

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No. 2016-038

Council Meeting Date: 01-04-2016

Date Adopted: 01-04-2016

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 FOR THE YEAR 2016

Councilperson Kapner submitted the following resolution, which was duly seconded by Councilperson Muñoz.

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, 2016.

APPROVED, this 4<sup>th</sup> day of January, 2016.

RECORD OF VOTE

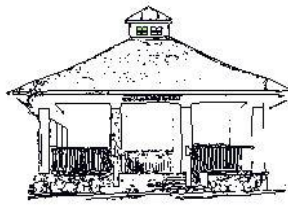
	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 4<sup>th</sup> day of January, 2016.

Wendi B. Barry, Borough Clerk

# **PERSONNEL POLICY HANDBOOK**

*January 1, 2016*



**BOROUGH OF NEW PROVIDENCE  
PERSONNEL POLICY**

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BOROUGH OF NEW PROVIDENCE

PERSONNEL POLICIES

**IMPORTANT NOTICE TO ALL EMPLOYEES REGARDING THIS HANDBOOK**

**THE PURPOSE OF THIS HANDBOOK IS TO PROVIDE BACKGROUND INFORMATION AND GUIDANCE REGARDING EMPLOYMENT. EXCEPT AS MAY BE MANDATED BY APPLICABLE LAW (ARTICLE IX), THERE IS NO PROMISE OF ANY KIND CONTAINED IN THIS HANDBOOK. THERE IS NO OBLIGATION BY THE BOROUGH OF NEW PROVIDENCE TO COMPLY WITH THE POLICIES AND PROCEDURES SET FORTH IN THIS HANDBOOK. REGARDLESS OF WHAT THE HANDBOOK SAYS OR PROMISES, THE BOROUGH OF NEW PROVIDENCE REMAINS FREE TO CHANGE THE WAGES AND ALL WORKING CONDITIONS OF EMPLOYEES AT WILL WITHOUT HAVING TO CONSULT WITH ANYONE AND WITHOUT ANYONE'S AGREEMENT.**

## ARTICLE I - General Provisions

### Section 1. Employment at Will

*THIS HANDBOOK IS NOT A CONTRACT OF EMPLOYMENT. 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 COUNCIL.*

### Section 2. Definitions.

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

FULL-TIME EMPLOYEE -- An employee whose job is not of limited duration and whose regular hours of duty are the normal work hours for the unit involved.

PERMANENT PART-TIME EMPLOYEE – An employee whose job is not of limited duration and who normally works at least twenty (20) hours per week but less than the normal work hours of the unit involved.

PART-TIME EMPLOYEE -- An employee whose job is not of limited duration and who works less than twenty (20) hours per week. Employees in this category would not be entitled to employee fringe benefits.

CASUAL, TEMPORARY OR SEASONAL EMPLOYEES -- Employees engaged by the Borough, including interns, for jobs of limited duration (days, weeks or months) and are not employed as full-time, permanent part-time or part-time employees.

PART-TIME PROFESSIONAL EMPLOYEE – Professional employee means a person whose primary duty consists of the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship and from training in the performance



of routine mental, manual or physical processes. For instance, professional employees include but are not limited to Borough Engineer, Chief Financial Officer, and Borough Attorney. 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.

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

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

[Note: The above 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 3. Purpose and Applicability.**

The personnel policies contained in this chapter apply to all Borough Employees. Employees who are a member of a specific bargaining group shall be guided by the provisions of their Collective Bargaining Agreement (CBA). If the CBA is silent on a particular topic or subject, and there is no past policy or practice which is applicable, the provisions of this policy shall apply.

### **Section 4. 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, color, creed, national origin, nationality, ancestry, religion, age, marital, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, genetic information, sex, disability, atypical hereditary cellular or blood trait, veteran status, liability for 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 civil rights laws. It is the 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 provided to all participants in federally or state funded programs administered by the Borough Council.

## **Section 5. Personnel Records**

Separate personnel files will be established and maintained for each employee in the Borough of New Providence.

### **Confidentiality**

Personnel files are confidential records and will be maintained in the office of the Human Resources Officer in a locked file. The files will be in two groups: Employee Personnel Files and Employee Medical Files. Government regulations require that employee medical information be maintained in a separate file from the employee's personnel file. Files will be maintained as "active files," representing employees on the payroll, and "terminated files," for employees no longer in the service of the Borough for both Employee Personnel Files and Employee Medical Files. Forms I-9 shall be kept separate and apart from the Employee Personnel Files and the Employee Medical Files.

### **Accessibility**

Only the Borough Administrator, Human Resources staff and those authorized by the Borough Administrator may have access to any or all of the personnel files on a need-to-know basis, and such access shall be limited to legitimate personnel-related purposes. The Human Resources Officer, or in his/her absence the Borough Clerk, shall be responsible for controlling such access.

The entire Borough Council shall be informed prior to the Mayor or any Borough Council member requesting access to any specific personnel file. A Department Head may have access only to personnel files of employees within his/her department.

Any employee may, at a reasonable time and in the presence of the Human Resources Officer or his/her designate, examine his/her personnel file.

### **Information in Personnel File**

Such records shall include, but not necessarily limited to:

- a) Dates of appointment;
- b) Promotions;
- c) Job titles;
- d) Salary history;
- e) Commendations;
- f) Disciplinary actions;
- g) Non-medical leaves of absence;
- h) Educational transcripts and training records;
- i) Employment application;
- j) Annual performance appraisal forms;
- k) Emergency contacts;
- l) Dependent information;
- m) Letter of resignation; and
- n) Any other pertinent information or material.

### **Updating the Personnel File**

It is the responsibility of each employee to advise their Department Head of changes in personal information so that his/her personnel file may be updated. As appropriate, each Department Head will furnish and continuously update information to the Human Resources Officer for each employee in his/her department.

### **Removal of Personnel Files from Municipal Building Prohibited**

Under no circumstances may any personnel file be removed from the Municipal Building, with the exception of copies being removed for use in legal proceedings.

### **Human Resources Officer Maintains Payroll Records**

Payroll records shall be maintained by the Human Resources Officer.

## **Section 6. Borough Open Door Policy**

To foster sound employee-employer relations through communication and reconciliation of work-related problems, the Borough provides employees with an established procedure for expressing employment related concerns. **If a complaint is one of discrimination or harassment, please go to the policies on Non-Discrimination and Equal Employment Opportunity and Anti-Harassment and follow the procedures noted there. If you have a Whistleblower Complaint, please go to the Whistleblower Policy and follow the procedures there.**

In situations where employees feel a work-related complaint is in order, the following steps should be taken:

- a) If an employee believes that he/she has a legitimate work-related complaint, the employee is encouraged to first attempt to resolve the issue(s) through discussions with his/her immediate Supervisor. The Supervisor shall not exceed his/her authority nor the discretion within which he/she may act.

- b) If the situation is not satisfactorily settled verbally within forty-eight (48) hours from the time the complaint is discussed with the employee's immediate Supervisor, the employee may, request a meeting with the Human Resources Officer. At the time of making the request for a meeting with the Human Resources Officer, the employee shall succinctly set forth his/her complaint in writing along with all supporting documentation.
- c) If the matter of written complaint cannot be satisfactorily settled within forty-eight (48) hours of a meeting with the Human Resources Officer, the employee may request a meeting with the Borough Administrator.

The Borough Administrator will attempt to resolve the complaint within a reasonable period of time while preserving the confidentiality and privacy of those involved to the extent appropriate and/or feasible.

Police Department employees shall be governed by their own rules and regulations, and Public Works and other Union employees by their contract provisions. To the extent that a Union employee has an avenue to raise complaints under his/her collective bargaining agreement, the employee shall use the procedures outlined in the collective bargaining agreement and the procedure set forth in this handbook.

## **Article II – Conditions of Employment**

### **Section 7. Recruiting Procedures**

#### **Recruitment for Open Positions**

The Borough utilizes various means to advertise an open position, depending on the position. Examples are internal postings on Borough bulletin boards, the Borough website and other Internet sites, local access television, newspapers and professional publications or other means of recruitment that may be applicable to each specific opening.

#### **Residency Requirements for Employees**

In accordance with the "New Jersey First Act" (P.L. 2011, c, 70), effective September 1, 2011, Borough employees shall have their "principal residence" in the State of New Jersey. There are several limited exemptions to the law:

- a) Employees hired on or after September 1, 2011 who are not a resident when hired receive a one year exemption. If they fail to establish residency within that year, they shall be deemed unqualified for holding the office, employment, or position.
- b) Employees, officers, and appointees who did not meet the residency requirement on the effective date (i.e., residency was out-of-state on 9/1/2011), are exempted unless they break public service for a period of time greater than seven days.

All employees must be in compliance with this law and this stipulation is incorporated into the recruitment process.

#### **Interview and Selection**

After applications are submitted, interviews shall be conducted by Human Resources and/or the Department Head, who shall recommend applicant(s) for employment to the Borough Administrator, who may conduct a second interview in his or her discretion. The applicant may be tested for various skill sets, i.e., computer skills, driving skills, etc. appropriate to the position being applied for. After recommendation for employment, reference checks will be performed.

When a candidate agrees to a position, a *Resolution of Appointment* shall be submitted to the Borough Council to effect the appointment and set compensation and other terms of employment, as may be appropriate. Unless otherwise specifically noted, all employment is "AT-WILL".

### **Medical Examination and Drug Screening**

The Borough reserves the right to require a medical examination and/or drug screening as a condition of employment. Such examination will be conducted after a conditional offer of employment is made, but before the employee starts work.

### **Background Checks, Including Sex Offender Checks, Are Required of All Candidates**

It is the Borough's policy to conduct criminal background checks of all employees and volunteers. In addition, the Borough reserves the right to require credit and motor vehicle background checks, or physicals as a condition of employment dependent upon the specific position for which a candidate applies. Pre-employment screenings will be conducted after a conditional offer of employment is made, but before the employee starts work. A signed authorization from the applicant is required before a background check may be requested from an outside reporting agency.

Sex Offender checks are required of all candidates, whether paid or volunteer, that may work directly with children/youth/minors. Seasonal employees over the age of 18 that work in Parks and Recreation seasonal programs, i.e., pool, camp, shall have Sex Offender checks conducted by the Community Activities Director or designee.

If the background check is favorable, Human Resources will notify the hiring Supervisor that the candidate is approved to begin employment/volunteer duties.

The Human Resources Officer shall be informed of any information that would disqualify a person from working with children/youth/minors. The Human Resources Officer will review the information in consultation with legal counsel. The Human Resources Officer will inform the candidate of any information that would disqualify the person from working with children/youth/minors.

Some Borough positions require a job related physical examination, including drug screening to determine whether the candidate is capable of performing essential

functions of the position being offered. The Borough coordinates the appointment, and the examinations are at no cost to the applicant.

Results of all background checks and physicals will be kept confidential and will not be disclosed to any person except to the extent necessary to administer and enforce this policy, or as required by law or appropriate legal process. Such information will not be deemed a public record under P.L. 1963, C. 72 (C:47:1A-1, et. seq.) as amended and supplemented by P.L. 2001, c. 404 (C:47:1A-5, et seq.).

Once a candidate has been notified of a disqualifying condition, the candidate has 14 calendar days to file a letter to appeal the decision to the Human Resources Officer, requesting a hearing with the Borough Administrator. In making a determination on the appeal, the following types of information will be considered:

- The nature and responsibility of the position which the convicted individual would hold;
- The nature and seriousness of the crime or offense;
- The circumstances under which the crime or offense occurred;
- The date of the crime or offense;
- The age of the individual when the crime or offense was committed;
- Whether the crime or offense was an isolated or a repeated incident;
- Any social conditions which may have contributed to the commission of the crime or offense;
- Any evidence of rehabilitation, counseling or psychiatric treatment received;
- 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 Administrator's decision shall be final and binding.

### **Section 8. Initial Employment Period**

Except where state requirements direct otherwise, all new employees (or present employees transferring to new positions) go through an initial trial period of adjustment of not less than three months or more than one year, as determined by the Human Resources Officer upon recommendation by the Department Head.

During this time, the new employee will be closely monitored. The new employee may be discharged at any time during this period if the Supervisor concludes that the new employee is not progressing or performing satisfactorily. Under appropriate circumstances, the Borough Administrator may extend the *Initial Employment Period*. Additionally, as is true at all times during an employee's employment with the Borough, employment, unless otherwise specifically noted, is not for any specific time and may be terminated at will, with or without cause and without prior notice. Employees in their

*Initial Employment Period* may not apply for other jobs within the Borough. At the end of the *Initial Employment Period*, the employee's Supervisor will evaluate the employee. Provided the employee's job performance is satisfactory, the employee will continue in the Borough's employment as an "at-will employee" and may be eligible for a salary adjustment in accordance with the applicable salary ordinance.

#### **Police Officer's Oath of Office**

All Police Officers will be sworn in by the Mayor or Borough Clerk and are required to take Oaths of Office.

#### **Date of Employment**

Every employee is appointed by the Borough Council. The employee's hire date is, at the earliest, the date of the Borough Council's appointment.

**NOTHING IN THIS SECTION SHALL BE DEEMED TO CREATE A GUARANTEE OF CONTINUED EMPLOYMENT OR ALTER THE AT-WILL NATURE OF EMPLOYMENT.**

#### **Section 9. Physical examinations.**

- A. Before Commencing Employment. After making an offer of employment, but before commencing work, the Borough reserves the right to require employees to undergo a medical examination to determine whether employee can perform the essential functions of the job with or without reasonable accommodation.
- B. After Commencing Employment. Consistent with federal and state law, the Borough reserves the right to require employees to undergo a medical examination to determine continued capability to perform the job with or without reasonable accommodation.

#### **Section 10. Date of employment for accrual of vacation. [Added 10-10-1995 by Ord. No. 95-9]**

- A. For the purpose of calculating accrual of vacation time, the date of employment shall be the date originally appointed by the Borough of New Providence. If a full-time employee was originally appointed as a permanent part-time employee, and there is no break in service, the date of employment for calculating vacation time shall be the date of appointment as a permanent part-time employee.
- B. Date of appointment is generally not considered for matters beyond accrual of vacation time.

#### **Section 11. Improper disclosure of information. [Amended 10-10-1995 by Ord. No. 95-9]**

The conduct of Borough affairs is open to public scrutiny. However, it shall be the responsibility of Borough employees to restrict security matters, personnel administration and other material of a non-public and confidential nature as determined by the Mayor and Council, to the Mayor, Council and affected department heads, supervisors and other persons on a need-to-know basis. 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 under the control of the Human Resources Officer in a secure location. Medical information shall be maintained in a separate file under the control of the Human Resources Officer. Forms I-9 shall be maintained in a separate file under the control of the Human Resources Officer. Access to personnel files shall be limited to Borough personnel with a legitimate business need to access the contents thereof.

## **Section 12. 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, nor interfere with the normal standard hours of work for their office, all as determined in the sole discretion of the Borough.
- B. In the event that a Borough employee does perform regular work for another employer or does operate a business, which interferes with his/her assigned duties or normal standard hours of work, he/she will be subject to disciplinary action, up to and including discharge.
- C. No full-time employee or permanent part-time employee may engage in regular work for another employer or operate a business without first obtaining approval for such work or business. In the case of full-time employees, approval must be obtained from the Borough Council. The Borough Council may grant approval for such additional employment only if it is clearly shown by the department head and Borough Administrator that such additional work outside the Borough will in no way interfere with the Employee's assigned duties for the Borough. [Added 10-10-1995 by Ord. No. 95-9]. In the case of permanent part time employees or part time employees, approval must be obtained from the Borough Administrator.
- D. Any employment by another governmental authority is prohibited unless expressly approved by the Borough Council. [Added 10-10-1995 by Ord. No. 95-9]



- E. No employee may perform work for another employer nor operate a business which results in a reasonable likelihood of a resulting conflict of interest with the Borough.

**Section 13. 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. Employees shall not use any Borough resources (including but not limited to fax machines, computers (emailing), and others to express an opinion about or attempt to influence the outcome of any matter being determined during an election, including without limitation, public questions placed on the ballot.
- B. A Borough employee who does engage in partisan political activities during working hours will be subject to immediate suspension without pay pending investigation by the Borough Administrator. Upon confirmation of violation of this section, the employee shall be subject to discipline up to and including discharge.
- C. All Borough employees are required to fully comply with the Borough's Code of Ethics as codified at Chapter 41 of the Borough Ordinances.
- D. All Borough employees are required to be aware of and abide by 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 are required to be aware of and abide by New Jersey Ethics Law N.J. 40A:9-22.1 et seq.

**Section 14. Contagious or Life Threatening Illness Policy**

The Borough has a legal obligation and is committed to providing a safe and healthy work environment for all employees and to the public. Accordingly, employees of the Borough who have been diagnosed with any illness that poses a health hazard to other employees or to the public must immediately disclose this information to their Department Head. The Department Head shall consult with the Human Resources Officer and the Borough physician and/or Borough Public Health Nurse, to assist in making a determination as to the appropriate course of action. Medical information about the employee will be kept confidential.

Employees who fail to disclose contagious illnesses or illnesses which would pose a direct threat to the health and safety of other employees or the public will subject the employee to discipline, up to and including discharge.

The Borough treats life-threatening/catastrophic illnesses in accordance with its policy on equal employment opportunity and the requirements of the New Jersey Law against Discrimination and the Americans with Disabilities Act. The Borough recognizes that a supportive and caring response from Supervisors and coworkers is an important factor in maintaining the quality of life for an employee with a life-threatening/catastrophic illness.

An employee's health condition is private and confidential. An employee is under no obligation to disclose his or her condition to a Supervisor or any other employee of the Borough unless such condition impacts the ability of the employee to safely perform his/her job or imperils the safety of others. If an employee notifies a Supervisor of his/her medical condition, the Supervisor is expected to take careful precaution to protect the confidentiality of information regarding the employee's health condition.

The Borough recognizes that an employee with a medical condition may wish to continue his/her employment. All decisions regarding continued employment will be based on the ability of the employee to perform the essential functions of the job with or without reasonable accommodation, and, to the extent appropriate, receipt of satisfactory medical evidence that the employee does not present a threat to him/herself or others.

Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact the Human Resources Officer.

## **Section 15. Violence in the Workplace**

The Borough of New Providence maintains the policy that any violent acts, or threats of same, made by an employee against another person's life, health, well-being, and family or property or for the purpose of intimidation are entirely unacceptable and cause for disciplinary action, up to and including immediate dismissal. This policy applies to any threats made on Borough property, at Borough events or under other circumstances that may negatively affect the Borough's ability to conduct business. Such acts or threats of violence, whether made directly or indirectly, by words, gestures or symbols infringe upon the Borough's right or obligation to provide a safe workplace for its employees.

An employee who believes that he or she has been the target of violence or threats of violence or violent intimidation, or has witnessed or otherwise learned of violent conduct by another employee in the manner described above, should contact the Human Resources Officer and his or her immediate Supervisor immediately.

### **Prohibited Conduct**

The Borough will not tolerate any type of workplace violence committed by or against

employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that are prohibited.

- a) Causing physical injury to another person;
- b) Making threatening remarks;
- c) Aggressive, hostile or intimidating behavior that creates a reasonable fear of injury or loss to another person or to personal property or subjects another individual to emotional distress;
- d) Intentionally damaging employer property or property of another employee;
- e) Unlawful possession of a weapon while on Borough property or while on Borough business;
- f) Committing acts motivated by, or related to, harassment or domestic violence.

### **Reporting Procedures**

Any potentially dangerous situations must be reported immediately to a Supervisor or the Human Resources Officer. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. The Borough reserves the right to actively intervene at any indication of a possibly violent situation.

### **Enforcement**

Threats, threatening or intimidating conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee found to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on the Borough's premises will be reported to the proper authorities and fully prosecuted.

### **Section 16. Driver's License Policy**

Any employee whose work requires the operation of a Borough of New Providence vehicle must hold a Driver's License valid in the State of New Jersey.

All new employees who will be assigned work entailing the operating of a Borough of New Providence 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 be cause to deny or terminate employment.

Periodic checks of employee's drivers' licenses may be made with the authorization of the Borough Administrator. Any employee who does not hold a valid driver's license will not be allowed to operate a Borough of New Providence vehicle until such time as a

valid license is obtained.

Any employee performing work that requires the operation of a Borough of New Providence vehicle must notify his/her immediate Supervisor in those cases where his/her license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. In addition, an employee who has been arrested and/or charged with an offense of either driving while under the influence of drugs or alcohol or refusal to take a breathalyzer must notify the Human Resources Officer immediately upon reporting to work. An employee who fails to report such an instance is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report such revocation or suspension to the Human Resources Officer and continues to operate a Borough of New Providence vehicle shall be subject to discipline, up to and including termination.

Any information obtained by Borough of New Providence personnel in accordance with this section shall be used by Borough of New Providence 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.2 2721 et seq.), and the employee's privacy in his/her information accessed by employer shall be respected to the extent appropriate.

### **ARTICLE III - Employee Standards**

#### **Section 17. Performance Reviews**

Performance shall be reviewed annually for all employees.

#### **Section 18. 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) 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) hour prior to reporting time if the department head will be delayed or absent from work.
- C. Absences - Absence the day before a holiday or day after a holiday will result in the loss of pay for the holiday, unless supported by a health care provider's note or unless approved in advance by the Borough Administrator.
- D. Excessive absenteeism and/or tardiness will be cause for disciplinary action, up to and including discharge. Except in case of emergency (a Doctor's note may

be required), failure to properly notify of an absence in advance of the absence may be cause for disciplinary action, up to and including termination.

### **Section 19. 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 Borough Administrator in consultation with 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) Early dismissal due to inclement weather authorized by the Borough Administrator in consultation with the Mayor shall be without penalty.

### **Section 20. Hours of work.**

The standard workweek is generally calculated from 12:01 AM Sunday thru midnight Saturday. 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.
  - (1) Standard workweek: 35 hours, 8:30 a.m. to 4:30 p.m.
  - (2) Lunch period: one hour.
  - (3) Overtime: payable for hours in excess of 40 hours per week for non-exempt employees.

- (4) Work performed by non-exempt employees, including 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.
- (5) All overtime of non-exempt employees must be approved in advance by the employee's Department Head or immediate Supervisor.

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, the New Jersey Wage and Hour Act, and other applicable law.

C. Police Department.

The workweek of employees in the Police Department 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, 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, the New Jersey Wage and Hour Act, and other applicable law.

D. Management and exempt employees, including but not limited to, Deputy Borough Administrator, Chief Financial Officer, Tax Collector, Chief of Police, Construction Official, Director of 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.

E. Summer Hours for non-exempt employees. The Borough Administrator shall annually set the schedule for employee summers hours in accordance with the following:

- (1) Summer Hours - Borough Offices will close at 1:00 p.m. on Fridays for the period between Memorial Day and Labor Day. Employees normally working a 35 hour week with one hour for lunch shall have their lunch period reduced to one-half hour on Monday through Thursday and take no lunch period on Fridays during this period.

**Section 21. Authorization of salary.**

A. Non-Union Employees

1. 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 or more than the maximum of the current ordinance. (Employees are referred to the Salary Ordinance).
2. 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 shortage of skilled personnel, an applicant may be appointed at a rate above the minimum but only upon recommendation by the Personnel Committee of the Borough Council and with final approval of the Borough Council.
3. For all employees not covered by a collective bargaining agreement, salary increases, if any, will become effective on July 1<sup>st</sup> for employees whose anniversary date in their position is between July 1<sup>st</sup> and December 31<sup>st</sup> and January 1<sup>st</sup> for employees whose anniversary date in their position is between January 1<sup>st</sup> and June 30<sup>th</sup>.
4. Employees will become eligible for (but not entitled to) a salary increase after initial employment in a position for one (1) year.
5. A salary increase recommendation to the Borough Administrator by the department head shall only become effective upon the approval of the Borough Council. Recommendations must be based on the evaluation of the employee's performance during the previous year. Salary increases shall be based on merit and not granted automatically.
6. An employee will be eligible for salary increase until he or she has reached the maximum salary provided for in his or her job classification.
7. Annual salary increases are not automatic and performance issues may be the basis for withholding the award of such annual increase.

B. Union Employees

Salaries of Union Personnel shall be in accordance with their Union Contract.

**Section 22. Safety.**

- A. The safety and health of the employees of the Borough of New Providence is of primary importance for the 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 any unsafe condition to his or her supervisor or Department Head. Any supervisor receiving a report of an unsafe condition shall immediately report it to his/her Department Head. The Department Head shall immediately notify the Borough Administrator for appropriate action of any unsafe or hazardous condition.
- C. The Borough shall not require an employee to work under conditions which subject him/her to risk of harm in violation of state or federal law.

### **Section 23. Drug Free Work Place**

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 found using alcohol or illegal drugs during working hours shall be immediately suspended and is subject to termination.

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 who suspect an employee is under the influence of alcohol and or drugs shall immediately report the situation to his/her Department Head. The Department Head shall gather the facts and report immediately to the Borough Administrator. If the Borough Administrator has a reasonable suspicion that an employee is under the influence of alcohol or illegal drugs on the job, the Borough Administrator may require the employee to undergo a substance abuse screening at Borough expense. The time and location of this screening will be determined in the Borough Administrator's sole discretion. If the employee is found to have been under the influence of alcohol or an illegal drug during work time, the employee will be subject to disciplinary action, up to and including termination of his/her employment.

Employees using prescription drugs that may affect job performance or safety must immediately notify their supervisor or Department Head, who shall be required to maintain the confidentiality of any information regarding the employee's medical condition. Employees who hold a Commercial Driver's License (CDL) are subject to the provisions of the Commercial Driver's License 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 24. 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. Available Borough medical insurance, including prescription drugs, dental coverage and a vision plan.
- B. 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.
- C. Coverage for new employees shall be effective the first day of the month following said initial two months of employment with the Borough.
- D. Each full-time, non-union employee, who is eligible for employee health insurance has the option of participating in a benefit waiver program in accordance with NJSA 40A:10-17.1. For 2015, employees will receive reimbursement for the first 2 quarters in accordance with the existing policy. No additional reimbursement shall be paid in 2015.

Effective January 1, 2016, an employee electing to participate in the benefit waiver program shall receive a cash stipend in lieu of health insurance. The annual amount of reimbursement shall not exceed 25% of the amount saved by the Borough because of the employee's waiver or \$5,000, whichever is less. The cash stipend is paid on a quarterly basis following completion of the quarter.

- 1. In 2016, employees enrolled in the opt-out program as of June 30, 2015 shall receive additional medical reimbursement paid at the end of each year as follows:

	Family Coverage	P/C or Couple	Single
2016 -	\$2500.00	\$2000.00	\$1000.00
2017 -	\$1500.00	\$1000.00	\$750.00
2018 -	\$500.00	\$300.00	\$250.00

Payments made under this provisions shall sunset on December 31, 2018.

- E. The Borough will provide for all non-bargaining personnel health insurance, upon retirement (as defined by PERS), in accordance with the following criteria:
  - 1. A combination of age at retirement and a minimum of fifteen (15) years of service with the Borough is the basis for determining eligibility and coverage allowance.

2. Borough personnel who were originally hired as part-time employees and subsequently became full-time are eligible for consideration based on the PERS enrollment date.
3. Age Determination: Number of points an employee earns for age is calculated by year of retirement less year of birth, up to a maximum of seventy (70) points.
4. Service Determination: Number of points an employee earns for service is calculated as one per year for each year of service.
5. Health insurance is defined as the Borough's current offering for medical insurance including dental. The benefit provided hereunder will be Medicare Supplemental Insurance through the Borough's Insurance Carrier. If the employee is not Medicare eligible, then the insurance shall be the current insurance for non-retired employees. The insurance provided hereunder is limited to the coverage allowance noted in the next section.
6. Coverage Allowance:
  - a. For employees hired after January 1, 2005, if the employee has earned one-hundred (100) or more points, lifetime health insurance will be paid by the Borough for the employee and eligible dependents at a cost not to exceed \$15,000 per year. Upon death of the retired employee, coverage will continue for the surviving spouse to his/her 65<sup>th</sup> birthday. If no surviving spouse exists, coverage ceases at time of retired employee's death. For employees earning one-hundred (100) points and hired before January 1, 2005, the \$15,000 limitation of this paragraph shall not apply.
  - b. If an employee has earned a minimum of eighty points, the Borough will provide health insurance up to a cumulative lifetime cost of \$10,000 for the retired employee and eligible dependents. Once the \$10,000 total premium is reached, all health insurance under this paragraph shall cease. Payment is made in the form of monthly premium contributions to the Borough's insurance plan. If the retired employee had been participating in the benefit waiver program as defined in Section 24D, cash payments in lieu of insurance will be made to the retired employee on a quarterly basis.

- c. If an employee has earned less than eighty points, the Borough will provide health insurance up to a cumulative lifetime cost of \$5,000 for the retired employee and eligible dependents. Once the \$5,000 total premium is reached, all health insurance under this paragraph shall cease. Payment is made in the form of monthly premium contributions to the Borough's insurance plan. If the retired employee had been participating in the benefit waiver program as defined in Section 24D, cash payments in lieu of insurance will be made to the retired employee on a quarterly basis.

7. Waiver of Continued Coverage

- a. Employees who do not require continued health insurance coverage after retirement may waive the coverage and receive a one-time cash payment in the amount of one-half the amount outlined in Section 6(b) and (c) above upon retirement.

## **Section 25. E-mail and Internet Code of Conduct Policy**

Access to the Internet has been provided to public employees for the benefit of the Borough of New Providence and its residents. It allows employees to connect to information resources around the state, the country and the world. While on the job every employee has a responsibility to use the Internet responsibly and in a productive manner. To ensure that all employees are responsible, productive Internet users, the following guidelines have been established for using the Internet.

### **A. Confidentiality, Privacy and Monitoring**

All Borough electronic systems, including e-mail, Internet connections and instant messaging, are the property of the Borough. All documents, information and data created, stored and/or copied to the Borough's computer system are the property of the Borough and may not be copied or in any form transmitted to any third party other than in the ordinary course of business on behalf of the Borough. Employees using the Borough's computer systems are cautioned that e-mail and internet systems do not provide complete confidentiality and Borough employees have no right to privacy when they use Borough systems. The Borough has the right to access, monitor and disclose the contents of any file or electronic message composed, sent received or viewed on Borough computer systems for any business purpose, including but not limited to breaches of security, violations of Borough policy or other computer system or e-mail misuse. Except for police personnel, all computer passwords and login names must be submitted to the Borough Administrator. No codes may be used that are unknown to the Borough Administrator. For police personnel, all computer passwords and login names must be submitted to the Police Chief. No codes may be used that are unknown to the Police Chief.

All communication of employees on behalf of the Borough must be done through the email account assigned to Borough employees. Employees should be aware and understand that the use of personal e-mail accounts, texts and other transmissions including those made on personal, password protected, web-based accounts to engage in Borough business may result in those personal accounts being subject to the provisions of the Open Public Records Act (OPRA) and/or other statutes pertaining to access to government records

**B. Acceptable Uses of the Internet**

Employees accessing the Internet are representing the Borough. All communications must be in accordance with the law and should be for professional reasons. Employees are responsible for seeing that the Internet is used in an effective, ethical and lawful manner. Databases may be accessed for information as needed for Borough business. Email may be used for business contacts.

**C. Unacceptable Uses of the Internet**

The Internet should not be used for personal gain or advancement of individual views, except such limited use as may be permitted by the New Jersey Employer – Employee Relations Act or other applicable law. Solicitation of non- Borough business or any use of the Internet for personal gain is strictly prohibited. Use of the Internet must not disrupt the operation of the Borough network or the networks of other users. It must not interfere with employee productivity.

**D. E-Mail Communications**

All employees are responsible for the content of all text, audio or images that they place or send over the Internet. Fraudulent, harassing or obscene messages are prohibited. All messages communicated on the Internet should have the sender's name attached. No messages will be transmitted under an assumed name. Users may not attempt to obscure the origin of any message. A signature of name, title, and contact number should be included in e-mail communications. Information published on the Internet should not violate or infringe upon the rights of others. No abusive, profane or offensive language may be transmitted through the system. Employees are prohibited from expressing personal opinions by accessing the Borough's Internet names and connections, except such limited use as may be permitted by the New Jersey Employer – Employee Relations Act or other applicable law. Notwithstanding the Borough's right to read and retrieve any electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Unless authorized by the Borough Administrator, employees are not permitted to retrieve or read e-mail messages that are not sent or copied to them. Any exception to this policy must receive prior approval from the Borough Administrator. Employees should not attempt to gain access to another employee's messages without the latter's permission.

**E. Instant Messaging**

Use of the internet and/or Borough of New Providence computer system for personal

purposes or reasons unrelated to the work of the Borough is prohibited, except such limited use as may be permitted under the New Jersey Employer – Employee Relations Act or other applicable law. All users of instant messaging in any form (web-based, application, mobile), on any Borough owned equipment must have approval of the Borough Administrator.

Any use of the Internet and/or the Borough's computer system may not interfere with the conduct of the Borough's business or interfere with one's own or another employee's performance of his/her job duties.

Employees who have Borough issued Smart Phones must follow the guidelines for communications as explained under Internet Code of Conduct, and Instant Messaging.

Misuse of Instant Messaging, the Borough's computer system, and Borough issued mobile phones is grounds for disciplinary action up to and including termination of employment.

#### **F. Software**

To prevent computer viruses from being transmitted through the system, there will be no unauthorized downloading of any software. All software downloads will be done directly through the Information Technology Department, as authorized by the Borough Administrator. All requests are to be submitted via email to the Borough Administrator.

#### **G. Copyright Issues**

Copyrighted materials belonging to entities may not be transmitted by Borough employees on the Internet. If authorized by the copyright holder, one copy of the copyrighted material may be downloaded for an employee's own personal use in research. Users are not permitted to copy, transfer, rename and/or delete information or programs belonging to other users unless given express permission to do so by the owner. Failure to observe copyright or license agreements may result in disciplinary action by the Borough and/or legal action by the copyright owner.

#### **H. Work Product Ownership**

The Borough retains legal ownership of the work product of all employees. Work product includes: written and electronic documents, audio and video recordings, system code, and any concepts, ideas or other intellectual property developed for Borough of New Providence regardless of whether the intellectual property is actually used by the Borough. No work product created while an employee is employed or contracted by Borough of New Providence can be claimed, construed or presented as their property, even after their employment with the Borough is terminated or the relevant project completed. If an employee requests use of a document created by him/her, the release of said document shall be with the written authorization of the Borough Administrator.

#### **I. Security**

All messages created, sent or retrieved over the Internet are the property of Borough of

New Providence. The Borough reserves the right to access and monitor all messages and files on the computer system as deemed necessary and appropriate. The confidentiality of any messages should not be assumed. Even when a message is erased, it is possible to retrieve and read that message. Further, the use of passwords for security does not guarantee confidentiality. All communications, including text and images, can be disclosed to law enforcement or other third parties without prior consent of the sender or the receiver.

#### **J. Harassment**

Harassment of any kind is prohibited. No messages with derogatory or inflammatory remarks about an individual's or group's race, religion, national origin, physical attributes, sexual preference, or other protected characteristic may be transmitted.

#### **K. Violations**

Violations of any guidelines listed above will be presented to the department Supervisor, Human Resources Officer and/or Borough Administrator. It may result in disciplinary action up to and including termination. If necessary, the Borough will advise appropriate legal officials of any illegal violations.

### **Section 26. Personal Blogging and Social Network Policy**

Social networking, both professional and personal, is a popular way to connect with friends, foster relationships and create a complex group of online networks and online communities. However, these new communication and networking opportunities also create new responsibilities for those who engage in social networking. Employees who choose to use or contribute to online media are not only impacting their personal image, but may be potentially impacting the image of the Borough. The purpose of this policy is to provide reasonable guidelines for online behavior for employees of the Borough.

#### **General Rule**

When communicating in social media, you act at your own peril. Employees must never engage in communication which discloses confidential information. Also, remember that your own reputation is at risk - what you say or do, even if not otherwise connected to the Borough, may be seen by others who will make judgments about you based upon what you place online. Your position in the Borough could thus be impacted by your personal internet activities. This *Internet Postings Policy* applies, but is not limited, to use of the following multimedia and social networking websites:

- a) Media such as, but not limited to, Facebook, Twitter, MySpace, LinkedIn, You-Tube, etc.;
- b) Websites and Blog Site(s) including Personal Blog(s);
- c) Wikis such as Wikipedia and any other site(s) where text can be edited or posted; and

- d) Social bookmarks such as Digg and Delicious.

All of these activities on these sites are referred to as "Internet postings" in this Policy.

**Please be aware that a violation of this policy may result in disciplinary action up to and including termination of employment by the Borough.**

Think before you type! Common sense is the best guide if you decide to post information that is in any way related to the Borough, its residents or your employment. If you are unsure about information to be disclosed in any particular posting, please contact the Borough Administrator or Human Resources Officer.

You are personally responsible for all online activity conducted with a Borough email address and/or which can be traced back to the Borough's domain name, and/or which uses the Borough's resources. This includes activity conducted on personal social networks that reference your affiliation with the Borough or your status as an employee of the Borough. You are not to engage in communication therein which is critical or injurious to the Borough, its citizens, fellow employees or suppliers. Failure to comply will result in discipline, up to and including termination. Outside of employment (i.e. in your capacity as a citizen), you can still be subject to employment discipline. However, under the Federal and State Constitutions, you generally (but not always) have the right as a citizen to freedom of speech and to address matters of public concern. In addition, as an employee, you have certain protected special rights under the New Jersey Employer – Employee Relations Act. If you identify yourself as a Borough employee in any manner on any internet posting or blog, comment on any aspect of the Borough's business or post a link to the Borough, you must include the following disclaimer in an *openly visible location*: "the views expressed on this post are mine and do not necessarily reflect the views of Borough or anyone associated/affiliated with Borough." Please be aware that the term "internet postings" is not limited to blog postings, it also includes comments, videos and images. When posting your point of view, you should neither claim nor imply you are speaking on behalf of the Borough, unless you are authorized in writing by Borough Administrator to do so.

Do not use the Borough's logos or trademarks in your postings without express permission from the Borough. Furthermore, you should comply with copyright, privacy, fair use and other applicable laws.

You are also liable for postings which contain material misrepresentations about the Borough. These types of posts are prohibited under this policy.

You are also liable for postings which include confidential or copyrighted information, such as music, videos, text, etc., belonging to third parties. These types of posts are also prohibited under this policy.

If a member of the news media or blogger contacts you about an Internet posting that concerns Borough's business, immediately bring this to the attention of Borough Administrator. Also, please be respectful when responding on behalf of the Borough to negative posts.

Your Internet postings should not violate any other applicable Borough policy, including, but not limited to, the following: ***Anti-Harassment Policy, Non-Discrimination and Equal Employment Opportunity Policy, and E-Mail and Internet Code of Conduct Policy.***

You agree that the Borough shall not be liable, under any circumstances, for any errors, omissions, loss or damages claimed or incurred due to any of your Internet postings.

Consistent with the foregoing guidelines and in accordance with applicable law (if any), the Borough may request, in its sole and absolute discretion, that you temporarily or permanently confine your website, web log or other commentary to topics unrelated to the Borough if it believes this is necessary or advisable to ensure compliance with laws or regulations.

Failure to comply with these requests may lead to discipline up to and including termination; and if appropriate, the Borough may pursue any and all legal remedies available against you.

## **ARTICLE IV - Holidays**

### **Section 27. Observance of Holidays; Enumeration.**

- A. Municipal Offices shall be closed in accordance with the holiday schedule set annually by the Borough Council. Full-time and permanent part-time employees will be entitled to twelve (12) paid holidays in a calendar year. In the event the Borough does not set a schedule for twelve (12) holidays, full-time employees shall be entitled to additional (floating) holidays so that total holidays equals twelve (12). Floating holidays may be taken any work day of the year with the advance approval of the Department Head.
- B. Permanent Part-time employees are entitled to a pro-rata share of Borough holiday pay annually based on the following schedule:
  - (1) Employees who work 20 hours per week receive 12, 4-hour days (48 total hours) holiday leave per year.
  - (2) Employees who are scheduled to work 25 hours per week receive 12, 5-hour days (60 total hours) of paid holiday leave per year.



- C. In the event that an employee is scheduled to work on a holiday - declared as such by the Borough Council, the applicable number of hours will be added to the floating holiday bank. All floating holidays taken on days on which the Borough Offices are not closed must be properly approved in advance.
- D. Holiday leave must be taken in the applicable calendar year.

## **ARTICLE V - Vacations**

### **Section 28. Basis for vacation time; accumulation.**

- A. An employee must request vacation in advance by notifying his or her immediate Supervisor as early in the calendar year as possible. The Borough will attempt to arrange vacation schedules to meet the individual desires of all employees consistent with the thorough and efficient operation of the Borough. In resolving conflicts in dates of proposed vacation schedules, the Department Head will consider a variety of issues including seniority, timing of the request, and personnel need. The Department Head shall also consider workload, other vacation requests in the Department and the effect of the requested vacation on the proper operation and functioning of the Department. Vacation schedules shall be filed with Human Resources Officer.
  - (1) Part time employees, as well as casual, temporary or seasonal employees shall not be eligible for vacation time.
- B. Vacation time must be used in the year in which it is earned. The only exception is if an employee is unable to use his or her vacation time by reason of illness, because required to work during such period by the Borough, extenuating personal circumstances or other reason provided by law. In such cases, such employee shall be permitted the unused vacation time at a subsequent period, or equivalent payment of compensation shall be made upon certification by the appropriate Department Head and approval by the Borough Administrator. All carry-over vacation time must be used during the first three (3) months of the year following the year in which it was earned, unless an extension is approved in writing by the Borough Administrator.
- C. Vacation time shall be scheduled subject to approval of the Department Head.
- D. At the time of separation from service, the employee shall be paid for any vacation earned but not used.
- E. In case of an employee's death, a sum of money equal to his or her earned but unused vacation will be paid to employee's estate.

- F. Other than as noted in paragraph B, D and E, employees shall not be paid for vacation time earned but not used.
- G. The salary paid while on vacation will be the same amount the employee would have earned had he/she worked regular straight-time hours during the vacation period.
- H. When on a leave of absence without pay, an employee shall not earn vacation, sick, or personal leave, unless otherwise mandated by law.
- I. In the event that an employee is on approved sick leave at the time of his/her scheduled vacation, the vacation may be rescheduled provided the employee produces satisfactory proof of illness.

**Section 29. Vacation periods. [Amended 10-10-1995 by Ord. No. 95-9]**

- A. All vacation days are per calendar year.
- B. Vacations for Borough full-time employees are hereby established as follows:
  - (1) For less than one calendar year of service: a maximum one (1) day of paid vacation shall be accrued for each full month of employment, up to a maximum of five (5) days.
  - (2) In second calendar year of service but less than five calendar years of service: Ten (10) days of paid vacation.
  - (3) For 5 calendar years of service but less than 10 calendar years of service: thirteen (13) days of paid vacation.
  - (4) For 10 calendar years of service but less than 15 calendar years of service: Fifteen (15) days of paid vacation.
  - (5) For 15 calendar years of service but less than 20 calendar years of service: Seventeen (17) days of paid vacation.
  - (6) For 20 calendar years of service or more: Twenty (20) days of paid vacation.
- C. Vacations for Borough permanent part-time employees are hereby established as follows: A “day” of paid vacation (as follows) is equivalent to the number of hours worked per day exclusive of overtime.

- (1) For less than one calendar year of service: 1 day of paid vacation for each full month of employment, up to a maximum of 5 days.
  - (2) In second calendar year of service but less than five calendar years of service: Ten (10) days of paid vacation.
  - (3) For 5 calendar years of service but less than 10 calendar years of service: thirteen (13) days of paid vacation.
  - (4) For 10 calendar years of service but less than 15 calendar years of service: Fifteen (15) days of paid vacation.
  - (5) For 15 calendar years of service but less than 20 calendar years of service: Seventeen (17) days of paid vacation.
  - (6) For 20 calendar years of service or more: Twenty (20) days of paid vacation.
- D. Unless otherwise noted herein, calendar years of service as a permanent part time employee qualify as calendar years of service for full-time employees, and vice versa.
- E. After the first (full or partial) calendar year, a calendar year shall mean a year in which the employee actually works at least 80% of scheduled time. For example, if an employee is actively on the job for only nine months in the second calendar year of service, the employee would be entitled to 10 days paid vacation during that second calendar year. However, for purposes of accruing vacation entitlement in subsequent years, that second year would not count – because the employee worked only 75% of the scheduled time during the second calendar year.

## **ARTICLE VI – LEAVES OF ABSENCE**

### **Section 30. 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. Employees caring for an eligible relative as defined under the Family and Medical Leave Act may use sick time for that purpose. Accumulated sick leave shall not be allowed as leave upon retirement or termination of employment, except as provided in Borough Ordinance §73-59.

### **Section 31. Eligibility for paid sick leave.**

- A. "Paid 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 personally incapacitated to a degree that makes it impossible for him or her to perform the essential duties of his or her position with or without accommodations, or who is quarantined by a physician because he or she has been exposed to a contagious disease. Paid sick leave must be accrued before it can be used. Employees caring for an eligible relative as defined under the Family and Medical Leave Act may use sick time for that purpose.
- B. Part-time employees, casual, temporary, seasonal, and part-time professional employees are not eligible for paid sick leave.
- C. Any 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 absences due to illness or disability to the Human Resources Officer.
- D. Employees who are absent from work due to injury or illness must report their place of confinement to their supervisor. Employees, who are not at their reported place of confinement during periods of illness or injury shall be subject to disciplinary action.

**Section 32. Paid days allowed for sick leave.**

- A. All accrual of sick leave shall be based upon a calendar year.
- B. Full-time employees who have worked less than 12 months shall accrue one (1) day of paid sick leave for each full calendar month worked, up to a maximum of ten (10) days of paid sick leave during the first calendar year.
- C. After the first calendar year, full-time employees shall accrue 1.25 days of paid sick leave for each month thereafter worked in each calendar year of full-time employment.
- D. Permanent part-time employees who work a minimum of twenty (20) hours per week accrue no sick leave during for the first 12 months of employment. After 12 months of employment, permanent part-time employees shall accrue a work days hours (4 or 5) of paid sick leave for each month worked in a calendar year.
- E. For non-union employees, paid sick leave automatically accumulates each year pursuant to Borough Ordinance §73-21. In unusual cases of prolonged illness, sick leave beyond that accrued hereunder may be granted with the approval of the Borough Council.

### **Section 33. Proof of illness required during sick leave lasting longer than 3 days.**

- A. Every absence because of sickness or disability in excess of three (3) working days must be substantiated by an appropriate written statement from the employee's health care provider.
- B. An employee subject to paragraph A above will not be permitted to return to work until the employee presents from his/her health care provider a statement that the employee may return to work. In the event that restrictions are placed upon the employee's return to work, the Borough Administrator shall determine, in compliance with law, if it is appropriate for the employee to return to work.
- C. To the extent permitted by law, 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. During periods of illness or disability as noted in paragraph A, the Borough may require interim reports on the condition of the employee from the employee's attending physician and/or from a physician of the Borough's choice. Such reports shall be submitted to the Borough Administrator and maintained under his control 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 34. Paid Personal leave**

Full-time employees hired prior to May 15, 1996 shall be entitled to five (5) days of paid personal leave per calendar year subject to the conditions set forth in Borough Ordinance § 73-25A through E. Full-time employees hired after May 15, 1996, who have completed at least 6 months employment as a full-time employee in his/her first calendar year, shall be entitled to three (3) days of paid personal leave per calendar year thereafter, subject to the conditions set forth in Borough Ordinance §73-25A through E.

- A. Notification of a request for personal leave shall be made at least 24 hours in advance of the requested leave, except in case of emergency.
- B. The granting of a personal leave day shall be consistent with the needs of the department.
- C. Any unused personal leave days are carried over into the next calendar year and may be taken 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 35. Bereavement Leave**

Employees shall be entitled to 24 hours of bereavement leave in the event of death of immediate family members which shall include spouse, domestic partner, civil union partner, child or stepchild, grandchild, parent, stepparent, grandparent, sibling, parent-in-law, child-in-law, legal guardian, or other member of the employee's household.

### **Section 36. Leaves of absence under the FMLA and NJFLA**

Leaves of absence under the federal Family and Medical Leave Act (FMLA) and New Jersey Family Leave Act (NJFLA).

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

### **Section 36a. 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 unpaid leave in a 12 month period for specified family and medical reasons.<sup>1</sup> The law contains provisions regarding 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.

#### **A. EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits, an employee must:

1. have worked for the Borough of New Providence during the 12 month period immediately preceding commencement of the leave; 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 armed services members pursuant to the Uniformed Services Employment and Reemployment Act).

#### **B. LEAVE ENTITLEMENT**

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<sup>1</sup> An eligible employee may utilize up to 26 weeks of FMLA leave for care of a covered armed services member with a serious injury or illness.

An eligible employee may take up to a total of 12 workweeks<sup>2</sup> 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;
- incapacity due to pregnancy, prenatal medical care or child birth;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (generally spouse, child, or parent) with a serious health condition;
- for a serious health condition of the employee, whereby the employee is unable to perform the essential functions of his/her job, including incapacity due to pregnancy, prenatal medical care or child birth, as well as any period of incapacity or treatment for a chronic serious health condition;
- in connection with an employee's spouse, son, daughter or parent on active duty or call to duty status in the National Guard or Reserves in support of a contingency operation in order to address certain qualifying exigencies (including, but not necessarily limited to attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment briefings); or to care for a covered service member with a serious illness or injury (up to 26 weeks during a single 12-month period).

The Borough of New Providence will calculate the 12 month FMLA "leave year" measured forward from the date when the employee's first FMLA leave begins.<sup>3</sup>

When an employee takes leave for a reason covered by the FMLA and the New Jersey Family Leave Act ("NJFLA"), the leave shall be simultaneously counted against an employee's entitlement under both statutes to the extent permitted by law. FMLA leave will also commence and run concurrently with any New Jersey Family Temporary Disability Insurance ("NJFTDI") benefits and any other applicable statutory leave, for instance, the New Jersey Security and Financial Empowerment Act ("N.J. SAFE Act"). Additional information about NJFTDI benefits and N.J. SAFE Act is available from Human Resources.

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

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<sup>2</sup> 26 weeks in case of a covered armed services member with a serious injury or illness.

<sup>3</sup> In the case of leave to care for a covered armed services member, the 26 week period will be calculated forward from the first such leave taken.

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 of a healthy child 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 serious health condition of oneself, child, parent or covered service member, and for a qualifying exigency relative to deployment of a spouse, son, daughter, or parent.
- Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Borough of New Providence’s operations.

FMLA leave will be unpaid, unless the employee has available applicable accrued vacation, sick or personal paid leave. In the event the employee has such available earned paid time off, the employee must use it during 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 an employee's leave as FMLA leave based on information supplied by the employee and/or the employee’s request for leave. The Borough shall advise employee of the start and end dates of the FMLA leave.

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

- 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 for a condition that prevents the employee from performing the essential functions of the employee’s job. 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) treatments by a health care provider or one treatment with a regimen of continuing treatment, or incapacity due to pregnancy or for prenatal care,<sup>4</sup> or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

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4 Prenatal care also qualifies as a “serious health condition” under the FMLA.



"Health care provider" for purposes of the FMLA generally 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 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 of New Providence or the Borough of New Providence's group health plan benefits manager.

#### C. 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 negotiations agreements and/or health insurance plans in effect at the time of leave.

The Borough may recover premiums it paid to maintain health coverage for an employee if the employee fails to return to work from FMLA leave.

#### D. 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, if applicable, regarding recall.

Except as otherwise permitted under applicable law, 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 properly utilized 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 and advise of consequences to job reinstatement and health benefits if employer should determine that substantial and grievous injury will result from reinstatement;
- notify the employee as soon as the Borough of New Providence decides it will deny job restoration, and explain the reasons for its decision;
- offer the employee a reasonable opportunity to return to work from FMLA leave after giving notice noted immediately above; and
- make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee still requests restoration.

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

#### E. 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. When 30 days' notice is not possible, the employee must provide notice as soon as practicable. Employee must generally also comply with the Borough's applicable call-in procedures regarding absences/tardiness.

Employees must provide sufficient information for the Borough to determine if the leave may qualify for FMLA leave and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform essential 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 for granted.

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 immediate family member;
- certification of qualifying exigency;
- 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.

Medical certification of fitness for return to work will be required where an employee's FMLA leave was due to the employee's own serious health condition.

The Borough will notify employees requesting leave whether they are eligible for FMLA leave, and if they are not, the reasons for their ineligibility. Where leave is being designated as FMLA leave, the employee shall be so notified.

#### F. NO RETALIATION

There shall be no retaliation against any employee for exercising his/her rights under the FMLA and/or for taking FMLA leave, nor will there be interference with the assertion of FMLA rights. Any such concerns should be immediately reported to the Borough Administrator.

**NOTE: The FMLA statute supersedes any statement herein to the extent that any statement is contrary to the current FMLA statute.**

#### G. QUESTIONS

Any questions regarding this policy on FMLA leave should be directed to the Manager of Payroll and Human Resources.

### **Section 36b. The New Jersey Family Leave Act (NJFLA)**

The New Jersey Family Leave Act ("NJFLA") entitles eligible employees to take up to 12 weeks of job-protected unpaid 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 NJFLA leave; and protection for employees who request or take NJFLA leave.

#### A. EMPLOYEE ELIGIBILITY

To be eligible for NJFLA benefits, an employee must:

- have worked for the Borough of New Providence for a total of 12 months immediately preceding the leave; and
- have worked at least 1,000 hours (including overtime, but excluding

paid sick, vacation, or personal leave time) over the previous 12 months

## B. LEAVE ENTITLEMENT

An eligible employee may take up to a total of 12 workweeks of NJFLA 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 for adoption; or
- to care for the employee's family member (generally child, spouse, civil union partner, or parent, parent in law) with a serious health condition.

The Borough of New Providence will calculate the 24-month period measured forward from the date the employee's first NJFLA leave begins.

When an employee takes leave for a reason also 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, taking leave only available under FMLA does not prevent the employee from also taking leave for a reason covered by the NJFLA. NJFLA leave will also run concurrently with any NJFTDI benefits and any other statutory leave, such as the N.J. Security and Financial Empowerment Act ("N.J. SAFE Act").

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

NJFLA 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 NJFLA leave taken on account of the birth of a child or placement of a child for adoption, an employee may only take NJFLA leave intermittently or on a reduced leave schedule if the Borough of New Providence expressly so agrees.

NJFLA leave will be unpaid unless the employee has available applicable accrued vacation, sick or personal paid leave. In the event the employee has such available earned vacation, sick or personal paid time off, the employee must use it during NJFLA leave. Once such applicable paid time off is exhausted, the remainder of the NJFLA leave will be unpaid.

The Borough of New Providence is responsible for designating an employee's leave as NJFLA leave, based upon information and/or the request for leave from the employee.

“Serious Health Condition” for purposes of the NJFLA generally means an illness, injury, impairment, or physical or mental condition which 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 NJFLA 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 therefrom or recovery therefrom) of more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
    - a. Treatment two or more times by a health care provider; or
    - b. 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 incapacity due to a chronic serious health condition;
  4. 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 (3) 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 NJFLA 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.

#### C. MAINTENANCE OF HEALTH BENEFITS

During NJFLA 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 negotiations agreements and/or health insurance plans in effect at the time of leave.

#### D. JOB RESTORATION

Generally, upon return from NJFLA leave, the employee will be restored to his/her position, unless the position has been filled, in which case employee will be restored to an equivalent position with like seniority, status, employment benefits, pay, and other terms 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 NJFLA leave is not entitled to be returned to work following exhaustion or completion of NJFLA leave. However, the employee retains all rights under any applicable collective negotiations agreement concerning layoff and recall.

The Borough of New Providence may deny NJFLA leave to certain of its highest paid employees to the extent such denial is necessary to prevent substantial and grievous economic injury to the operations of the Borough of New Providence. In such case, notice will be provided to employee.

#### E. NOTICE AND CERTIFICATION

When NJFLA 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 NJFLA leave, except where emergent circumstances merit shorter notice. When NJFLA 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 NJFLA leave, except where emergent circumstances warrant shorter

notice.

The Borough requires that employee who requests family leave sign a form of certification that the employee is taking family leave for the birth or adoption of a child or to care for a family member because of the family member's serious health condition, whichever is applicable. Any employee who refuses to sign such certification may be denied the requested leave. An employee who provides a false certification will be subject to discipline, up to and including termination. In addition, a certification will be required of a health care provider attesting to the serious health condition of a family member – setting forth the date on which the serious health condition commenced, the probable duration of the condition and the medical facts within the provider's knowledge regarding the condition. Other certifications may be required as permitted by law.

#### F. NO RETALIATION

There shall be no interference with nor retaliation against any employee for exercising his/her rights under the NJFLA and/or for taking NJFLA leave. Any such concerns should be immediately reported to the Borough Administrator.

**NOTE: The NJFLA statute supersedes any statement herein to the extent that any statement herein is contrary to current NJFLA statute.**

#### G. QUESTIONS

Any questions regarding this policy or NJFLA leave should be directed to the Manager of Payroll and Human Resources.

### **Section 37. Military leave.**

- A. Leave of absence for active duty in Military Reserve Corp or National Guard of a state other than New Jersey.
  - 1. A full-time employee of the Borough, who is a member of the organized reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve or United States Marine Corps Reserve, or other organization affiliated therewith, including the National Guard of other states, shall be entitled, in addition to pay received, if any, as a member of a reserve component of the Armed Forces of the United States, to leave of absence from his/her employment with the Borough without loss of pay or time on all work days on which he/she shall be engaged in any period of Federal active duty, provided, however, that such leaves of absence shall not exceed 30 work days in any calendar year. Such leave of absence shall be in addition to the regular vacation or other accrued leave allowed such employee. Any leave of absence for such

duty in excess of 30 work days shall be without pay but without loss of time.

2. Notwithstanding 1 above, an employee who has been employed for less than one year shall receive for the service described above leave without pay but without loss of time.

B. Leave of absence for active duty in NJ National Guard and other state military.

1. A full-time employee of the Borough who is a member of the National Guard or other organized militia of the State of New Jersey shall be entitled, in addition to pay received, if any, as a member of the National Guard or organized militia, to leave of absence from employment without loss of pay or time on all days during which he/she shall be engaged in any period of State or Federal active duty; provided, however, that the leaves of absence for Federal active duty or active duty for training shall not exceed 90 work days in the aggregate in a calendar year. Any leave of absence for such duty in excess of 90 work days shall be without pay but without loss of time.

2. Notwithstanding 1 above, an employee who has been employed for less than one year shall receive for the service described above leave without pay but without loss of time.

C. Additional Differential Pay For Employees on Active Duty

After exhaustion of the mandated statutory paid leave for military service in a calendar year, as noted in A and B above, employees remaining on active duty may be granted salary equal to the difference between the Borough employee's base salary and the employee's military base pay, provided the employee provides proof of military service and "base pay" received from the military. The period of time that this differential is paid is at the discretion of the Borough Council and may be capped.

D. Benefits For Employees on Active Duty

Employees on military leave for active duty as noted in A. and B. above shall continue to accrue seniority, as if they were on the job. Health and other benefits for employees and their eligible dependents will continue for the statutory paid leave period. Thereafter, at the discretion of the Borough Council, health benefits for the employee and his/her eligible dependents may be continued for the same period of time as the additional differential pay period noted above duration of active duty service. Thereafter, employees on military leave may exercise COBRA rights.

E. Military Leave for Borough Employees on Inactive Duty For Training

1. In accordance with State and/or Federal law and regulations, the Borough



shall grant 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, a leave of absence, without pay, for Inactive Duty For Training Service. Inactive Duty For Training Service is commonly referred to as weekend drill.

2. A qualifying employee granted Military Leave of Absence, without pay, for Inactive Duty For Training 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 for Inactive Duty for Training, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence.

3. A qualifying employee granted a Military Leave of Absence, without pay, for Inactive Duty For Training may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence for Inactive Duty For Training.

#### F. Persons Entering Active Military or Naval Service in Time of War or Emergency

A. In accordance with N.J.S.A. 38:23-4, a Borough employee who enters active military or naval service of the United States or New Jersey in time of war or emergency is entitled to leave of absence for the duration of such service plus three months after discharge. Such leave is without pay. If the person receives anything other than a dishonorable discharge, the person is entitled to his/her position, provided the person applies for the position before the leave expires. If any such person shall be incapacitated by wound or sickness at time of discharge from the military, the leave shall be extended to three months after recovery, or 2 years from date of discharge, whichever shall occur first.

#### G. Notice of Leave; Verification of Leave

In accordance with law, an employee who requests a leave of absence for military leave of any type must provide notice to his/her department Supervisor and the Borough Administrator. This notice must be provided at least 30 days prior to the employee's departure, unless such notice is precluded by military necessity or, under all relevant circumstances, is otherwise impossible or unreasonable. In addition, in order to receive compensation and /or benefits as noted herein, an employee on military leave must provide the Borough with a copy of the military orders and, if appropriate, military base pay documentation.

#### H. Reinstatement Under USERRA

An employee on military leave is entitled to reinstatement as follows:

Except with respect to persons whose disability occurred in or was aggravated by military service, the position into which an employee is reinstated is determined by priority, based on the length of military service. The rules are:

Service of 1 to 90 days: (a) in the job the person would have held had he or she remained continuously employed (possibly a promoted position), so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer, or (b), if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service.

Service of 91 or more days: (a) same as for service of 1 to 90 days, or a position of like seniority, status and pay, so long as he or she is qualified, or (b) if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service or which nearly approximates that position.

**Note:** The reemployment position with the highest priority reflects the "escalator" principle, which requires that a returning service member steps back onto the seniority escalator at the point the person would have occupied if the person had remained continuously employed.

USERRA specifies that returning employees must be "promptly reemployed." What is prompt will depend on individual circumstances. Additionally, depending on the length of service, returning employees must take certain steps in order to be entitled to reemployment. This could include submitting an application for reemployment. If you are a returning employee, please contact the Borough Administrator for more information.

The laws governing leaves of absence for military service are lengthy and complex. As a result, this policy may not address all issues concerning your rights during military leave. If issues arise that are not addressed in this handbook, the Borough will abide by applicable state and federal law. Should you have any questions or require further information, please contact the Borough Administrator.

**Section 38. Leave under the New Jersey Security and Financial Empowerment Act ("N.J. SAFE Act").**

The N.J. SAFE Act provides that an employee who was a victim of an incident of domestic violence or a sexually violent offense, or whose child, parent, spouse, domestic partner, or a civil union partner was a victim, is entitled to unpaid leave of absence of no more than 20 days in one 12-month period, to be used in the 12-month period next following the incident of domestic violence or sexually violent offense.

To be eligible, the employee must have been employed for at least 12 months for not less than 1,000 hours during the immediately preceding 12 months. The unpaid leave may be taken intermittently in intervals of no less than a day for the purpose of engaging in any of the following activities as they relate to the incident of domestic violence or sexually violent offense:

- (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, temporary 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 N.J. SAFE Act leave in any twelve (12) month period. N.J. SAFE Act leave may be taken intermittently in increments of no less than one (1) day.

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

N.J. SAFE Act leave will be unpaid unless the employee has available applicable accrued vacation, sick or personal paid leave. In the event the employee has such available accrued vacation, sick or personal paid time off, the employee must use it for N.J. SAFE Act leave. Once such applicable paid time off is exhausted, the remainder of N.J. SAFE Act leave will be unpaid.

Prior to taking the leave, an employee must, if the necessity for the leave is foreseeable, provide the Borough with written notice of the need for the leave. The Borough requires that a period of leave be supported with documentation of the domestic violence or sexually violent offense which is the basis for the leave. The law specifies the types of documentation deemed sufficient to support a period of leave.

The employee shall be regarded as having provided sufficient documentation if the employee provides one 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.

Any information regarding a leave taken pursuant to the provisions of the N.J. SAFE Act and any failure of an employee to return to work will be held in the strictest confidentiality, unless disclosure is voluntarily authorized in writing by the employee or is required by a federal or State law, rule or regulation.

#### NO RETALIATION

There shall be no retaliation, harassment, or discrimination with respect to the compensation, terms, conditions or privileges of employment of any employee who takes or requests N.J. SAFE Act leave and/or exercises any right under the N.J. SAFE Act.

#### **Section 39. Special Leaves of Absence.**

Other leaves of absence (not for medical or military reasons), may be granted, except for certain essential positions, if deemed beneficial to the Borough in its sole discretion, for a period not to exceed six months with the approval of the Borough Council and upon the recommendation of the Borough Administrator. Each situation is

unique and shall not be construed as precedential for other employees at other times, nor even for the requesting employee at another time. 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 such 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 40. Jury duty.**

- A. Employees who are summoned for service as grand or petit jurors are required to advise their immediate supervisor immediately and provide Human Resources with a copy of the jury summons so that arrangements may be made to be excused from work by the Borough on the days the employee is required to be present in court.
- B. Fulltime and permanent part-time employees shall receive their regular rate of pay for jury duty.
- C. Employee must report to work on any day where the court releases juror before noon (midday).

### **ARTICLE VII – Job-Related Disabilities**

#### **Section 41. Qualifications, Terms of Payment.**

- A. In the event of the absence of an employee due to a job-related disability, classified by workers' compensation law as compensable, said employee shall be paid, subject to investigation and approval by the Borough, the difference between regular salary and the amount paid by workers' compensation insurance in accordance with the following schedule.
  - (1) Up to 10 years of service: the difference between regular salary and the amount paid by workers' compensation insurance shall be paid for a period up to 45 working days.
  - (2) More than 10 years but less than 20 years of service: the difference between regular salary and the amount paid by workers compensation insurance shall be paid for a period up to six calendar months.

- (3) Twenty years or more of service: the difference between regular salary and the amount paid by workers compensation insurance shall be paid for a period up to 12 calendar months.

#### **Section 42. Absences due to Compensable Injuries Under Workers Compensation.**

Such absences also trigger leave under the FLMA and NJFLA to the extent applicable and permitted by law.

#### **Section 43. Awards for Permanent Disability.**

Compensation awards for permanent disability shall not be deducted from payments made by the Borough pursuant to Section 25.

#### **Section 44. Examination of Claimant.**

The Borough reserves the right to have any employee claiming job-connected disability examined by a physician of the Borough's choosing at any time. Such employee shall not be returned to work except upon certification that the employee is fit for duty. The Borough may require that employee be so certified by a physician of the Borough's choosing.

#### **Section 45. Notification of Injury.**

An on-the-job injury shall be immediately reported by the employee to employee's supervisor, foreman or department head. Failure to give timely notification may result in loss of pay and/or other disciplinary action.

### **ARTICLE VIII – Disciplinary Action**

#### **Section 46. Disciplinary Actions and Procedures**

Each employee is expected to perform his/her job competently and adhere to the highest ethical standards. The intent herein is to formally document problems and provide the employee with input.

##### **A. Failing to Meet Requirements of Job.**

Should a supervisor believe that an employee is not performing his/her job competently (including not conforming to the Borough's policies and rules, specific instructions, or has acted improperly), the Supervisor will first privately discuss the matter with the employee to obtain the employee's view. If the Supervisor determines that the employee has acted improperly, the Supervisor shall discuss the matter with

the Human Resources Officer. Depending upon applicable circumstances, for instance the gravity of the situation, the employee's record, and other factors, one of the following actions will be taken:

- a. Verbal Reprimand: The Supervisor verbally notifies the employee that the employee's actions have been improper and warns the employee against further occurrences. The Supervisor places in the employee's personnel file, maintained by the Human Resources Officer, a record of the verbal reprimand including the date, time and what was discussed with the employee.
- b. Written Reprimand: A written documents identifying employee's action(s) which are improper. It may also outline a course of corrective action to occur within a specific timeframe. Depending on the nature of the performance issue, the written reprimand may be made in the form of a counseling action and/or a Performance Improvement Plan. These documents outline the issue(s) needing correction, the goals for improvement and if relevant, the timeline.

A copy of the written reprimand with a signed acknowledgement of receipt should be placed in the employee's official personnel file maintained by the Human Resources Officer.

- c. Suspension: The employee may be recommended for suspension. If so, the supervisor should document the offense and proposed discipline in writing. The employee should have an opportunity to respond in writing within 2 work days of receipt of the supervisor's recommendation for suspension.
- d. Dismissal: The employee may be recommended for dismissal. If so, the supervisor should document the offense and proposed discipline in writing. The employee should have an opportunity to respond in writing within 2 work days of receipt of the supervisor's recommendation for suspension.

## B. Suspension and Termination Examples.

An employee may be suspended or terminated, depending upon the circumstances, for the following reasons (such list is not exhaustive):

- Incompetence, inefficiency or failure to perform duties;
- Conviction of a crime;
- Conduct unbecoming a public employee;
- Violation of municipal policies, procedures or regulations;

- Unethical activity;
- Failure to protect the confidentiality of municipal records;
- Falsification of records;
- Drug or alcohol use on the job;
- Excessive absenteeism or lateness;
- Misuse of public property, including motor vehicles; and
- Other sufficient cause.

C. Appeal to Borough Administrator.

Whenever an employee is recommended for suspension or dismissal, he/she may, within ten (10) work days after receiving notice of recommendation for suspension or dismissal, appeal to the Borough Administrator. The Borough Administrator shall investigate the matter as he deems appropriate, determine whether disciplinary action is appropriate, and if so, reduce his findings to writing. The Borough Administrator shall also advise the employee in writing of discipline which he will impose, which may be the same or different than that recommended by a supervisor or Department Head.

1. Imposition of Discipline by Borough Administrator which is not subject to review by the Borough Council
  - a. The Borough Administrator is authorized to impose the following discipline when necessary or appropriate based on his review of the facts.
    - Verbal reprimand
    - Written reprimand
    - Suspension up to five (5) days without pay.
    - Loss of vacation, personal or compensatory time up to five (5) days.

The Borough Administrator's decision on imposition of the foregoing discipline is final and binding.

2. Imposition of Discipline by the Borough Administrator which is subject to appeal to the Borough Council.
  - a. Should the Borough Administrator determine that discipline more significant than that above is necessary or appropriate, the discipline imposed by the Borough Administrator shall be subject to review on appeal by the employee to the Borough Council. This appeal right applies to the following discipline:
    - Suspension of more than five (5) days without pay.



- Loss of vacation, personal or compensatory time in excess of five (5) days.
  - Reduction in salary.
  - Demotion.
  - Termination.
- b. An employee who requests an appeal of such discipline will be advised that the matter will be heard by the Borough Council and notified of the place, date and time. The employee will be served with a RICE notice in accordance with law.
- c. The employee shall have the following rights with regard to the appeal before the Borough Council.
- The employee may require that the hearing be conducted in public.
  - The employee may refute the charges in writing to the Borough Administrator - who shall provide copies to the Mayor and Council.
  - The employee may be present when the Borough Council examines the discipline imposed by the Borough Administrator.
  - The Employee may describe the circumstances leading to the charges and provide an explanation for his/her behavior.
  - The employee may have legal counsel present to advise the employee. However, the legal counsel shall not have the right to speak at the hearing and neither the Borough Administrator nor the employee shall have the right to cross-examine witnesses.
- d. Responsibilities of the Borough Council at any hearing on disciplinary charges.
- The Borough Council shall review all material presented by the Borough Administrator and the employee.
  - The Borough Council may question the Borough Administrator concerning the circumstances leading to the imposition of the specific discipline.

- Borough Council may question the employee concerning the charges and discipline.
  - The Borough Council may hear from other witnesses as it deems appropriate.
- e. Actions by the Borough Council
- After the matter has been reviewed by the Borough Council, the following may occur. All but the first item (no action) must occur on a motion appropriately approved by the Borough Council:
  - No action by the Borough Council. In this case, the discipline imposed by the Borough Administrator shall be final.
  - The Borough Council may determine that the charges are unwarranted and order them dismissed.
  - The Borough Council may disapprove of the discipline imposed and order the Borough Administrator to reconsider the level of discipline.
- f. If the Borough Council orders the Borough Administrator to reconsider the discipline imposed, the following shall occur:
- The Borough Administrator shall deliberate and review the material associated with the case.
  - The Borough Administrator shall make a fresh determination of the level of discipline and advise the employee of the new discipline imposed.
  - If the discipline imposed exceeds the standard of C.1.a. as described in this policy, the employee shall have the right to appeal to the Borough Council in accord with C.1.2.

#### **Section 47. Open Public Meetings Act Procedure Concerning Personnel Matters**

Discussions by the governing body or any body of the Borough concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee shall be in closed session unless the individual requests in writing that the discussion be held in open session. Such request must be granted.

Prior to the discussion by the governing body or any body of the Borough concerning such matters, the Human Resources Officer or designated Borough official shall notify the affected persons of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session. In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session then the discussion shall be in closed session. If the individual(s) does not request that the discussion be held in open session, the governing body or other body of the Borough may at its sole discretion invite the affected individual to attend the applicable portion of the closed session.) Notwithstanding the foregoing, the employee shall have the right to attend any hearing under Section 44, C.2.

#### **Section 48. Misuse of Borough property.**

- A. No Borough of New Providence employee (including elected or appointed officials) 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 (including elected or appointed officials) 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, storage or other locations for personal use unless such removal has been authorized by the Administrator or the Mayor and Council.
- C. Any employee reasonably suspected of having violated this provision shall be subject to 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, as well as restitution and/or criminal prosecution.
- D. In the event that a Borough employee is involved in an incident which results in damage to Borough property, the matter will be investigated by the appropriate Department Head. In the event of a finding of employee misconduct or negligence, the employee will be subject to disciplinary action up to and including discharge.

### **ARTICLE IX – Non-Discrimination and Harassment Policy**

#### **Section 49. Non-Discrimination.**

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 and harassment based upon an individual's civil rights are prohibited

under federal and state law and will not be tolerated. The Borough is an equal opportunity employer, which means that decisions regarding the hiring and terms and conditions of employment are made without reference to matters involving a person's civil rights, except in those areas where the law provides exemptions or exceptions. If an employee believes that he/she has been subjected to unlawful civil rights discrimination (including retaliation for so reporting or objecting to same), the employee shall immediately report it to the Borough Administrator. The Borough Administrator will undertake an appropriate investigation and advise the employee of the results of the investigation. Employees determined to have engaged in unlawful civil rights discrimination are subject to discipline, up to and including discharge from employment.

## **Section 50. Harassment Policy.**

### **A. Harassment and Sexual Harassment. Definitions and Examples:**

#### **1. Definition of Harassment and Examples**

- (a) Civil Rights laws make it illegal to discriminate against or harass an employee because of sex, creed, race, ancestry, religion, color, national origin, physical or mental disability, marital status, age, gender, genetic testing, blood trait, liability for service in the armed forces, veteran status, gender identity or expression, civil union status, domestic partnership status, affectional or sexual orientation, or any other civil right protected by federal, state or local law. Harassment is the intentional creation of a hostile or intimidating environment based upon any one or more of these areas.
- (b) Harassment may involve severe and/or pervasive conduct. Severe conduct is conduct sufficient to alter the work environment, even though it may occur only once. Pervasive conduct is a persistent pattern of harassment.
- (c) Harassment encompasses a broad range of physical, psychological, written or verbal behavior, and includes, but is not limited to, the following:
  - physical or mental abuse
  - offensive jokes or slurs
  - offensive and uninvited verbal, graphic (including any electronic or digital display or printout), visual or physical conduct by one individual towards another;
  - obscene messages
  - images or communications obtaining libelous, defamatory or fraudulent materials

- ethnic or racial slurs
- anything that may be considered disparaging or harassing of others based on race, national origin, gender, religion, age, disability or other status protected by Civil Rights laws

## 2. Definition of Sexual Harassment and Examples

- (a) Sexual Harassment is a particularly insidious form of workplace harassment. Civil Rights laws make sexual harassment illegal, whether caused by supervisors or co-employees.
- (b) Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, and constitutes harassment when:
  1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
  2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, 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.
- (c) It is not possible to identify each and every act that constitutes or may constitute sexual harassment. However, examples of sexual harassment include, but are not limited to, the following:
  - unwelcome requests for sexual favors
  - lewd or derogatory comments or jokes
  - comments regarding sexual behavior, or about the body of another individual
  - sexual innuendo or other vocal activity such as catcalls or whistles
  - obscene letters, notes, invitations, photographs, cartoons, articles, or other written or pictorial materials (whether documentary, digital or electronic) of a sexual nature
  - continuing to express sexual interest in a person after being informed that that interest is unwelcome
  - retaliating against an individual for refusing a sexual advance or reporting an incident of possible sexual harassment
  - offering or providing favors or employment benefits, such as

- promotions, favorable evaluations, or favorable assigned duties or shifts, etc. in exchange for sexual favors
- any unwanted physical touching, assault, or impeding of movement

B. Workplace Harassment, Including Sexual Harassment, Is Expressly Prohibited.

It is the policy of the Borough to provide a work environment that is free of harassment/sexual harassment. As such, harassment will not be tolerated and is strictly prohibited. Any form of workplace harassment/sexual harassment will be treated as a disciplinary matter.

C. Victims And Witnesses Are To Report All Instances Of Harassment And Sexual Harassment

Employees who are victims of, or witnesses to, workplace harassment/sexual harassment must report it immediately to the Borough Administrator or Borough Clerk. In addition to this formal avenue for reporting harassment/sexual harassment, employees who are victims or witnesses are encouraged to report harassment and sexual harassment to any supervisor. An employee is not obligated to report harassment/sexual harassment to a superior who is engaging in the harassment. In such instance, the employee must report to the superior's supervisor, any other supervisor, and/or to the Borough Administrator or Borough Clerk.

D. Investigation Of Harassment And Sexual Harassment Complaints.

All reported complaints of harassment/sexual harassment will be promptly and thoroughly investigated. All reported complaints of harassment/sexual harassment will be dealt with as confidentially as possible, consistent with the obligation to conduct an investigation. Upon conclusion of any investigation, the Borough will take any steps it deems necessary to enforce this policy, correct any issues, and/or prevent future instances of harassment.

E. Responsibilities of Supervisors and Department Heads.

When a report of harassment is made to a supervisor, the supervisor shall provide any factual information he has obtained in a written report which shall be forwarded to the Borough Administrator.

The Department Head shall also forward any factual information he has about the matter in writing to the Borough Administrator.

Any supervisor or Department Head who witnesses discrimination or violation of this policy shall immediately report it to the Borough Administrator.

F. No Retaliation For Reporting Unlawful Discrimination, Harassment Or Sexual Harassment Complaints.

No employee shall suffer any job detriment or retaliation at the hands of the employer for reporting unlawful discrimination, harassment or sexual harassment. If a person reporting discrimination, harassment or sexual harassment believes that he/she has been for that reason subjected to retaliation, the person should immediately report the retaliation in the same manner in which he/she reports discrimination, harassment or sexual harassment, but may bypass the person who is retaliating.

G. Disciplinary Action For Unlawful Discrimination, Harassment And Sexual Harassment.

**Participating in workplace unlawful discrimination, harassment or sexual harassment by any employee will result in disciplinary action up to and including termination of employment. Employees should also be aware that, under the law, employees may be individually liable, including legally and financially responsible, for unlawful discrimination, harassment or sexual harassment. Furthermore, supervisors, even though not causing discrimination, harassment or sexual harassment, may be individually liable for failing to receive complaints of unlawful discrimination, harassment or sexual harassment and/or failure to act upon such complaints.**

H. Training On Harassment And Sexual Harassment And Dissemination of Policy.

The Borough Administrator or his/her designee is responsible for providing training on unlawful discrimination and training on harassment/sexual harassment. At least annually, the Borough Administrator or his/her designee shall advise supervisors as to their responsibilities to report/prevent unlawful discrimination, harassment and sexual harassment. In addition, at least annually the Borough Administrator or his/her designee shall disseminate to all employees the Borough's policy against unlawful discrimination, harassment or sexual harassment. The Borough Administrator or his/her designee shall also be responsible to check that procedures are in place for reporting unlawful discrimination, harassment or sexual harassment, that such procedures are known by employees, and that they are effective.

I. Questions.

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

**Section 51. Reasonable Accommodation of Persons with Disabilities.**

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

- A. Shall not discriminate against an otherwise qualified handicapped individual as defined by law.
- B. As required by law, shall provide reasonable accommodation to allow an otherwise qualified handicapped individual to perform the essential functions of the job.

## **Section 52. Whistleblower Protection Policy.**

Employer retaliatory action; protected employee actions; employee responsibilities

- A. New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:
  - 1. 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;
  - 2. 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 employee 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
  - 3. 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.
  - 4. 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.
  - 5. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:



- (a) 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;
  - (b) is fraudulent or criminal; or
  - (c) 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.

- B. 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. 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 an emergency in nature.
- C. Employees with a whistle blower complaint are asked to report it to the Borough Administrator.

The administration of whistle blower complaints is not subject to the limitations of the grievance policy for Borough employees who are also members of a Union. In accordance with the statute, a copy of this policy will be posted in all facilities.

### **Section 53. Special Circumstances – Police Personnel.**

Matters involving police personnel must comply with 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 54. 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 days remaining 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 – subject to the limitation that terminal leave days in value cannot exceed \$12,000.00 (exclusive of benefits). Employees will retain their health insurance benefit during their period of Terminal Leave.

## **ARTICLE XI – SPECIAL CONDITIONS**

### **Section 55. Police Chief**

The Police Chief will receive all benefits at least equal to, at a 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 56. Bulletin Board Policy.**

The bulletin boards located in the municipal 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 notice.

### **Section 57. Requests for Employment Verification and Reference.**

All inquiries regarding a current or former Borough employee must be referred to the Human Resources Officer or Borough Administrator.

Should an employee receive a written request for a reference, he/she should refer the request to the Human Resources Officer for handling. No Borough employee may issue a reference letter to any current or former employee without the permission of the Human Resources Officer.

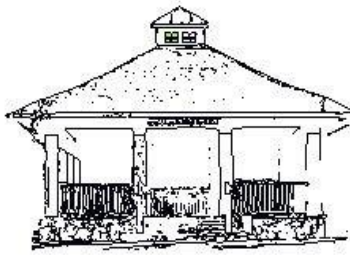
Under no circumstances should any Borough employee release any information about any current or former Borough employee over the telephone. All telephone inquiries regarding any current or former employee of the Borough must be referred to the Human Resources Officer.

In response to an outside request for information regarding a current or former Borough employee, the Human Resources Officer will furnish or verify only an employee's name, dates of employment, job title, and department. 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 additional information and releases the Borough from all liability in doing so.

**Section 58. Payroll Errors.**

It is the responsibility of the employee to review his/her payroll information, including paychecks, and immediately bring any errors or discrepancies to the attention of the Human Resources Officer. It is the Policy of the Borough to rectify payroll problems with due haste, subject to the need and requirement of any investigation which may be appropriate.



BOROUGH OF  
NEW PROVIDENCE  
SETTLED IN 1720

**Addendum # 1**

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Incident Date: \_\_\_\_\_ Time: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Oral Notification:

Written Notification:

*Please be advised that you are being notified and counseled with regard to the following:*

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

Signature of Supervisor: \_\_\_\_\_

Copies:

- Supervisor
- Borough Administrator
- Personnel File