressing all allegations and objectively documenting all relevant factual findings of the investigation, and deliver the investigative report to the Borough Administrator. The time requirement may be extended by the Borough Administrator in writing, upon request of the investigator and for good cause shown.
- D. If the Borough Administrator is alleged to be a party to the harassment, discrimination or violation of the Borough's whistleblower policy, then the complainant or the supervisor or Department Head of the complainant shall proceed directly to the Borough Council with the complaint.

## **22.2 Hearing.**

- A. Upon receipt of the completed investigative report, the Borough Administrator or the Borough Council, as the case may be, shall conduct an administrative hearing.
- B. The accused employee or employees shall be notified, in writing, at least ten (10) days before the hearing of the complaint, of the underlying allegations, and the date, time and location of the hearing. It is recommended that accused employees seek legal counsel. Accused employees may request one (1) postponement of the hearing upon receipt of the notice to obtain legal counsel at the expense of the employee, however, the delay occasioned by such request shall not exceed thirty (30) days from the date of receipt of the notice by the accused employee. The complaining employee shall also be notified, in writing, at least ten (10) days prior to the hearing, of the date, time and location of same.
- C. The accused employee or employees shall be entitled to attend the hearing and testify in their own behalf, and shall be entitled to confront and cross-examine the employee who filed the complaint and any other witnesses.

- D. The accused employee shall be entitled to call witnesses in his or her own behalf and to introduce evidence which bears upon the issues presented by the complaint and investigative report.
- E. Within five (5) days of the conclusion of the hearing, the Borough Administrator or Borough Council, as the case may be, shall make findings concerning the allegations, and if appropriate, shall take corrective and/or disciplinary action, up to and including termination.

### 23. EMPLOYMENT PROCEDURE.

- A. **Recruitment:** The Borough Administrator in conjunction with the Borough Clerk and/or Assistant Administrator will coordinate the employment recruitment process for all vacancies to ensure compliance with contractual, legal, and Equal Employment Opportunity Commission (“EEOC”) requirements. When a vacancy occurs, it is the responsibility of the Department Head to notify the Borough Administrator who will distribute notification of the vacancy to all departments. The Borough Administrator will undertake to recruit qualified applicants in accordance with applicable federal and State law.
- B. **Applications:** All candidates must fully complete an application form. A resume will not be considered as a substitute for this form. The application is a confidential document and will not be available to anyone who is not directly involved in the hiring process, except as required or permitted by law.
- C. **Interviews:** The Borough Administrator or Department Head will coordinate the interview process including the scheduling of applicants, development of interview questions and standards to measure candidate responses. All questions must be in accordance with applicable law. Reasonable accommodations must be considered for disabled applicants.
- D. **Examinations:** Examinations may be administered in accordance with Sections 4.2 and/or 4.3.
- E. **Criminal Background Checks:** Criminal background checks are required of all candidates 18 years or older, whether paid or volunteer, that may work directly or indirectly with children/youth/minors in accordance with the procedures outlined in Section 23A.
- F. **Job Offers:** The final decision will be made by the Borough Council after all references and other information has been verified. Every effort shall be made to offer reasonable accommodations pursuant to the Americans with Disabilities Act in accordance with Section 18. The employment offer must be made in a letter to the candidate outlining all terms and conditions of the offer, including submission to medical or psychological examinations as set forth in Section 4.3 and drug

testing as set forth in Section 15.8. The letter will also establish a deadline for acceptance.

- G. **Acceptances and Rejections:** If the first offer is rejected, the Borough Council will decide to hire another candidate or re-open the position. Once a candidate accepts the employment offer, all other candidates will be notified in writing that they were not accepted for the position.
- H. **Employability Proof:** After acceptance, but before starting employment, all new employees shall be required to fill out an employment verification form (I-9) and to provide acceptable proof of right to employment in the United States.
- I. **Record Retention:** All applications, notes made during interviews, reference checks, job offers, and other documents created during the hiring process must be returned to the Borough Clerk. Documents related to the successful candidate will be placed in the employee's Central Personnel File except medical records, including physical examinations, which will be maintained in a separate file. All records and documents related to other candidates must be retained for at least two years. Records and documents created during the hiring process are confidential and must be retained in a locked cabinet.

## **23A CRIMINAL BACKGROUND CHECKS AND PROCEDURES FOR CANDIDATES, EMPLOYEES AND VOLUNTEERS.**

- **Background checks required:** Criminal background checks are required of all candidates over the age of 18, whether for paid or volunteer positions, who will be working directly or indirectly with children/youth/minors. Criminal background checks will also be performed every three years for each employee or volunteer that works directly or indirectly with children/youth/minors. The job titles of employees subject to criminal background checks include, but is not limited to, all recreational positions, crossing guards, school positions, library positions, and maintenance and administrative positions pertaining to such programs.
- **Background check procedure:** The Borough Clerk and/or Assistant Administrator will perform or initiate criminal background checks and be the recipient of reports from outside agencies or contractors. These reports shall include, but are not limited to, court records; police department and corrections agency records; registries or watch lists; state criminal record repositories; and the Interstate Identification Index maintained by the FBI. The Borough, either directly or through a third party, will notify and obtain written consent from all applicants, employees, and volunteers before conducting a criminal background checks and ensure compliance with all applicable laws in doing so. The Borough Clerk or Assistant Administrator will discuss potentially disqualifying information received with the employee's or volunteer's Department Head, and a determination that the information is disqualifying shall be made based on whether the disqualification is job-related for the position and is consistent with business necessity. Written information received as a result of a "Request for Criminal History Record



Information for a Noncriminal Justice Purpose” will be destroyed immediately after it has served its authorized purpose, as required by the State Police. Such information will be kept confidential and will not be published or disclosed in any manner not consistent with the procedures listed herein. Such information will not be deemed a public record under P.L. 1963, c.73 (C:47:1A-1, et seq.) as amended and supplemented by P.L. 2001, c.404 (C:47:1A-5, et seq.).

When a disqualification decision results following the Borough’s “targeted screening process,” the Borough Clerk or the Assistant Administrator will inform the candidate, volunteer, or employee, in writing, of any information that would disqualify the person from working with children/youth. In addition, the individual shall be advised that he/she has the opportunity to explain the criminal record and to demonstrate why the exclusion base on the employer’s targeted screening process should not apply to him/her under the circumstances. This information may include evidence of an error in the criminal record; facts surrounding the conviction; age at the time of the conviction and/or release from prison; evidence of a clean criminal and employment record since release; rehabilitation efforts; positive references; and evidence that he/she is bondable. Thereafter, the employer shall give the individual further consideration.

If the Borough contracts with an outside vendor to process the background checks, that contractor may be authorized to inform the person in writing of any information that would disqualify the person from working with children/youth/minors. Existing employees or volunteers will be placed on immediate suspension pending the outcome of a hearing or appeal. Employee suspensions may be with or without pay at the discretion of the Business Administrator.

- **Conditions Under Which An Employee Will Be Disqualified From Working With Children/Youth:**

A candidate, volunteer, or employee may be disqualified from employment in a position that works with children/youth/minors if that person’s criminal record history background check reveals a record of conviction of any of the following crimes and disorderly persons offenses as defined by New Jersey law or by analogous laws in other States:

- Homicide (N.J.S.A. 2C:11)
- Assault, reckless endangerment, threats, stalking (N.J.S.A. 2C:12)
- Kidnapping (N.J.S.A. 2C:13)
- Sexual Offenses (N.J.S.A. 2C:14)
- Offenses Against the Family, Children and Incompetents (N.J.S.A. 2C:24)
- Controlled Dangerous Substances (N.J.S.A. 2C:35 except for 2C:35-10(a)4)
- Robbery (N.J.S.A. 2C:15)
- Theft (N.J.S.A. 2C:20)

A disqualification from any position will be based only on a conviction for one or more of the above disqualifying crimes and offenses, as a result of the employer’s targeted screening process, by which the employer has taken into account the following factors:

- (a) the nature and gravity of the offense or conduct, considering:
  - the harm caused by the crime;
  - the legal elements required to prove the crime; and
  - the classification of the crime (i.e., felony or misdemeanor, etc.);
  
- (b) the time that has elapsed since the offense, conduct, and/or completion of the sentence;
  
- (c) the nature of the job held or sought, considering:
  - the job duties (not merely the job title);
  - the level of supervision to be provided;
  - the working environment (e.g., private home, outdoors, warehouse);
  - interaction with others, especially with vulnerable individuals such as children/youth/minors; and
  - the relationship of the criminal history to the job to be performed.

An acquittal, a dismissal, successful completion of Pre-Trial Intervention (PTI), or an expungement of a criminal offense (including for disqualifying criminal offense) is not a disqualifying conviction.

Further, an arrest record standing alone cannot be used to disqualify a candidate, volunteer, or employee from an employment opportunity. Yet, the employer may make a disqualification decision based on the conduct underlying the arrest if the conduct makes the individual unfit for the position.

- **Appeal Process.**

The Appeals Committee is comprised of a Business Administrator, a Police Chief or other designated superior officer, and the Assistant Administrator.

Once a candidate, employee or volunteer has been notified of a disqualifying conviction, the individual has 14 calendar days to file a Notice of Appeal with the Borough. Such Notice of Appeal must be sent in writing to the Borough Clerk. The Notice of Appeal shall include a Notice of Rehabilitation and/or a Notice that the information is inaccurate or incorrect, pursuant to NJAC 13:59-1.6.

During the 14-day period listed above, and until the issuance of the decision of the Appeals Committee, an employee will be on a suspension with pay, pending the outcome of the Notice of Appeal.

In making a determination on the appeal, the following information will be considered:

1. The nature and responsibility of the position which the convicted individual would hold, has held, or currently holds, as the case may be.

2. The nature and seriousness of the crime or offense.
3. The circumstances under which the crime or offense occurred.
4. The date of the crime or offense.
5. The age of the individual when the crime or offense was committed.
6. Whether the crime or offense was an isolated or a repeated incident.
7. Any social conditions which may have contributed to the commission of the crime or offense.
8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received.
9. Acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

The Borough will issue a written determination on the individual's appeal of their disqualifying conviction, setting forth the reasons for the determination.

#### **24. OPEN PUBLIC MEETINGS ACT PROCEDURE CONCERNING PERSONNEL MATTERS.**

The Borough Council conducts all discussions concerning the appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective employee or official in accordance with the requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.

If the Borough Council intends to act on a matter involving the employment, appointment, termination, terms and conditions, evaluation of performance, promotion, or discipline of any prospective public officer or employee or current public officer or employees employed or appointed by the Borough Council, then the Borough Council must notice to the public official or employee of the intended action. Further, prior the meeting date, the Council clerk or representative will notify the affected employee or official of the meeting date, time, place, and the matters to be discussed.

#### **25. PROCESSING AND ORIENTATION OF NEW EMPLOYEES PROCEDURE.**

All new regular full-time and regular part-time employees will be scheduled to meet with the Borough Administrator, Assistant Administrator, Borough Clerk, and Department Head on their first day for a general orientation. Copies of all forms and acknowledgements must be returned to the Borough Clerk for inclusion in the employee's Central Personnel File. The orientation will include:

- A. A tour of the appropriate facilities to acquaint the new employee with overall operations as they relate to the specific position.
- B. The completion of all pertinent personnel, payroll, insurance and pension forms.
- C. A review of the Borough's Employee Handbook and completion of an acknowledgement of receipt.
- D. A review of the Borough's Personnel Policies and Procedures Manual if the employee is a manager or supervisor and completion of an acknowledgement of receipt.
- E. A safety orientation and completion of an acknowledgement of same.
- F. Arrangements for the new employee to complete any required PEOSHA safety training.

**26. INITIAL EMPLOYMENT PERIOD.**

- A. Except as otherwise provided herein, all employees shall serve an “Initial Employment Period” of six (6) months. The Initial Employment Period shall not include any time served by an employee under provisional, temporary, or emergency appointment. The Initial Employment Period shall begin on the date of regular appointment. The length of the Initial Employment Period shall be a period of six (6) months which may be extended by the Borough Council for an additional period not to exceed six (6) months.
- B. At any time during the Initial Employment Period and after report and recommendation by a Department Head, the Borough Administrator may, subject to the approval of the Mayor and Council, discontinue the services of any such employee if, in the opinion of the employee’s Department Head, the employee is unwilling or unable to perform the duties of his or her position in a satisfactory manner. The Borough Administrator shall notify the employee in writing of said discontinuance.
- C. Nothing in this section changes the employment at-will status of all Borough employees not subject to a written employment contract or covered by a collective bargaining agreement, as explained more fully on the first page of this Manual.

**27. EMPLOYEE HANDBOOK PROCEDURE.**

The Borough Clerk with the assistance of the Employment Attorney shall draft an Employee Handbook (“Handbook”) for the approval of the Borough Council. Once approved, copies of the Handbook will be distributed to every employee and every employee will be required to sign an acknowledgement of receipt that will be placed in their Central Personnel File. The Handbook

will be revised and re-distributed whenever there is a significant change in personnel practice or as otherwise appropriate.

**28. RESERVED.**

**29. DISCIPLINARY ACTION PROCEDURE.**

**29.1 Action by Department Head.**

- A. When a Department Head believes that an employee is not conforming to Borough policies and rules, or to specific instructions given him, or is in violation of any provisions of Section 12 or of any other section of the Borough's Personnel Policies and Procedures Manual or Employee Handbook, the Department Head may first privately discuss the incident with the employee concerned, in order to obtain the employee's position in the matter.
- B. If the Department Head determines the incident does not warrant formal action and is satisfied there will not be a repeat violation, the matter may then be concluded and no record shall be made in the central Personnel File.
- C. If the Department Head determines the incident warrants formal action, the Department Head should make a memorandum of the incident and take one of the following actions with respect to the employee:
  - 1. Oral reprimand;
  - 2. Written reprimand; or
  - 3. Reference to the Borough Administrator for more severe action.

**29.2 Action by Borough Administrator.**

- A. On referral of any incident by a Department Head, the Administrator may:
  - 1. Dismiss the incident and take no disciplinary action;
  - 2. Return the incident to the Department Head with a recommendation that there be an oral or written departmental reprimand by the Department Head;
  - 3. Reprimand the employee in writing;
  - 4. Suspend the employee from duty without pay for up to five (5) days;
  - 5. Recommend more severe action to the governing body, which action may include suspension for a longer period, demotion or termination; or

6. Act under both 4 and 5 hereof.
- B. When taking action under A.3, A.4 or A.5 of this Section, the Borough Administrator shall advise the employee of the charges against the employee and of any action recommended under A.5.
- C. A record of any action of the Borough Administrator shall be placed in the employee's Central Personnel File.

### **29.3 Action Taken by Mayor and Borough Council.**

In the event of a recommendation of the Borough Administrator for more severe action against an employee, the governing body shall make such investigation of the incident as the governing body may deem appropriate, shall give the employee an opportunity to respond to the charges, and shall at the earliest possible date sustain, modify or dismiss the suspension or the recommended more severe action, or both. Final action by the governing body may be termination, demotion or any lesser action and shall be made by resolution of the full governing body, a copy of which resolution, together with any documents compiled in connection with the disciplinary action, shall be placed in the employee's Central Personnel File.

### **30. CONTINUING EDUCATION PROCEDURE.**

The Borough, in conjunction with the Employment Attorney, will arrange for employment practices seminars at least biannually to train all managerial/supervisory personnel. The Borough will also offer non-mandatory training to all other employees with special emphasis on employee rights, anti-harassment, and Borough personnel practices. Records will be maintained in the central Personnel Files of all employees trained under this procedure.

Managerial and supervisory personnel will also update employees periodically in department meetings and through memos of specific employment problems and concerns that may arise. Every effort will be made to encourage employee suggestions about ways to avoid employer-employee disputes and violations of employment rights.

**IMPORTANT NOTICE - READ THIS AGAIN**  
**EMPLOYMENT AT WILL POLICY**

**This Personnel Policies and Procedures Manual ("Manual") is for your information only. No promise of any kind is made by the Borough of Bernardsville ("Borough") in this Manual. The Borough is free to change the policies and procedures contained in this Manual at any time in its sole discretion and without consent by or prior notice to anyone. The interpretation of these policies and procedures will be made solely by the Borough. Also, remember that there may be other rules that apply to you and your job which are not contained in this Manual.**

**This Manual is not an employment contract. Neither this Manual, nor anything you are told by someone from the Borough, is a promise to you of a job with the Borough, of continued employment, or of employment under any specific terms or conditions.**

**To the maximum extent permitted by law, you are an "employee at will." That means that the Borough has the right to terminate your employment at any time and for any reason or for no reason, with or without cause, with or without notice, subject only to applicable statutory restrictions and any individual written employment contract or applicable collective bargaining agreement. Likewise, you may resign at any time for any reason or no reason, with or without notice, subject only to contractual limitations for those employees who are under an individual employment contract with the Borough.**

**This notice is important. If you do not understand this notice, you should ask for help now. We will be happy to explain anything to you that you do not understand. Be sure to get help if you need it because you will be held responsible to understand this notice, as well as to understand and abide by the contents of this Manual.**

**ACKNOWLEDGMENT**

(Tear out and duplicate)

I have read and understand the Borough of Bernardsville Personnel Policies and Procedures Manual and understand the material contained in this Manual, including but not limited to the above printed "Important Notice."

**I UNDERSTAND THAT HARASSMENT, DISCRIMINATION, AND RETALIATION ARE PROHIBITED AND THAT SHOULD I OBSERVE HARASSMENT, DISCRIMINATION, OR RETALIATION, OR BELIEVE THAT I AM A VICTIM OF HARASSMENT, DISCRIMINATION, OR RETALIATION, I SHOULD IMMEDIATELY REPORT IT USING THE EMPLOYEE COMPLAINT PROCEDURE IN SECTION 22 OF THIS MANUAL. I FURTHER UNDERSTAND THAT SHOULD I REQUIRE ACCOMMODATION I SHOULD FOLLOW THE PROCEDURE SET FORTH IN SECTION 18.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Employee's Signature

\*\*Please sign one copy and return it to the Borough Clerk. Keep the other copy for your records.