

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2011- 40

Council Meeting Date: 01-03-2011 Date Adopted: 01-03-2011

TITLE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF
NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY
ADOPTING A PERSONNEL POLICY FOR THE BOROUGH OF NEW
PROVIDENCE

Councilperson Galluccio submitted the following resolution, which was duly seconded
by Councilperson Cucco.

WHEREAS, the Borough Council believes that it is both necessary and
appropriate to adopt a policy regarding employee rules, regulations and policies.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough
of New Providence, County of Union, State of New Jersey that the Personnel Policy
which is attached hereto and made a part hereof, is hereby adopted.

BE IT FURTHER RESOLVED that said Personnel Policy shall become effective
January 1, 2011.

Approved this 3rd day of January, 2011.

Wendi B. Barry
Borough Clerk

PERSONNEL POLICY HANDBOOK

**J. Brooke Hern, Mayor
James A. Cucco, Councilperson
Armand Galluccio, Councilperson
Michael Gennaro, Councilperson
Robert L. Muñoz, Councilperson
Vince Vyzas, Councilperson**

January 2011

**BOROUGH OF NEW PROVIDENCE
PERSONNEL POLICY**

TABLE OF CONTENTS

ARTICLE I: GENERAL PROVISIONS	4
Section 1. Definitions	4
Section 2. Purpose.....	5
Section 3. Equal Opportunity In Employment	5
Section 4. Records To Be Maintained	6
ARTICLE II: CONDITIONS OF EMPLOYMENT	6
Section 5. Physical Examinations	6
Section 6. Date of Employment	6
Section 7. Improper Disclosure Of Information	6
Section 8. Restrictions On Other Employment.....	7
Section 9. Partisan Political Activity Prohibited During Working Hours And Compliance With Code of Ethics	7
ARTICLE III: EMPLOYEE STANDARDS	8
Section 10. Reporting Lateness Or Absence	8
Section 11. Reporting To Work.....	8
Section 12. Hours Of Work	9
Section 13. Attendance Records (RESERVED)	10
Section 14. Authorization Of Salary; Salary Increments (Step Increases).....	10
Section 15. Commendatory Actions Or Suggestions	11
ARTICLE IV: HOLIDAYS	11
Section 16. Observance Of Holidays; Enumeration	11
ARTICLE V: VACATIONS	12
Section 17. Basis For Vacation Time; Accumulation	12
Section 18. Vacation Periods	14
ARTICLE VI: LEAVES OF ABSENCE	15
Section 19. Interpretation Of Sick Leave	15
Section 20. Eligibility For Sick Leave	15
Section 21. Days Allowed For Sick Leave	15
Section 22. Proof Of Illness Required For Sick Leave	16
Section 23. Personal Leave	16
Section 24. Extended Leaves Of Absence – Family Leave	17
Section 25. Military Leave	24
Section 26. Jury Duty	25

ARTICLE VII: JOB-RELATED DISABILITIES	25
Section 27. Qualifications; Terms Of Payment	25
Section 28. Loss Of Time Not Charged Against Sick Leave	25
Section 29. Awards For Permanent Disability	26
Section 30. Examination Of Claimant	26
Section 31. Notification Of Injury.....	26
ARTICLE VIII: SEPARATION FROM SERVICE; DISCIPLINARY ACTION	26
Section 32. Types Of Separation	26
Section 33. Disciplinary Action For Non-Bargaining Employees.....	27
Section 34. Referral Of Disciplinary Action Involving Non-Bargaining Employees To Borough Administrator.....	27
Section 35. Forms Of Disciplinary Action Involving Non-Bargaining Employees	27
Section 36. Suspension Of Non-Bargaining Employees	28
Section 37. Grievances Involving Bargaining Units.....	28
Section 38. Grievance Procedure For Non-Bargaining Employees	28
Section 39. Misuse Of Borough Property	29
Section 40. Safety	29
Section 41. Drug Free Workplace	30
Section 42. Employee Health Program	30
ARTICLE IX: ANTI-DISCRIMINATION/ANTI-HARASSMENT POLICY	32
Section 43. The Borough Of New Providence Policy Against Discrimination And Harassment.....	32
Section 44. Reasonable Accommodation Of Disabilities	34
Section 45. Anti-Harassment; Employee Training	34
Section 46. Special Circumstances.....	34
ARTICLE X: TERMINAL LEAVE	34
Section 47. Terminal Leave	34
ARTICLE XI: SPECIAL CONDITIONS	35
Section 48. Police Chief And Deputy Police Chief	35
Section 49. Employment At Will.....	35
Section 50. Electronic Communications Policy	35

BOROUGH OF NEW PROVIDENCE
PERSONNEL POLICIES

ARTICLE I, General Provisions

Section 1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

CASUAL, TEMPORARY OR SEASONAL EMPLOYEES -- Employees engaged by the Borough, including seasonal employees and interns, who are not employed as full-time, permanent part-time or part-time employees.

DEPARTMENT HEAD -- The chief official and supervisor of the department or organization unit or a person acting in his behalf, including the Borough Administrator, Borough Clerk, Borough Engineer, Assessor, Tax Collector, Chief Financial Officer, Treasurer, Police Chief, Community Activities Director, Court Administrator, Public Works Director, Waste Water Treatment Plant Director, Construction Official and such other officials as may be designated by the Borough Council.

PART-TIME EMPLOYEE -- An employee who has been employed by the Borough for less than twelve (12) months and/or works less than twenty (20) hours per week. Employees in this category would not be entitled to employee fringe benefits.

PART-TIME PROFESSIONAL EMPLOYEE -- An employee whose normal assigned duties must be performed by a person particularly trained and licensed in an area, which requires extensive specific education and long experience in both the Federal and State procedural requirements or which requires special licensing by the State of New Jersey. Employees in this category receive a salary for their services and are required to provide equally qualified/competent replacements in their absence. Employees in this category receive no benefits.

FULL-TIME EMPLOYEE -- An employee whose regular hours of duty are the normal work hours for the unit involved, as described herein.

PERMANENT PART-TIME EMPLOYEE -- An employee who has satisfactorily completed at least twelve (12) months of employment with the Borough and who normally works at least twenty (20) hours per week, twelve (12) months per year.

SUPERVISOR -- A management employee other than a department head whose normal assigned duties require him to supervise the activities and work of other employees.

These employee classifications are for Borough purposes only and do not address whether an employee is exempt from statutory overtime provisions and/or entitled to overtime pay.

EXEMPT EMPLOYEE - An employee who is exempt from statutory overtime provisions and is not entitled to overtime pay, unless otherwise provided by contract or these Personnel Policies.

NON-EXEMPT EMPLOYEE – An employee who is not exempt from statutory overtime provisions and is entitled to overtime pay.

Section 2. Purpose.

The personnel policies and practices contained in this chapter are intended to protect the rights and interest of citizens and employees. It is the intent and purpose of the Borough to attract the best qualified people to the service of the community and to provide effective supervision, guidance and working conditions for every Borough employee so that he or she may consistently perform with effectiveness. In addition to the foregoing, to discharge the Borough's responsibility to the residents of the community, it shall be imperative that everyone connected with the government of the Borough shall continually and conscientiously render diligent, efficient and courteous service. To accomplish such objectives, the Borough Council hereby declares the following principles to constitute the personnel policy of the Borough:

- A. To seek the best qualified person available for each position to be filled in the Borough.
- B. To base appointment and promotions on performance and demonstrated ability in the job position, together with personal character appropriate to public service.
- C. To make the best possible use of the skills and abilities of its employees in order to have each job performed by the person best qualified.
- D. To treat every employee with the courtesy, consideration and respect.
- E. To pay fair and adequate compensation for each position consistent with the requirements of the job position and to require a high level of performance.
- F. To assure that lawful practices are used in the hiring, employment, and termination of employees.

Section 3. Equal Opportunity in Employment

The Borough is committed to ensuring that all current and prospective employees are given equal opportunity and treatment. The Borough provides equal opportunities for all applicants and employees without regard to race, creed, national origin, ancestry, religion, age, marital, familial, and/or domestic partnership status, affectional or sexual orientation, genetic information, sex, disability, atypical hereditary cellular or blood trait, veteran status, service in the Armed Forces, refusal to submit to

n:\resolutions\organization meeting\personnel policy\personnelpolicy11.org

genetic testing and/or to make genetic test results available, or any other trait or characteristic protected by law. It is the firm policy of the Borough to ensure that all persons receive equal employment opportunities solely on the basis of their skills, abilities, job related qualifications, competence, job performance, and other legitimate considerations.

This policy shall apply to all phases of employment, including recruitment, selection, appointment, placement, promotion, demotion, transfer, training, wages, benefits, working conditions, lay-off, recall, discharge, disciplinary action, performance evaluation, and use of Borough facilities.

This same policy shall apply to the recruitment, enrollment, training of and services to all participants in federally or state funded programs administered by the Borough Council.

Section 4. Records to be maintained.

The records necessary to ensure the orderly administration of this chapter shall be created by the Borough Administrator and be maintained by the payroll/personnel function.

ARTICLE II, Conditions of Employment

Section 5. Physical examinations.

The employment in any job position, excluding administrative and clerical personnel, shall require successful passing of a post-hire physical examination prior to commencement of employment to assure that the work required to be performed will not cause injury to the employee and that the person is physically able to meet the requirements of the job, with or without reasonable accommodation. Physical examinations may be required thereafter as appropriate and permitted by law. Such physician examinations will be conducted at Borough expense and shall be conducted by the Borough Physician or a physician designated by the Borough.

Section 6. Date of employment. [Added 10-10-1995 by Ord. No. 95-9]

- A. For the purpose of calculating vacation time for full-time employees, the date of employment shall be the date originally appointed a full-time employee with the Borough of New Providence. If a full-time employee was originally appointed as a permanent part-time employee, without any break in service, the date of employment for calculating vacation time, shall be that of the date of appointment as a permanent part-time employee.
- B. For purposes of calculating seniority, the date of employment shall be the date of the full-time appointment with the Borough of New Providence.

Section 7. Improper disclosure of information. [Amended 10-10-1995 by Ord. No. 95-9]

It is understood that the conduct of Borough affairs is open to public scrutiny, and all efforts to keep the public informed should be used. However, it shall be the responsibility of the Borough employees to restrict security matters, personnel administration and other material of a nonpublic and confidential nature, as determined by the Mayor and Council, to the Mayor, Council and affected department heads and supervisors. Improper disclosure of such information shall constitute a breach of discipline and subject the employee to disciplinary action, up to and including discharge. Requests by the public for information considered confidential should be referred to the Borough Administrator.

All personnel files relating to employees of the Borough shall be maintained by the Borough Administrator and/or his or her assistant under the direction of the Borough Administrator in a secure location. Additional access to personnel files shall be limited to the Mayor, Borough Council, and such managerial and/or human resource personnel with a legitimate business need to access the contents thereof.

Section 8. Restrictions on other employment.

- A. Full-time Borough employees may neither perform work for another employer, nor operate a business which will at any time interfere with their assigned duties as employees of the Borough or interfere with the normal standard hours of work for their office.
- B. In the event that a Borough employee does perform regular work for another employer or does operate a business which interferes with their assigned duties or normal standard hours of work, they will be subject to disciplinary action, up to and including discharge..
- C. No permanent employee may engage in regular outside work for another employer or operate a business without first obtaining approval for such work or business from the Mayor and Borough Council. The Mayor and Borough Council may grant approval for such additional employment only if it has clearly been shown by the department head and Borough Administrator that such additional employment will in no way interfere with the assigned duties of the employee. [Added 10-10-1995 by Ord. No. 95-9]
- D. Any employment by another governmental authority is prohibited unless expressly approved by Mayor and Council. [Added 10-10-1995 by Ord. No. 95-9]

Section 9. Partisan political activity prohibited during working hours and compliance with Code of Ethics.

- A. Borough employees shall not engage in any partisan political activities during working hours.

- B. A Borough employee who does engage in partisan political activities during working hours will be subject to immediate suspension without pay pending the proper investigation by a two person committee appointed by the Mayor and Council, and shall be subject to discipline, up to and including discharge.
- C. All Borough employees are expected to fully comply with the Borough's Code of Ethics as codified at Chapter 41 of the Borough Ordinances.
- D. All Borough employees should be aware of the Borough's Pay to Play Ordinances (Nos. 2004-24 and 2004-15) and any amendments thereto, which are codified in Chapter 41 of the Borough Ordinances.
- E. All Borough employees should be aware of New Jersey Ethics Law N.J. 40A:9-22.1 et seq.

ARTICLE III, Employee Standards

Section 10. Reporting lateness or absence.

- A. It shall be the responsibility of all employees to notify their supervisor or department head at least one-half (1/2) of an hour prior to reporting time if the employee will be delayed or absent from work. Any tardiness or absence and the reason therefore will be noted on the records.
- B. It shall be the responsibility of all department heads to notify the Borough Administrator at least one-half (1/2) of an hour prior to reporting time if the department head will be delayed or absent from work.
- C. "Employees who are habitually tardy" means those who establish a pattern of tardiness with frequent repetition (for example, several days in succession). Absence the day before a holiday or day after a holiday could result in the loss of pay for the holiday, unless such absence is supported by a health care provider's note or is otherwise approved in advance. Chronic or excessive absenteeism and/or tardiness may be cause for disciplinary action, up to and including discharge.

Section 11. Reporting to work.

- A. All Borough employees are expected to be at their work stations at the starting time of the workday, to leave and return from lunch promptly and work to the end of their workday.

B. Inclement weather.

- (1) All Borough employees are expected to report to work despite weather conditions unless notified that their particular office will be closed. If an employee cannot report to work because of severe weather conditions, the time lost from work will be charged against allocated vacation time. In the event that no vacation time is accumulated, the time lost may be charged to personal days. If there are no vacation or personal days accumulated, the time lost from work will be charged as time off without pay. In the event of extreme weather conditions or other emergency necessitating the closing of Borough offices, the closing of such offices shall be authorized by the Mayor, with each department head responsible for notifying his or her employees. This will be approved as a bad-weather day off without penalty.
- (2) Likewise, early dismissal due to inclement weather shall be without penalty.

Section 12. Hours of work.

The hours of the standard workweek are established to provide all services to the residents of the Borough, as follows:

A. Administrative and clerical employees. (Reserved)

- (1) Normal standard workweek: 37.5 hours, 8:15 a.m. to 4:45 p.m.
- (2) Lunch period: one hour.
- (3) Overtime: in excess of 37.5 hours.
- (4) Work performed by clerical employees and clerical assistants shall be paid at straight time up to 40 hours per week. Hours worked in excess of 40 hours per week shall than be paid at one and one-half (1 1/2) times the straight-time rate.

B. Public works personnel.

The workweek of employees who may be part of a bargaining unit shall be in accordance with the contractual agreement in effect between the Borough and bargaining unit and in accordance with the Fair Labor Standards Act and the New Jersey Wage and Hour Act and/or other applicable law.

C. Police Department.

The workweek of employees who may be part of a bargaining unit shall be in accordance with the rules set forth in the manual of rules and regulations of the Police Department of the Borough of New Providence and/or the contractual agreement between the Borough of New Providence and the local Police Benevolent Association unit and in accordance with the Fair Labor Standards Act and the New Jersey Wage and Hour Act and/or other applicable law.

D. Management and exempt employees, including but not limited to:, Deputy Borough Administrator, Chief Financial Officer, Tax Collector, Deputy Police Chief, Assistant Engineer, Construction Official, Assistant Director Community Activities and all department heads are generally expected to be present and/or on borough business during the normal business hours of their respective departments and are expected to work at least forty (40) hours per week

E. Evening & Summer Hours: The Borough Administrator shall annually set the schedule for both employee evening hours and summers hours in accordance with the following:

- (1) Evening Hours - Borough Offices will remain open once a month until 7:00 p.m. for evening hours.
- (2) Summer Hours - Borough Offices will close at 1:00 p.m. on Fridays for twelve weeks between June 15th and Labor Day. Employees normally working a 37.5 hour week with one hour for lunch who elect to observe summer hours shall have their lunch period reduced to one half hour on Monday through Thursday and take no lunch period on Fridays, for any such weeks during which the employee observes the summer hours.

Section 13. Attendance records.

A. RESERVED.

Section 14. Authorization of salary; salary increments (step increases).

A. "Salary increments" shall be defined for purposes of this section as step increases.

B. The salaries for all positions shall be authorized and published by an ordinance and adopting resolution and amendments thereto. No employee shall be paid less than the minimum nor more than the maximum of the current ordinance. (Employees are referred to the Salary Ordinance).

C. New employees shall be paid at the minimum of the approved salary range for the position to which they are hired or appointed. In exceptional cases, based

upon outstanding qualifications of the applicant or in shortage skill positions, an applicant may be appointed at a rate above the minimum upon recommendation by the Personnel Committee and with final approval by Mayor and Council.

- D. For all employees not covered by a collective bargaining agreement, salary increments may become effective on July 1st for employees whose anniversary date in their position is between July 1st and December 31st and January 1st for employees whose anniversary date in their position is between January 1st and June 30th.
- E. Employees will become eligible for (but not entitled to) their first step increase after employment in a position for six (6) months.
- F. The salary increment recommendation to the Borough Administrator by the department head shall only become effective upon the approval of the Mayor and Council. Recommendations must be based on the evaluation of the employee's performance during the previous year. Salary increments shall be based on merit and not granted automatically.
- G. An employee will be eligible for salary increments until he or she has reached the maximum salary provided for in his or her job classification.
- H. Annual salary increments are not automatic and any demonstrated pattern of poor performance shall be the basis for withholding the award of such annual increment.

Section 15. Commendatory actions or suggestions.

It is the desire of the Borough Council to suitably recognize all outstanding commendatory actions or suggestions of Borough employees.

- A. When a letter is received commending the work or action of an employee on duty, it shall be referred to the Borough Council. The letter will also be referred to the supervisor, who will show it to the employee therein commended. The letter will then be returned to the Borough Administrator or Police Chief and placed in the employee's personnel file.
- B. If an employee shall perform a meritorious action beyond the call of duty, appropriate formal recognition of that fact shall be made. The immediate supervisor or his superior will obtain all facts relative thereto and prepare a written report to the Borough Council. The Borough Council will consider the matter and take such action as is proper to commend the employee for the meritorious action. All papers in connection therewith will be placed in the employee's personnel file. The supervisor will not communicate his or her recommendation for formal recognition to the employee until such time as such commendation is approved by the Borough Council.

- C. All employees are urged to seek ways and means of effecting job improvements and to submit to their supervisors any well-thought-out suggestion. If the specific suggestion or idea results in a saving or effects a substantial improvement, a written report will be prepared by the department head and referred to the Borough Council.

ARTICLE IV, Holidays

Section 16. Observance of holidays; enumeration.

- A. Municipal Offices shall be closed in accordance with the holiday schedule set annually by the Mayor and Council. Employees will be entitled to twelve (12) paid holidays. In the event the Borough does not close for twelve (12) holidays, employees shall be entitled to floating holidays in lieu of any additional days to a total of twelve (12) holidays. Floating holidays may be taken any work day of the year with approval of the Department Head.

When a holiday falls on a normal workday, full time Borough employees entitled to such holidays shall observe the holiday with pay. When a holiday falls on a Saturday, it shall be observed on the preceding day. When a holiday falls on a Sunday, it shall be observed on the following day. The official federal-government-designated date for the holiday shall govern instead of the traditional date.

- B. Permanent Part-time employees are entitled to a pro rata share of Borough holidays with pay based on the following schedule:
 - (1) Employees who are scheduled to work 20 hours per week – 48 hours of paid Holiday leave.
 - (2) Employees who are scheduled to work 25 hours per week – 60 hours of paid Holiday leave.
 - (3) Employees who are scheduled to work 30 hours per week – 72 hours of paid Holiday leave.

In the event that an employee is scheduled to work on a holiday, the applicable number of hours which the employee would have worked but for the holiday will be deducted from the employee's available holiday pay leave bank. In the event that the employee is not scheduled to work on a holiday, the employee may take such holiday leave at another time. All holiday leave taken on holidays on which the Borough Offices are not closed must be properly approved in advance of such holiday leave.

Holiday leave must be taken in the applicable year or such leave will not be paid out as cash in the event holiday leave is not taken.

ARTICLE V, Vacations

Section 17. Basis for vacation time; accumulation.

- A. Vacation leave must be earned before it can be taken. An employee must request vacation in advance by notifying his or her immediate Supervisor, on forms that will be provided, as early in the calendar year as possible, but at least four weeks before the vacation time is to be taken. Every effort will be made to arrange vacation schedules to meet the individual desires of all employees. When there is conflict in the dates of proposed vacation schedules, the Department Head will consider a variety of issues including seniority, timing of the request, and personal need. The request shall be reviewed by the department head in terms of workload, other vacation requests in the department and the effect of the requested vacation on the proper operation and functioning of the department. All schedules shall be filed with the Borough Administrator and the payroll/personnel function.
- (1) Temporary, seasonal and part-time employees shall not be eligible for vacation time.
 - (2) A person employed before the 10th of the month shall be considered to have been employed for the entire month for purposes of calculating vacation time.
- B. Vacation time must be used in the year in which it is earned. It may, however, be extended through the following year if an employee is unable to use his or her vacation time by reason of sickness or being required to work during such period. In such cases, such employee shall be granted the unused vacation time at a subsequent period, or equivalent payment of compensation shall be made upon certification of the appropriate department head, recommended by the Borough Administrator and approved by the Mayor and Council. The Mayor and Council generally require carry-over vacation to be used during the first three (3) months of the year.
- C. Vacation time shall be scheduled subject to approval of the department head.
- D. Notice of a single vacation day must be given at least 24 hours in advance, or it may not be allowed.
- E. At the time of separation from service, the employee shall be entitled to be paid for any vacation earned and not previously used.

- F. Employees shall not be paid for vacation time earned and not used during any given year except at the termination of employment or as set forth in Subsection B of this section.
- G. If an employee should die while employed, a sum of money equal to his or her earned and unused vacation leave will be paid to the employee's estate.
- H. The salary paid while on vacation leave will be the same amount one would have earned had one worked regular straight-time hours during the vacation period.
- I. When on a leave of absence without pay, an employee shall not earn vacation, sick, or personal leave.
- J. In the event that an employee is on sick leave at the time of his scheduled vacation, his vacation shall be rescheduled.
- K. In the event that an employee becomes sick while on vacation, adequate proof must be submitted, including certification by an appropriate health care provider, approval by the Department Head and recommendation by the Borough Administrator. The days involved shall be charged as sick leave and may be rescheduled, upon approval by the Mayor and Council.

Section 18. Vacation periods. [Amended 10-10-1995 by Ord. No. 95-9]

- A. Vacations for full-time Borough employees, are hereby established as follows:
 - (1) For less than one year of service: one (1) day of paid vacation for each full month of employment, up to a maximum of five (5) days. Employees shall not accrue vacation for the first three (3) months of employment. Thereafter, vacation shall be accrued at a rate of one (1) day per month up to a total of five (5) days.
 - (2) For more than one year of service but less than five years of continuous service: ten (10) days of paid vacation. Beginning in January of each calendar year, such annual vacation shall be accrued at a rate of one (1) day per month, up to a total of ten (10) days in the first five (5) years of employment.
 - (3) For more than five years of continuous service but less than 10 years of continuous service: thirteen (13) days of paid vacation. Beginning in January of each calendar year, such annual vacation shall be accrued at a rate of 1.25 days per month up to a total of thirteen (13) days in the second five (5) years of employment.
 - (4) For more than 10 years of continuous service but less than 15 years of continuous service: fifteen (15) days of paid vacation. Beginning in

January of each calendar year, such annual vacation shall be accrued at a rate of 1.5 days per month up to a total of fifteen (15) days in the third five years of employment.

- (5) For more than 15 years of continuous service but less than 20 years of continuous service: seventeen (17) days of paid vacation. Beginning in January of each calendar year, such annual vacation shall be accrued at a rate of 1.75 days per month up to a total of seventeen (17) days in the fourth five years of employment.
- (6) For 20 years or more of continuous service: twenty (20) days of paid vacation. Beginning in January of each calendar year, such annual vacation shall be accrued at a rate of 2.0 days per month up to a total of twenty (20) days following twenty years of service.

C. Vacations for permanent part-time Borough employees are hereby established as follows:

- (1) For less than one year of service: four (4) hours of paid vacation for each full month of employment, up to a maximum of twenty (20) hours.
- (2) For more than one year of service but less than five years of continuous service: forty (40) hours of paid vacation.
- (3) For more than five years of continuous service but less than 10 years of continuous service: forty-four (44) hours of paid vacation.
- (4) For more than 10 years of continuous service but less than 15 years of continuous service: sixty (60) hours of paid vacation.
- (5) For more than 15 years of continuous service but less than 20 years of continuous service: sixty-eight (68) hours of paid vacation.
- (6) For 20 years or more of continuous service: eighty (80) hours of paid vacation.

D. The vacation year for purposes of eligibility and amount of vacation is from January 1 to December 31.

ARTICLE VI, Leaves of Absence

Section 19. Interpretation of sick leave.

Sick leave with pay is a privilege rather than a right of employment and is provided only to relieve hardship occasioned by loss of pay in time of an employee's own illness or disability. Accumulated sick leave shall not be allowed as leave upon

retirement or termination of employment, except as provided in 73-59.

Section 20. Eligibility for sick leave.

- A. "Sick leave" means paid leave that may be granted to each full-time Borough employee and permanent part-time Borough employee who, through sickness or injury, becomes incapacitated to a degree that makes it impossible for him or her to perform the duties of his or her position or who is quarantined by a physician because he or she has been exposed to a contagious disease. Sick leave must be earned before it is used. Sick leave shall not be used for routine doctor visits, nor for the care of family members
- B. Casual, temporary, or seasonal, part-time professional, and part-time employees are not eligible for sick leave.
- C. All absence due to illness or disability shall be reported immediately, by or for the employee, to his or her department head with an indication of the expected duration. Department heads shall report all absence due to illness or disability to the Borough Administrator and payroll/personnel department.

Section 21. Days allowed for sick leave.

- A. Full-time employees who have completed at least one year of satisfactory continuous service shall be entitled to 1.25 days of paid sick leave for each month worked in each calendar year.
- B. Permanent part-time employees who work a minimum of twenty (20) hours per week and have completed at least one year of satisfactory continuous service shall be entitled to five (5) hours of sick time for each month worked in each calendar year.
- C. Full-time employees who have worked less than one year shall be entitled to one (1) day of paid sick leave for each complete calendar month worked, up to a maximum of ten (10) days of paid sick leave during the first calendar year.
- D. For non-union employees unused sick leave automatically accumulates with each year of completed continuous service pursuant to 73-21. In unusual cases of prolonged illness, additional days of sick leave may be granted with the approval of the Mayor and Council.

Section 22. Proof of illness required for sick leave.

- A. Every absence on account of sickness or disability in excess of three (3) working days must be certified by a written statement from the health care provider. An employee will not be permitted to return to work unless a health care provider's certification stating that employee may return to work is provided. In the event

that restrictions are placed upon the employee's return to work, the Borough Administrator shall determine if the employee may return to work. The Borough reserves the right to have the employee examined by a physician of the Borough's choice at any time and certified as fit for duty before returning to work, regardless of the length of absence, to the extent permitted by law. During protracted periods of illness or disability, the Borough may require interim reports on the condition of the employee from the attending physician or from a physician of the Borough's choice. Such reports shall be submitted to the Borough Administrator and maintained by him on a confidential basis. [Amended 10-10-1995 by Ord. No. 95-9] All such records shall be maintained separately from the employee's personnel file in a secure location.

Section 23. Personal leave

Full-time employees hired prior to May 15, 1996 shall be entitled to five (5) days of paid personal leave per year subject to the conditions offset forth in § 73-25A through E. Full-time employees hired after May 15, 1996, who have completed at least one year of satisfactory continuous service shall be entitled to three (3) days of paid personal leave per year subject to the conditions offset forth in § 73-25A through E.

- A. Notification of the request shall be at least 24 hours in advance except in the case of an emergency.
- B. The granting of a personal leave day shall be consistent with the needs of the department.
- C. Any unused personal days may be carried over into the next year and used as vacation.
- D. The smallest unit allowed to be used in computing personal leave absence shall be one-half (1/2) day, except as otherwise appropriate pursuant to the federal Family and Medical Leave Act and/or the New Jersey Family Leave Act.

Section 24. Extended leaves of absence.

- A. Leaves of Absence Under the federal Family and Medical Leave Act and/or New Jersey Family Leave Act

A leave of absence may be granted in accordance with the provisions and requirements of the federal Family Medical Leave Act, 29 U.S.C. § 2601, *et seq.* and/or the New Jersey Family Leave Act: N.J.S.A. 34:11 B-1, *et seq.*

THE FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act ("FMLA") entitles eligible employees to take up to 12 weeks of job-protected leave in a 12 month period for specified family and medical reasons. 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.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee must:

1. have worked for the Borough of New Providence for a total of 12 months; and
2. have worked at least 1,250 hours (including overtime, but excluding paid sick, vacation, or personal leave) over the previous 12 months (subject to special rules applicable to returning reservists pursuant to the Uniformed Services Employment and Reemployment Act).

LEAVE ENTITLEMENT

An eligible employee may take up to a total of 12 workweeks of FMLA leave during any 12-month period for one or more of the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

The Borough of New Providence will apply the “rolling-forward” method to calculate an employee’s entitlement to FMLA leave. By this method, the 12-month FMLA “leave year” is the period measured forward from the date the employee’s first FMLA leave begins.

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.

Spouses employed by the Borough of New Providence 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.

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

Under some circumstances, employees may take FMLA leave intermittently — which means taking leave in blocks of time, or by 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 leave is subject to the Borough of New Providence's approval.
- FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

FMLA leave will be unpaid, unless the employee has available applicable accrued paid leave. In the event the employee has such available applicable accrued paid leave, to the extent permitted by law, the employee must first use any such applicable accrued leave, 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 of New Providence is responsible for designating if an employee's use of paid leave counts as FMLA leave, based on information from the employee.

"Serious health condition" for purposes of the FMLA means an illness, injury, impairment, or physical or mental condition that involves either:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
 - (1) A health condition (including treatment therefore, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - treatment two or more times by or under the supervision of a health care provider; or
 - one treatment by a health care provider with a continuing regimen of treatment; or

- (2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
- (3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
- (4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
- (5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

"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 doctors practice; 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 and clinical social workers 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 of New Providence or the Borough of New Providence's group health plan benefits manager.

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.

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.

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 conditions of employment. If the Borough of New Providence 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.

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.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the Borough of New Providence 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 of New Providence 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 of New Providence decides 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.

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

NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

The Borough of New Providence 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;
- second or third medical opinions (at the Borough of New Providence's expense) and periodic recertification;
- 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.

When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Borough of New Providence's operation.

NO RETALIATION

There shall be not retaliation against any employee for exercising his/her rights under the FMLA and/or for taking leave.

QUESTIONS

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

THE NEW JERSEY FAMILY LEAVE ACT

The New Jersey Family Leave Act ("FLA") entitles eligible employees to take up to 12 weeks of job-protected leave in a 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.

EMPLOYEE ELIGIBILITY

To be eligible for FLA benefits, an employee must:

- have worked for the Borough of New Providence for a total of 12 months; and
- have worked at least 1,000 hours (including overtime, but excluding paid sick, vacation, or personal leave time) over the previous 12 months

LEAVE ENTITLEMENT

An eligible employee may take up to a total of 12 workweeks of FLA leave during any 24-month period for one or more of the following reasons:

- for the birth of a child of the employee;
- for placement with the employee of a child with the employee for adoption; or
- to care for the employee's family member (child, spouse, parent, or parent-in-law) with a serious health condition.

The Borough of New Providence will apply the rolling forward method to calculate an employee's entitlement to FLA leave. By this method, the 24-month period is measured forward from the date the employee's first FLA leave begins.

When an employee asks for 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. In the case of maternity leave, the employee's FLA leave will not begin to run until the employee is released from disability by her health care provider or exhausts her FMLA leave, whichever occurs first. After release by her health care provider, any remaining FMLA leave will run concurrently with her FLA leave entitlement.

Leave for birth and care, or placement for adoption, must be commenced within 12 months of the birth or placement.

FLA leave taken on account of the serious illness of a family member may, in certain cases, be taken in the form of a reduced leave schedule, or when medically necessary, on an intermittent basis, rather than all at once. In the case of FLA leave taken on account of the birth or placement of a child for adoption, an employee may only take FLA leave intermittently or on a reduced leave schedule if the Borough of New Providence expressly so agrees.

FLA leave will be unpaid unless the employee has available applicable accrued paid leave. In the event the employee has such available applicable accrued paid leave, to the extent permitted by law the employee must first use any such applicable accrued leave, 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 of New Providence is responsible for designating if an employee's use of paid leave counts as FLA leave, based upon information from the employee.

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

- inpatient care in a hospital, hospice, or residential medical care facility;
- continuing medical treatment or continuing supervision by a health care provider.

“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.

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.

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 of New Providence should experience a reduction in force or layoffs, an employee who would have been affected by such 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 and recall system.

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

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 fifteen (15) 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, child, or parent may be required to provide a certification issued by a health care provider supporting the need for the requested FLA leave.

NO RETALIATION

There shall be no retaliation against any employee for exercising his/her rights under the FLA and/or for taking FLA leave.

QUESTIONS

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

- B. Other leaves of absence, except for certain essential positions, may be granted for compelling reasons for a period not to exceed six months with the approval of the Mayor and Council upon the recommendation of the Borough Administrator. Such leave shall be taken without pay but shall not be construed as constituting a break in service. All employee benefits shall be suspended for the duration of leave. Employees may, however, at their option, preserve employee benefits for the duration of any approved leave by paying the Borough, in advance, the total cost, including the Borough's share, of such employee benefits for the period of approved leave but not greater than 180 consecutive calendar days or the period provided by law where COBRA coverage is triggered.

Section 25. Military leave.

Military leaves of absence without pay shall be granted as required in accordance with existing state and federal law with respect to periods of time and reemployment rights.

Section 26. Jury duty.

- A. Employees who are summoned for service as grand or petit jurors are required to provide their immediate supervisor with a copy of the summons so that arrangements may be made to be excused on the days they are required to be present in court.
- B. Fulltime and permanent part-time employees shall receive their regular rate of pay as a Borough employee less the amount received for jury pay.

ARTICLE VII, Job-Related Disabilities

Section 27. Qualifications; terms of payment.

- A. In the event of the absence of an employee due to a job-related disability, classified by law as compensable, said employee shall be paid the difference between regular salary and the amount paid by compensation insurance. The employee shall be entitled to this benefit, in accordance with the following schedule, upon proper investigation and authentication by the Borough Physician.
- (1) Up to 10 years of service. The difference between regular salary and the amount paid by compensation insurance shall be paid for a period up to 45 working days, after which the amount paid shall be equal to the difference between the amount paid by compensation insurance and one-half (1/2) of such employee's regular salary.
 - (2) More than 10 years but less than 20 years of service. The difference between regular salary and the amount paid by compensation insurance shall be paid for a period up to six calendar months, after which the amount paid shall be equal to the difference between the amount paid by compensation insurance and one-half (1/2) of such employee's regular salary.
 - (3) Twenty years or more of service. The difference between regular salary and the amount paid by compensation insurance shall be paid for a period up to 12 calendar months.
- B. Payments under this section shall end when such disability terminates or one calendar year from the date of initial disability, whichever is sooner.

Section 28. Loss of time not charged against sick leave.

Days lost through compensable disability shall not be charged against sick leave allowances.

Section 29. Awards for permanent disability.

Compensation awards for permanent disability shall not be deducted from the salary paid by the Borough.

Section 30. Examination of claimant.

The Borough reserves the right to have any employee claiming job-connected disability examined by a Borough Medical Examiner at any time. Such employee shall not be returned to work except upon certification that the employee is fit for duty by

such examiner.

Section 31. Notification of injury.

An on-the-job injury shall be reported to the immediate supervisor, foreman or department head immediately after the occurrence. All on-the-job injuries requiring medical attention are to receive treatment as directed by the designated Borough Physician. Failure to give notification may result in loss of pay and/or other disciplinary action.

ARTICLE VIII, Separation from Service; Disciplinary Action

Section 32. Types of separation.

Employees who have acquired full-time or permanent part-time employment status may be temporarily suspended from the Borough's employ or may be permanently separated by retirement, resignation, failure of reappointment or dismissal as follows:

- A. Retirement. Full-time employees and officials may retire after prescribed periods of service and fulfillment of other statutory requirements as set forth in the State Public Division of Pensions.
- B. Resignation. An employee may resign from his position by tendering a resignation to the Borough Administrator or, in his absence, to the department head. Unless there are disciplinary charges pending against the employee, the Borough Administrator shall notify the employee in writing of acceptance of his resignation in good standing..
- C. Appointed positions. In the case of certain statutory or other appointed positions of Borough officials which are made for specified terms, such terms shall continue for each respective specified term and until a successor is duly appointed.
- D. Any employee whose ability to perform normal work activity is limited because of a court order or other legal process may be suspended without pay by a department head after consulting with the Borough Administrator and/or may be terminated as appropriate

Section 33. Disciplinary action for non-bargaining employees.

When a supervisor believes that an employee is not conforming to Borough policies and rules or to specific instructions given him/her or has acted improperly, the supervisor shall advise the Business Administrator and then privately discuss the matter with the employee concerned in order to obtain the employee's view of the matter. If the matter is not serious and the supervisor is satisfied, the matter may then be dropped

with or without a report being submitted to the Borough Administrator.

This procedure shall NOT be applicable to violations of the Borough's Equal Employment Opportunity and/or Anti-Harassment Policies and/or complaints/reports of discrimination or harassment, which shall immediately be reported by the supervisor to the Sexual Harassment Officer (Borough Clerk) or the Alternative Sexual Harassment Officer (Borough Administrator)

Section 34. Referral of disciplinary action involving non-bargaining employees to Borough Administrator.

- A. Should the supervisor consider the offense sufficiently serious or recurrent to warrant its consideration by the Borough Administrator, the employee should be so advised, and a meeting of those interested shall be arranged at the earliest possible date. All facts should be presented at this meeting.
- B. A written report of the meeting and of the action taken should be placed in the employee's personnel file. In the event that it appears desirable to do so, the matter may be referred to the Borough Council for review or such other action, as is warranted, by the facts may be taken.
- C. This procedure shall NOT be applicable to violations of the Borough's Equal Employment Opportunity and/or Anti-Harassment Policies and/or complaints/reports of discrimination or harassment, which shall immediately be reported by the supervisor to the Sexual Harassment Officer (Borough Clerk) or the Alternative Sexual Harassment Officer (Borough Administrator)

Section 35. Forms of disciplinary action involving non-bargaining employees.

Disciplinary actions against employees may include, but are not limited to, the following:

- A. A written memorandum of censure from the supervisor.
- B. A letter of admonition from the Borough Administrator.
- C. Suspension with or without pay.
- D. Dismissal No employee of the Borough shall be removed from his or her office or position until:
 - (1) A written charge of the cause of complaint shall have been preferred against him, signed by the person making such charge, filed with the governing body of the Borough; and

- (2) The written charge shall have been examined by the governing body, with reasonable notice to the employee charged.

E. Other corrective/disciplinary action warranted under the applicable circumstances.

Section 36. Suspension of non-bargaining employees.

An employee may be suspended with or without pay from the performance of his duties by the Mayor; provided, however, that such suspension may be made only when such is determined as necessary to protect the essential functions and duties of the Borough's government in time of civil distress or other emergency or after written charges have been preferred against an employee and pending hearing of the same by the Mayor and Council.

An employee may be suspended with pay during the pendency of an investigation into allegations of harassment or discrimination as appropriate and with the approval of the Mayor and the Borough Administrator.

Section 37. Grievances involving bargaining units.

Any grievance arising between an employee of a bargaining unit shall be governed by the labor agreement then in effect.

Section 38. Grievance procedure for non-bargaining employees.

A "grievance," for the purpose of this policy, is hereby defined to be any controversy, complaint, misunderstanding or dispute. The following shall constitute the method for the resolution of grievances between the Borough and non-bargaining unit employees.

- A. Where possible, the employee should discuss his or her grievance with his or her immediate supervisor.
- B. If the grievance remains unresolved he or she shall discuss it with his or her department head.
- C. If circumstances of the grievance prevent using Subsection A and/or B or if the department head does not resolve the grievance within five working days, the employee may discuss the grievance with the Borough Administrator.
- D. The allegations of the grievant will be reviewed, and the Borough Administrator will solicit preliminary information necessary to make proper recommendations to the employee and/or supervisor or other personnel as necessary. A written decision must be made within five working days.

- E. If the grievant is not satisfied with the disposition of his or her grievance at Subsection D, or if no written decision has been rendered within five working days after the presentation of that grievance at Subsection D, the matter may be referred to the Mayor and Council or their designated representative within five working days of its disposition at Subsection D. Such referral shall be in writing and shall incorporate all documentation pertaining to the grievance introduced at Subsections A, B, C and D. The written submission shall be made to the Borough Clerk. A meeting on the grievance shall be held between the grievant and the Mayor and Council or their designated representative within 15 days of submission of the grievance to the Borough Clerk, at which meeting the parties may be represented. Said meeting shall not be public unless the parties so agree in writing. The Mayor and Council shall render a written decision within 15 days of the date of the meeting.

Section 39. Misuse of Borough property.

- A. No Borough of New Providence employee shall use or attempt to use his/her privileged access to Borough equipment, services or information for his own benefit or the benefit of others.
- B. No Borough employee shall remove or in any way aid and abet the removal of any supplies, materials, goods or equipment belonging to the Borough of New Providence from its offices, garages, maintenance buildings or storage locations unless such removal has been authorized by the appropriate department head, the Administrator or the Mayor and Council.
- C. Any employee reasonably suspected of having violated this provision shall be subject to a full investigation. If as a result of the investigation such violation is determined to have occurred, the employee is subject to disciplinary action, up to and including discharge
- D. In the event that a Borough employee is involved in an accident which results in damage to Borough property, a full investigation will be conducted. In the event of a finding of negligence or misconduct, an employee will be subject to disciplinary action, up to and including discharge.

Section 40. Safety.

- A. The safety and health of the employees of the Borough of New Providence is of primary importance toward successful and efficient operation of the Borough. The Borough is committed to a safe workplace and to the observation of applicable state and federal regulations.
- B. An employee shall immediately report to his or her supervisor or the Borough Administrator any unsafe or hazardous condition, accident or injury.

- C. The Borough shall not require an employee to work under conditions which subject him to risk of serious bodily harm in violation of state and federal law.

Section 41. Drug Free Work Place

The Borough is committed to providing and maintaining an alcohol and drug free work place. Accordingly, no Borough employee is permitted to be under the influence of alcohol or illegal drugs during work time. All supervisors are responsible for monitoring employees for drug and alcohol use or abuse. All employees holding supervisory positions who suspect an employee is under the influence of alcohol and or drugs shall immediately report the situation to their Department Head. The Department Head shall evaluate the circumstances and interview the employee. If the Department Head suspects that an employee is under the influence of alcohol and or drugs the Department Head shall require the employee to undergo a substance abuse screening at Borough expense. The time and location of this screening will be determined at the Borough's sole discretion. If the employee is found to have been under the influence of alcohol or an illegal drug, the employee will be subject to disciplinary action, up to and including termination of his/her employment. Each incident will be evaluated by the Department Head and Borough Administrator for recommendation to Borough Council.

The Borough recognizes that the use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is intoxicated or under the influence of alcohol or drugs during working hours shall be immediately suspended and subject to termination. The supervisor or Department Head will immediately report any suspensions to the Borough Administrator.

Employees using prescription drugs that may affect job performance or safety must notify their supervisor or Department Head who is required to maintain the confidentiality of any information regarding an employee's medical condition. Town 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.)

Section 42. Employee Health Program.

- A. The Borough shall provide each non-union full-time employee, who has been employed by the Borough for at least two (2) months, the following health care insurance with dependent coverage if so desired:
 - (1) Comprehensive health insurance, comprehensive surgical insurance, diagnostic insurance, major medical through a "Point -of Service Plan" and dental;
 - (2) For employees only, \$100 per year towards eye exams, corrective lenses, prescriptive lenses, frames or contact lenses with a receipt.

- B. Coverage for new employees shall be effective the first day of the month following said initial two months of employment with the Borough.
- C. Effective September 1, 2003, the Borough shall provide each full time non-union employee hired prior to May 15, 1996, other than the Chief of Police and Deputy Chief of Police, an annual stipend of \$1,200.00 which shall be in addition to their base pay.
- D. The Borough shall provide each non-union full-time employee, who has been employed by the Borough for at least two months, the option of participating in a benefit waiver program in accordance with IRC-125. An employee electing to participate in the benefit waiver program shall receive an annual cash stipend in lieu of health and/or dental insurance, in an amount equal to 50% of the annual premium. The cash stipend will be paid on a quarterly basis upon completion of the quarter.
- E. The Borough will provide for all non-bargaining personnel hospitalization upon retirement, (as defined by PERS) in accordance with the following criteria. A combination of age at retirement and a minimum of fifteen (15) years service with the Borough, will be the basis for determining eligibility and length of coverage. Borough personnel who were originally hired as part time employees and subsequently became full time are eligible for consideration dependent upon date he/she joined PERS plan.

Age Determination:

The number of points an employee earns for age will be calculated by year of retirement less year of birth up to a maximum of seventy points.

Service Determination:

The number of points an employee earns for service will be calculated as one per year for each year of service.

Physical Disability Retirement:

In the event an employee retires due to physical disability, said employee could earn additional points for age up to a maximum of ten points or a total age points of seventy.

Length of Coverage:

- (1) In the event an employee has earned one hundred points or more lifetime hospitalization will be paid by the Borough for the employee and his/her eligible dependents, at a cost not to exceed \$15,000 per year. Upon

death of the employee, coverage will continue for the surviving spouse until his/her 65th birthday. Upon the death of the employee if there is no surviving spouse coverage will cease at that point.

- (2) In the event an employee has earned a minimum of eighty points, the Borough will provide hospitalization up to a cumulative cost of \$10,000. per employee or for the employee and eligible dependents. These payments will be made in the form of monthly premium contributions or if the employee had been participating in the benefit waiver program in accordance with IRC-125, payments will be made on a quarterly bases in accordance with section 73-42 D of this policy.
- (3) In the event an employee has earned less than a minimum of eighty points, the Borough will provide hospitalization up to a cumulative cost of \$5,000. per employee or for the employee and eligible dependents. These payments will be made in the form of monthly premium contributions or if the employee had been participating in the benefit waiver program in accordance with IRC-125, payments will be made on a quarterly bases in accordance with section 73-42 D of this policy.

ARTICLE IX, Anti-Discrimination/Anti-Harassment Policy

Section 43. The Borough of New Providence Policy Against Discrimination and Harassment.

The Borough of New Providence is desirous of promoting and maintaining a working environment in which all employees are treated with respect and dignity. Discrimination or harassment of any kind are prohibited by federal and state law and/or Borough policy and will not be tolerated.

Sexual Harassment

It is the Borough's policy to prohibit harassment of or discrimination against any employee by another employee, supervisor, or visitor on the basis of sex or gender. The purpose of this policy is not to regulate personal morality within the Borough. It is to ensure that at our Borough all employees are free from harassment and discrimination on the basis of sex or gender. Sexual harassment is illegal and will not be tolerated.

While it is not easy to define precisely what sexual harassment is, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature such as uninvited touching of a sexual nature or sexually-related comments, pictures, or communications. Similarly, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission to or

rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Other Prohibited Harassment

It is also the Borough's policy to prohibit harassment of an employee on the basis of race, creed, national origin, ancestry, religion, age, marital, familial, and/or domestic partnership status, affectional or sexual orientation, genetic information, sex, disability, atypical hereditary cellular or blood trait, veteran status, service in the Armed Forces, refusal to submit to genetic testing and/or to make genetic testing results available, or any other trait or characteristic protected by law. Again, while it is not easy to precisely define these types of harassment, such harassment would certainly include slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, and other similar verbal or physical conduct. Similarly, discrimination on the basis of these protected categories is prohibited as outlined in the Borough's Equal Employment Opportunity Policy.

Reporting and Investigating Harassment

Anyone who feels that he or she has witnessed or been subjected to any type of harassment should immediately report the matter to any supervisor, the Borough Clerk, or the Borough Administrator.

Any supervisor who witnesses or receives a report or complaint of harassment, discrimination, or violation of this policy shall immediately report it to the Borough Clerk or the Borough Administrator.

Every report of perceived harassment, discrimination, or violation of this policy will be fully investigated and corrective action will be taken where appropriate.

No Retaliation

The Borough will not allow any form of retaliation against individuals who, in good faith, report harassment or discrimination, or who cooperate in good faith in the investigation of such any such report in accordance with this policy.

Violations

Violation of this policy will result in disciplinary action, up to and including termination.

Questions

If you have any questions about this policy, please contact the Borough Clerk or the Borough Administrator.

Section 44. Reasonable accommodation of disabilities.

In making decisions with respect to employment matters, the Borough:

- A. Shall not discriminate against an otherwise qualified individual with a disability.
- B. Shall make reasonable accommodations to allow an otherwise qualified individual to perform the essential function of the job as required by law.
- C. Shall not make improper inquiry regarding medical matters during the application process.

Section 45. Anti-harassment: employee training.

Employees of the Borough shall be periodically provided with the opportunity for anti-harassment training. Such training shall be periodically mandatory for supervisors and managers.

Section 46. Special circumstances.

Any investigation of police personnel is to be consistent with and meet the requirements of the following:

- A. The New Providence Police Department's Rules and Regulations.
- B. The New Providence Police Department's SOP Manual.
- C. The Attorney General's Internal Affairs Policy and Procedure - Chapter 5 of the Police Management Manual.
- D. N.J.S.A. 40A:14-147 through 40A:14-150.
- E. New Providence Borough Code §§ 79-15 and 79-16.

Article X, Terminal Leave

Section 47. Terminal Leave

Non-union employees who retire with a pension under PERS shall be entitled to receive Terminal Leave. The number of Terminal Leave days will be based on the number of unused sick leave at the time of retirement. Retiring employees will remain on the payroll of the Borough based on one day of base salary pay for every four days of accumulated unused sick leave up to 100 days; and 1 day base salary pay for every 3 days of accumulated sick leave beyond 100 days to a maximum per diem value of \$12,000.00. Retiring employees will continue their full coverage of health insurance and other benefits during their period of Terminal Leave.

Article XI, Special Conditions

Section 48. Police Chief & Deputy Police Chief

It is understood that the Police Chief and the Deputy Police Chief will received all benefits equal to at the minimum those which are contractually agreed to by the New Providence Superior Officer's Association and the New Providence P.B.A. Local Number 132, Patrolmen and Sergeants Association, except for a medical stipend.

Section 49. Employment at Will

EXCEPT AS OTHERWISE PROVIDED BY STATUTE, ORDINANCE, INDIVIDUAL WRITTEN CONTRACT, OR COLLECTIVE BARGAINING AGREEMENT, ALL EMPLOYEES OF THE BOROUGH OF NEW PROVIDENCE ARE "AT-WILL" EMPLOYEES AND CAN BE TERMINATED WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE AT ANY TIME. LIKEWISE AN EMPLOYEE CAN RESIGN WITH OR WITHOUT NOTICE AND WITH OR WITHOUT A REASON AT ANY TIME. NOTHING CONTAINED IN THIS PERSONNEL POLICY ORDINANCE OR ANY OTHER STATEMENT OF BOROUGH POLICY, CREATES A CONTRACT FOR CONTINUED EMPLOYMENT UNDER ANY PARTICULAR TERMS OR CONDITIONS, OR FOR ANY SPECIFIC TIME PERIOD. AN EMPLOYEE'S AT-WILL RELATIONSHIP WITH THE BOROUGH CAN ONLY BE CHANGED WITH EXPRESS AND WRITTEN CONSENT OF THE BOROUGH OF NEW PROVIDENCE.

Section 50. Electronic Communications Policy

The Borough's voice mail system, computer system, e-mail system, and Internet access, as well as any information contained or stored in these systems, are property of the Borough. Communications transmitted through these systems must have a business purpose.

The Borough and specifically authorized individuals may access electronic communications systems and review communications within the systems, without notice to users of the system, when the Borough deems it appropriate to do so. The reasons for which the Borough may obtain such access include, but are not limited to: maintaining the system; preventing or investigating allegations of system abuse or misuse; assuring compliance with software copyright laws; complying with legal and regulatory requests for information; ensuring that the Borough's operations continue appropriately during an employee's absence; and any other purpose deemed appropriate by the Borough.

The Borough may store electronic communications for a period of time after the communication is created. From time to time, communications stored in the system may be deleted, printed, or utilized for any purpose.

The Borough's policy prohibiting all forms of harassment applies fully to the use of the Borough's electronic communications systems. No one may use electronic communications in a manner that may be construed by others as harassment or discrimination based on race, creed, national origin, ancestry, religion, age, marital, familial, and/or domestic partnership status, affectional or sexual orientation, genetic information, sex, disability, atypical hereditary cellular or blood trait, veteran status, service in the Armed Forces, refusal to submit to genetic testing and/or to make genetic test results available, or any other trait or characteristic protected by law.

Violators of this Electronics Communications Policy may be subject to discipline, up to and including discharge from employment.