

# **BOROUGH OF HAWTHORNE**

## **EMPLOYEE HANDBOOK**

**ALSO KNOWN AS THE**

## **PERSONNEL POLICIES MANUAL**

**Authorized by the Honorable John V. Lane, Mayor  
Prepared by Borough Administrator Eric Maurer  
Adopted by the Hawthorne Municipal Council on October 15, 2025**

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## **CHAPTER 1**

### **GENERAL INFORMATION**

#### **1.1 WELCOME**

As an employee of the Borough of Hawthorne, you now join with other Borough employees striving to provide more than 18,000 residents of the Borough with quality services. The public attitude toward its local government largely depends on your direct relationship with the residents of the community and the public at large. As a service organization the Borough is committed to a "customer friendly" policy in assisting any resident or member of the public in an efficient and effective manner. It is, therefore, absolutely essential that all employees conduct themselves professionally and provide courteous and prompt service. With these thoughts in mind, this Employee Handbook has been prepared to answer the most frequently asked questions concerning Borough policies and benefits.

#### **1.2 INTRODUCTION**

This Employee Handbook hereinafter referred to as the "Handbook" is being provided to all current and new employees of the Borough to define the personnel policies and procedures of the Borough. Every employee of the Borough will receive a copy of this Handbook when they commence employment with the Borough. Each current and new employee will be required to sign a form acknowledging the receipt of the Handbook. By signing the Acknowledgment Form, current and new employees acknowledge that they have read the Disclaimer Statement contained in the beginning of this Handbook, and that they understand the meaning of the Disclaimer Statement.

Borough employees covered by a collective negotiations agreement, or other employment contract or agreement, must refer not only to this Handbook, but also to the collective negotiations agreement, employment contract or other agreement to determine the terms and conditions of employment.

Specifically, the purpose of this manual is to define and clarify the personnel policies and procedures of the Borough.

The definition of policies for the Borough and the consistent application of such policies by standardized procedures is intended to the extent practicable to result in uniformity of operations throughout all departments, increased efficiency and morale, and better service to both employees and the community. To achieve these goals, a Policy and Procedure Manual has been prepared and will be maintained for the guidance of management and personnel. Individual departments may establish additional or modified procedures as needed for operational objectives.

### **1.3 DISCLAIMER**

**THE CONTENTS OF THIS HANDBOOK ARE GUIDELINES ONLY AND SUPERSEDE ANY PRIOR MANUAL AND/OR HANDBOOK. NEITHER THIS MANUAL NOR ANY OTHER GUIDELINES, POLICIES OR PRACTICES CREATE AN EMPLOYMENT CONTRACT. THE TOWNSHIP HAS THE RIGHT, WITH OR WITHOUT NOTICE, IN AN INDIVIDUAL CASE OR GENERALLY, TO CHANGE ANY OF ITS GUIDELINES, POLICIES, PRACTICES, WORKING CONDITIONS OR BENEFITS AT ANY TIME.**

**NO ONE IS AUTHORIZED TO PROVIDE ANY EMPLOYEE WITH AN EMPLOYMENT CONTRACT OR SPECIAL ARRANGEMENT CONCERNING TERMS OR CONDITIONS OF EMPLOYMENT UNLESS THE CONTRACT OR ARRANGEMENT IS IN WRITING AND IS SIGNED BY THE TOWNSHIP MANAGER. EMPLOYMENT WITH TOWNSHIP IS AT-WILL AND MAY BE TERMINATED AT ANY TIME WITH OR WITHOUT CAUSE OR NOTICE BY THE EMPLOYEE OR THE TOWNSHIP.**

**THIS NOTICE APPLIES TO ALL EMPLOYEES REGARDLESS OF DATE OF HIRE.**

This Employee Handbook is intended to inform employees of the Borough about the Borough's existing policies and procedures. It is not a contract of employment, nor is it a guarantee of any particular term of employment. Unless otherwise provided by Statute, Ordinance, regulation, individual contract or collective bargaining agreement, employees of the Borough are "at-will employees", which means that they serve at the pleasure of the Borough. Both the Borough and the employees retain the right to terminate their employment relationship at any time, and for any reason. This Handbook is subject to review and change from time to time, which change may include additions or deletions. As these changes are adopted, employees will be notified of them, in writing and the new policies and/or procedures will be incorporated into this Employment Handbook. No agreements that are contrary to the provisions of the Handbook may be made with individual employees, except with the express and written consent of the Mayor and/or the Council.

### **1.4 APPLICABILITY**

The provisions of these rules shall apply to all employees of the Borough. However, in the event that any provisions of this manual conflict with any provisions of a Collective Negotiations Agreement entered into by the Borough, the provisions of the Collective Negotiations Agreement will govern for those individuals who are in the union governed by the Collective Negotiations Agreement.

For specific questions pertaining to the policies contained herein, or their applicability, employees are directed to ask their supervisor. If any supervisor is unclear as to the response regarding the particular inquiry, the supervisor shall consult with the Business Administrator, or his designee, to obtain the appropriate answers.

## **1.5 CONTENT OF DOCUMENT**

This document includes the basic administrative and personnel policies and procedures of the Borough. It should be understood that the Handbook is not inclusive of all Borough personnel policies and procedures.

Some subjects and issues may be covered in the Borough's Code Manual and/or through various memoranda or policy papers issued by the Borough Administrator.

## **1.6 FORMAT OF DOCUMENT**

The format of this document will be a series of major articles divided into numbered sections. Additional major articles or sections may be added as required. Pages will be dated and numbered in order that revisions may be readily noted.

## **1.7 REVIEW AND UPDATE OF DOCUMENT**

The Borough Administrator or his designee will review this document periodically; however, continual review and/or modification will occur as necessary. Approved revisions will be distributed to all department heads for updating individual binders and written notice of any revisions will be provided to all employees who will acknowledge receipt of the update via signature.

## **1.8 MANAGEMENT RIGHTS POLICY**

The Borough hereby retains and reserves unto itself and without limitation all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and Constitution of the State of New Jersey and of the United States, including, but not limited to, the following rights:

A. To manage and control the affairs of the Borough and its properties and facilities, the operation of its departments, and the activities of its employees.

B. To hire all employees for each position subject to the provisions of law, to determine their qualifications, to determine standards of performance, conditions for continued employment or assignment, and to promote and transfer employees.

C. To lay off, suspend, demote, discharge or take other disciplinary action for good and just cause according to law.

The exercise of the foregoing powers, rights, authority, duties and responsibilities of the Borough, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms hereof in conformance with the Constitution and Laws of New Jersey and of the United States.

Nothing contained herein shall be construed to deny or restrict the Borough of its powers, rights, authority, duties and responsibilities under any national, state, county or local laws or ordinances.

**1.9 EMPLOYEE STATUS** - The status of employees shall be classified as follows:

A. Full-time – Permanent employees who work a minimum of 35 hours per week.

B. Part-Time -- an employee, permanent or temporary, who works a fixed or variable schedule of less than 35 hours per week.

C. Temporary or Seasonal – Any employee who works a limited period with the Borough based upon season or need on a fixed or variable schedule and is considered hourly regardless of the number of hours worked.

**CHAPTER 2  
EMPLOYEE RIGHTS AND OBLIGATIONS**

**2.1 AFFIRMATIVE ACTION**

The Borough advocates and supports compliance with all Federal and State laws and regulations governing Affirmative Action and which prohibits discrimination in the delivery of government services, programs or activities, including employment practices and access and accommodation to municipal facilities. The Borough Administrator is designated as the Public Agency Compliance Officer (PACO) as it relates to the monitoring and compliance of all public contracts pertaining to State and Federal Affirmative Action regulations. In addition, the Borough Administrator has been designated as the appropriate official in implementing, coordinating, and monitoring compliance with Title I as it pertains to equal employment opportunity, and Subtitle A of Title II, in the administration of the Americans With Disabilities Act of 1990 (ADA).

**2.2 ANTI-DISCRIMINATION POLICY**

The Borough is committed to the principle of equal employment opportunity and to maintaining a workplace free of discrimination and harassment. This policy is adopted pursuant to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972 (Title VII), the New Jersey Law Against Discrimination (NJLAD), including the New Jersey Pregnant Workers Fairness Act, and all other applicable federal and state statutes and regulations.

Under no circumstances will the Borough discriminate against any employee or applicant for employment based on sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status,

atypical heredity, cellular or blood trait, genetic information, physical or mental disability (including AIDS or HIV infection), pregnancy (including pregnancy-related medical conditions), childbirth, breastfeeding, liability for service in the United States armed forces, gender identity or expression, or any other characteristic protected by law.

Employment decisions regarding hiring, promotion, transfer, demotion, compensation, or termination shall be based exclusively on individual qualifications, merit, and job performance. The Borough is also committed to equal pay for equal work, as required by the federal Equal Pay Act and the New Jersey Diane B. Allen Equal Pay Act.

The Borough supports a workplace culture grounded in fairness, dignity, and respect. While voluntary efforts may be made to enhance inclusiveness, such efforts will not involve quotas, preferences, or consideration of protected characteristics in employment decisions. All diversity and inclusion activities undertaken by the Township shall be designed to ensure compliance with Title VII, the U.S. Constitution, and New Jersey law, and shall be framed around principles of equality, opportunity, and lawful non-discrimination.

Any employee or applicant who believes they have been treated unfairly or subjected to discriminatory practices is encouraged to promptly report their concern to the Human Resources Department or the Borough Administrator. The Borough will take appropriate action consistent with its anti-discrimination and anti-harassment procedures.

### **2.3 AMERICANS WITH DISABILITIES ACT POLICY / NEW JERSEY PREGNANT WORKER'S FAIRNESS ACT**

In compliance with the Americans with Disabilities Act and the New Jersey Law Against Discrimination (LAD), (as amended by, inter alia, the New Jersey Pregnant Worker's Fairness Act), the Borough does not discriminate based on disability, pregnancy, pregnancy related medical conditions, or childbirth. The Borough will endeavor to make every work environment handicap assessable and all future construction and renovation of facilities will be in accordance with applicable barrier-free Federal and State regulations and the Americans with Disabilities Act Accessibility Guidelines.

It is the policy of the Borough to comply with all relevant and applicable provisions of the Americans with Disabilities Act and LAD. The Borough will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth, breastfeeding, or pregnancy related medical condition. The Borough will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, and/or those who are pregnant provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the Borough, and provided that the accommodation will be effective in allowing the employee to safely perform the essential job functions.

The Borough Administrator shall engage in an interactive dialogue with disabled and or/pregnant employees and prospective employees to identify reasonable accommodations or their physician. In the case of an employee breastfeeding her infant child, the accommodation shall include

reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to work area for the employee to express breast milk for the child. All decisions with regard to reasonable accommodation shall be made by the Borough Administrator. The Americans with Disabilities Act does not require the Borough to offer permanent “light duty”, relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

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

The Borough is committed to fostering a workplace that supports the health, safety, and dignity of all staff members, including those affected by pregnancy, breastfeeding, and related medical conditions. In accordance with the federal Pregnant Workers Fairness Act (PWFA), 42 U.S.C. § 2000gg et seq., effective June 27, 2023, and the New Jersey Pregnant Workers Fairness Act, N.J.S.A. 10:5-12(s), the Borough provides reasonable accommodations to qualified staff members for known limitations related to pregnancy, breastfeeding, or associated medical conditions. A staff member may be eligible for a reasonable accommodation under this policy when they experience a physical or mental condition related to pregnancy or breastfeeding, including routine or temporary limitations, and the Borough is made aware of the limitation. Upon receiving notice, the Township will engage in an individualized and timely interactive process with the staff member to determine an appropriate accommodation. This process will consider the nature of the limitation, the essential functions of the staff member’s position, the operational needs of the department, and the staff member’s expressed preferences. Reasonable accommodations will be granted unless doing so would impose an undue hardship on the Township’s operations. Accommodations for employees affected by pregnancy, childbirth or related medical conditions shall be addressed in accordance with the PWFA and the relevant provisions of the New Jersey LAD.

Reasonable accommodations may include, but are not limited to, adjustments to work schedules, additional or longer breaks, reassignment to light duty or temporary alternative roles, assistance with manual labor, changes to seating or lifting requirements, permission to work remotely when appropriate, and the provision of a private, secure, and sanitary location—other than a bathroom—for expressing breast milk. These accommodations apply regardless of whether the staff member is experiencing a medical complication. Accommodations must also be provided for routine limitations associated with a healthy pregnancy or breastfeeding, where those limitations affect the staff member’s ability to perform job duties. Staff members affected by pregnancy or breastfeeding shall be treated the same as other staff members who are similar in their ability or inability to work. For instance, if the Borough provides time off or modified duties for a staff member with a medical condition such as a back injury, similar accommodations must be extended to a staff member affected by pregnancy or breastfeeding. This policy ensures parity in treatment and prohibits disparate standards.

The Borough will not require a staff member to take leave, whether paid or unpaid, if a reasonable accommodation would allow the staff member to continue working. Further, no adverse employment action shall be taken against any staff member for requesting or using an

accommodation, for participating in the interactive process, or for supporting another staff member's request under this policy. Retaliation is strictly prohibited.

This policy supplements and does not replace rights available to staff members under other federal or state laws, including the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), the New Jersey Law Against Discrimination (LAD), and applicable civil service rules or collective bargaining agreements. Where the protections of federal and state law differ, the standard offering greater protection to the staff member will apply. All Borough supervisors, department heads, and Human Resources personnel shall be trained on the requirements of this policy and are required to consult with the Human Resources Department upon receiving any request for accommodation. Any documentation or medical information provided in connection with such a request will be treated confidentially and maintained in accordance with applicable law. Staff members with questions regarding their rights under this policy or who wish to request an accommodation are encouraged to contact the Human Resources Department.

#### **2.4 CONTAGIOUS/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 at large. In an effort to balance the needs of the Borough, the public and the employees, the Borough has adopted certain regulations with respect to contagious/life threatening illnesses. The Borough respects the dignity and work of every employee.

Employees of the Borough who have been diagnosed with any illness that poses a health hazard to other employees or to the public at large must disclose this information to their immediate supervisor at the earliest possible time. The employee's supervisor shall consult with the department head involved, the Borough Administrator, and, if necessary, a physician designated by the Borough to assist in making a determination and assessing the risks to other employees and the public at large.

The Borough encourages employees with contagious diseases or life-threatening illnesses to continue their normal pursuits, including work, to the extent allowed by their condition. The Borough shall make reasonable accommodations to known physical and mental limitations of all employees, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an undue burden on the Borough.

The Borough will attempt to support the physical and emotional health of all employees, minimize disruptions of productivity and morale caused by the uncertainty employees may have in working with a colleague who has a life-threatening illness.

Employees with such conditions, who are able to meet performance standards and whose continued employment does not pose a threat to their own health and safety, or that of others, are assured equal employment opportunities and reasonable accommodation in their employment. If an employee is able to work, they are expected to be productive. If the individual cannot work, then he or she may be eligible for health and disability benefits.

To fulfill the Borough's obligations, management may direct the employee to pursue one of the following options:

- A. Family Leave
- B. Sick Leave and/or Vacation Leave
- C. Short term disability: if the illness is of a short-term duration
- D. Unpaid leave of absence: if the employee has no accumulated leave time to utilize
- E. Disability Retirement: if the illness is of a permanent nature and if the employee qualifies under the appropriate state pension plan.
- F. Resignation: if the illness is of such a nature that the employee cannot return to work and the employee does not have any leave time available and the employee is not vested in any of the state pension plans.

An employee who does not disclose this information to the Borough will be subject to appropriate disciplinary action including termination of employment.

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

Managers and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action.

## **2.5 SAFETY POLICY**

The Borough will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA). The Borough is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the Borough Administrator. Any on-the-job accident or accident involving Borough facilities, equipment or motor vehicles must also be immediately reported to the supervisor.

## **2.6 DRUG AND ALCOHOL POLICY**

It is the policy of the Borough to maintain a workplace that is free from the effects of drug and alcohol abuse. The Borough recognizes that the possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees.

Employees are prohibited from the use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on the Municipal premises or work sites. In addition, off-premises abuse of alcohol and controlled substances, as well as the possession, use, or sale of illegal drugs is prohibited when those activities adversely affect job performance, job safety, or the Borough of Hawthorne's reputation.

The Borough will not continue to employ, subject to state or federal law restrictions, any employee whose current use of either controlled substances or alcohol prevents them from performing their jobs or who would constitute a direct threat to the property or safety of others.

Whenever applicants for employment are to be tested for the presence of illegal drugs or alcohol, they are to be informed in advance and in writing.

Employees must notify their supervisor within five (5) days of conviction for a drug or alcohol related violation whether or not the violation occurred within the workplace.

Employees will be subject to disciplinary action, up to and including termination, for violations of this policy. Violations include, but are not limited to, possessing illegal or non-prescribed drugs and narcotics or alcoholic beverages at work; being under the influence of those substances while working; using them while working; or dispensing, distributing, or illegally manufacturing or selling them on Borough premises and work sites. Employees, their possessions, and Borough-issued equipment and containers under their control are subject to search and surveillance at all times while on Municipal premises or work sites. Employees subject to the Drug-Free Workplace Act who are convicted of any criminal drug violation occurring in the workplace must report the conviction to the Borough Administrator within five (5) days, and the Administrator is then to take appropriate action as required by law.

Personnel who hold a Commercial Driver's License (CDL) are subject to the provisions of the Commercial Driver's Licenses drug and alcohol testing policy. Policy violations will result in discipline and may result in termination. Tests that are paid for by the Borough are the property of the Borough, and the examination records will be treated as confidential and held in separate medical files. However, records of specific examinations, if required by law or regulation, will be made available to the employee, persons designated and authorized by the employee, public agencies, relevant insurance companies, or the employee's doctor.

Employees must report their use of over-the-counter or prescribed medications to their Department Head or the Borough Administrator if the use might impair their ability to perform their job safely and effectively. The Department Head or Borough Administrator is required to maintain the confidentiality of any information regarding the employee's medical condition in accordance with the Americans with Disabilities Act. A determination will then be made as to whether the employee should be able to perform the essential functions of the job safely and properly.

No prescription drug should be used by any person other than the individual to whom it is prescribed. Such substances or non-prescription (over-the-counter) drugs should be used only as prescribed or indicated. Employees are prohibited from consuming prescription drugs that are not

prescribed in their name on Borough property or while performing Borough business. Soliciting or distributing prescription drugs for or to other employees is also strictly prohibited.

Employees who are experiencing work-related or personal problems resulting from drug, narcotic, or alcohol abuse or dependency may request, or be required to seek, counseling help. Participation in counseling, including Borough-sponsored or required counseling, is confidential and should not have any influence on performance appraisals. Job performance, not the fact that an employee seeks counseling, is to be the basis of all performance appraisals.

An employee who is abusing drugs or alcohol may be granted a leave of absence to undertake rehabilitation treatment. The employee will not be permitted to return to work until certification is presented to the Borough Administrator that the employee is capable of performing his job. Failure to cooperate with an agreed-upon treatment plan may result in discipline, up to and including termination. Participation in a treatment program does not insulate an employee from the imposition of discipline for violations of this or other Borough policies.

Supervisors should report immediately to their Department Head or the Borough Administrator any action by an employee who demonstrates an unusual pattern of behavior. The Department Head or the Administrator will determine whether the employee should be examined by a physician or clinic and/or tested for drugs and alcohol. Employees believed to be under the influence of drugs, narcotics, or alcohol will be required to leave the premises and shall be immediately suspended and subject to termination. The Police Department should be notified to arrange safe transit.

An employee will be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that that employee is impaired due to current intoxication, drug or controlled substance use or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled dangerous substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action, including termination. Supervisors or Department heads that observe behavior constituting reasonable suspicion are required to institute testing and do not have the option of sending the employee home as an alternative.

The Borough will, to the extent feasible, provide continuing awareness programs about the harmful effects of drug and alcohol abuse.

### **Cannabis Addendum:**

Definitions for purposes of this policy:

“Cannabis” is any THC-bearing product, intended for human consumption for recreational or medical purposes, that is grown, manufactured, distributed, transported, delivered and sold by persons and entities duly licensed by the State of New Jersey and purchased by persons aged 21 or older, not to exceed the applicable legal limits for possession or use for recreational or medical purposes, as applicable.

“Marijuana” is any THC-bearing product that does not fall within the definition of “cannabis.”

Prohibitions:

- The use, consumption, or being under the influence of marijuana, cannabis, or products containing marijuana or cannabis during working hours, while in the office, at work-related events, and while driving to and from work-related events is prohibited.
- The possession, transfer, display, transportation, sale or growth of marijuana, cannabis, or products containing marijuana or cannabis in the office or any other work location (other than working from home) is prohibited.
- The engaging in any activity related to marijuana or cannabis that would constitute a crime under New Jersey law is prohibited.

Drug Testing for Marijuana/Cannabis

The current Policy on drug testing is hereby amended with respect to marijuana/cannabis only. An employee may be required to undergo drug testing for marijuana/cannabis under the following circumstances:

- Upon reasonable suspicion of an employee’s use of marijuana/cannabis while engaged in the performance of the employee’s work responsibilities.
- Upon a finding of any observable signs of intoxication related to the usage of a cannabis item.
- Following a work-related accident subject to investigation by the Borough.
- Pre-employment, or regular screening of current employees when otherwise legally permissible, to determine marijuana/cannabis use during prescribed work hours.

Any adverse employment action related to suspected cannabis use or impairment will be taken only in compliance with New Jersey law, including any required evaluation by a certified Workplace Impairment Recognition Expert (WIRE). The Borough reserves the right to take corrective or disciplinary action based on poor job performance, improper workplace conduct, documented and objective physical evidence of impairment, or violation(s) of established policies and performance standards without requiring a drug test.

Should a drug test result be positive for marijuana/cannabis:

- The Borough will adhere to any existing legal requirements, currently in effect, regarding confirmation of the employee’s current state of impairment during working hours, while in the office, at work-related events, and while driving to and from work related events.

Any person determined to be impaired during working hours, while in the office, at work-related events, and while driving to and from work related events will be subject to disciplinary action.

In the absence of evidence of current impairment or other marijuana/cannabis related activity prohibited under this Policy, The Borough will take no action based solely on positive test result for marijuana/cannabis. In cases in which there is evidence of prohibited activity – other than

current impairment while in the office, at work-related events, and while driving to and from work related events – the following action will be taken:

- The employee will receive written notice acknowledging the opportunity to offer a legitimate medical explanation for the positive test result.
- The employee will have three working days from the receipt of this written notice either to request a confirmatory re-test of the original test sample or to produce evidence of a legitimate medical explanation, which may include authorization for using medical marijuana/cannabis. (Confirmatory re-tests shall be at the employee’s expense)
- The Borough will follow up as necessary to determine whether or not evidence submitted for a medical explanation is sufficient.

Corrective or disciplinary action may then be taken as determined necessary based on the relevant facts and circumstances of the matter.

Note: Notwithstanding the foregoing, the Borough reserves the right to take immediate corrective or disciplinary action (a) for the possession or use of marijuana/cannabis (or any other intoxicating substance) during working hours or on the premises of the workplace outside of work hours, or (b) for any act that would cause the Borough to be in violation of federal law, to lose a licensing-related benefit pursuant to federal law, or to lose a federal contract or federal funding.

Nothing in this Addendum shall be deemed to supersede federal statutes and regulations pertaining to drug use and alcohol abuse by employees and applicants required to maintain commercial drivers’ licenses (CDLs) to perform the essential functions of the jobs they hold or are seeking. Notwithstanding New Jersey law, and CDL holder who tests positive for marijuana or cannabis must be removed from safety-sensitive functions in accordance with federal law.

## **2.7 WORKPLACE VIOLENCE POLICY**

The Borough will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Borough property, at Borough events or under other circumstances that may negatively affect the Borough’s ability to conduct business.

Prohibited conduct includes, but is not limited to, examples such as:

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive, hostile, or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;

- Possession of a weapon while on Municipality property or while on Municipality business except with the Municipality of the Police Chief; and
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

Any potentially dangerous situations must be immediately reported. The Borough will actively intervene in any potentially hostile or violent situation.

## **2.8 BOROUGH OF HAWTHORNE ANTI-HARASSMENT POLICY:**

The Borough has a strong commitment to providing a work environment that is free of harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), gender identity or expression, liability for service in the United States armed forces, and/or any other characteristic protected by law. While it is not easy to define precisely what harassment is, it includes but is not limited to slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, and other similar verbal or physical conduct.

If an employee is witness to or believes to have experienced harassment, immediate notification of the supervisor or other appropriate person should take place. See the Complaint procedure (Section 2.16) below.

A hostile work environment can arise not only from conduct at the workplace, but can also arise from conduct occurring in a work-related context outside of the workplace (i.e., virtually or off-site) and conduct occurring in a non-work related context (i.e., through private phones, computers, or social media accounts) when that conduct impacts the workplace.

### **2.8.1 ANTI-SEXUAL HARASSMENT POLICY**

It is the Borough's policy to prohibit sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee. The Borough prohibits sexual harassment from occurring in the workplace or at any other location at which Borough-sponsored activity takes place. The purpose of this policy is not to regulate personal morality or to encroach upon one's personal life, but to demonstrate a strong commitment to maintaining a workplace free of sexual harassment.

Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; or
- 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.

Sexual harassment may include but is not limited to unwanted sexual advances; offering employment benefits in exchange for sexual favors; visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters); verbal sexual advances, propositions or requests; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, notes or invitations; and/or, physical conduct (touching, assault, impeding or blocking movements).

A hostile work environment can arise not only from conduct at the workplace, but can also arise from conduct occurring in a work-related context outside of the workplace (i.e., virtually or off-site) and conduct occurring in a non-work related context (i.e., through private phones, computers, or social media accounts) when that conduct impacts the workplace.

If an employee is witness to or believes that the employee has experienced sexual harassment, they must immediately notify their supervisor or other appropriate person with whom they feel comfortable. Complainants should follow the Complaint Procedure that is set forth in Section 2.16 of this Handbook.

Harassment of Borough employees, in connection with their work, by non-employees may also be a violation of this policy. Any employee who experiences harassment by a non-employee, or who observes harassment of an employee by a non-employee should report such harassment to their supervisor. Appropriate action will be taken against any non-employee.

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

Employees who are found guilty of violation of this sexual harassment policy are subject to disciplinary action, up to and including immediate discharge.

## **2.9 “WHISTLE BLOWER POLICY”**

Employees have the right under the “Conscientious Employee Protection Act (CEPA)” to complain about any activity, policy or practice that the employees reasonably believe is in violation of a law, rule, or regulation promulgated pursuant to law without fear of retaliation or reprisal. This right shall be communicated to all employees in an annual letter outlining the specific employee complaint procedure and in a posted notice. A written acknowledgement that the employee received, read, and understood this letter will be included in the employee's official personnel file. The annual notice shall be in English and Spanish and must contain the name of the person who is designated to receive written notification of policies or practices that might violate CEPA. This right will also be communicated in the Employee Handbook. All complaints will be taken seriously and promptly investigated.

The Borough shall not take any retaliatory action or tolerate any reprisal against an employee for any of the following:

Disclosing or threatening to disclose to a supervisor, Department Head, the Borough Administrator, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.) an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law or is fraudulent or criminal;

Providing information to, or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or

Objecting to, or refusing to participate in any activity, policy, or practice that is or that the employee reasonably believes is a violation of a law, rule or regulation promulgated pursuant to law; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare.

In accordance with the statute, the employee must bring the violation to the attention of the Mayor or the Borough Administrator. However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is an emergency in nature. Employees are encouraged to complain in writing using the Employee Complaint form, but may make a verbal complaint at their discretion. See Employee Complaint Policy (Section 2.16). Under the law, the employee must give the Borough a reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations in the Grievance Policy.

The Borough is committed to maintaining a professional, respectful, and legally compliant workplace. While the Borough expects all employees to conduct themselves in a manner that reflects positively on the organization, it also recognizes that employees have the legal right to speak about and report workplace discrimination, harassment, and retaliation.

Accordingly, the Borough does not enforce any policy or agreement that prohibits employees from disclosing or discussing facts relating to claims of discrimination, retaliation, or harassment, including but not limited to complaints made under the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) or other applicable laws.

No employee shall be required to sign, and the Borough shall not enforce, any non-disclosure or non-disparagement provision that has the purpose or effect of concealing the details of a claim involving discrimination, retaliation, or harassment. This includes any provision in an employment agreement, separation agreement, settlement agreement, or internal policy.

Employees are not restricted from reporting, discussing, or disclosing factual information related to claims of discrimination, retaliation, or harassment to any person or entity, including supervisors, human resources, administrative agencies, law enforcement, legal counsel, or the media.

This policy shall not be interpreted to limit the Borough's ability to enforce confidentiality obligations that do not conflict with an employee's rights under applicable law, including but not limited to obligations regarding proprietary information, trade secrets, personal data of other employees, or documentation and records that government employees are required by law to keep confidential, such as materials submitted in connection with zoning, licensing, or housing applications.

Any attempt to enforce or impose a non-disclosure or non-disparagement obligation in violation of this policy is strictly prohibited and may be grounds for disciplinary action.

## **2.10 IMPROPER CONDUCT - HARASSMENT**

Instances that may violate the Borough's policy against harassment and which may result in disciplinary action include but are not limited to the following:

Unwelcome remarks and actions based on the protected classifications. This may include, but is not limited to, inappropriate jokes, comments or posted materials.

Threats or suggestions that an employee's employment work status will be adversely affected based upon the protected classifications.

Affecting or denying employment opportunities or benefits to an employee based upon the protected classifications.

Engaging in a negative tangible employment action based upon the protected classifications.

Retaliation against an employee who has reported any alleged violation of this Policy or participated in an investigation related to this Policy.

## **2.11 SUPERVISOR RESPONSIBILITIES - HARASSMENT**

Every supervisor is responsible for preventing and reporting unlawful harassment committed by or against their subordinate. Failure to take action to stop unlawful harassment may be grounds for disciplinary action. Special care must be exercised by supervisors and managers whose actions or remarks may be mistakenly perceived as unlawful harassment. The subordinate may feel inhibited and may not disclose the unwelcome actions or remarks by the supervisor or person of higher rank. Unlawful harassment is not limited, however, to employees of different rank.

## **2.12 INVESTIGATION PROCEDURE - HARASSMENT**

Once a complaint under the anti-harassment policies has been registered or a harassment situation has become known to the Borough, a prompt, fair and thorough investigation will be conducted by a person who is not involved in the alleged harassment or wrongdoing to determine the meritorious character of the complaint.

If the Borough determines that unlawful harassment has occurred in violation of the anti-harassment policies, the individual who engaged in such harassing conduct shall face immediate and appropriate disciplinary action based upon the severity of the complaint and any prior history of past charges made against the individual and disciplinary action involving the individual. Disciplinary action may include being suspended without pay pending the hearing, a written warning, suspension, demotion, and/or termination of employment.

The complaining employee will be notified of a decision at the conclusion of the investigation, within a reasonable time from the date of the report of an incident.

### **2.13 PRIVACY AND NON-RETALIATION - HARASSMENT**

The Borough encourages victims of harassment to bring their complaints to management by ensuring that no reprisals or retaliation will result against such complaining individual as a result of the good faith reporting of harassment. In addition, anyone who assists in the filing of a complaint or in the investigation of a claim of harassment will be protected from reprisals and retaliation. Reprisal or retaliation may be the basis of a separate complaint, even if the complaint of harassment may be found to be without merit.

To the fullest extent possible, and so long as it does not inhibit the conducting of an investigation, all persons involved with a harassment complaint will be given the utmost protection of privacy.

### **2.14 BOROUGH LIABILITY - HARASSMENT**

Because the Borough prohibits harassment of its employees in any form, any individual charged with harassment in a civil action or by way of an administrative complaint shall be solely responsible for paying all costs of his/her defense and/or any damages resulting there from which are awarded by any proper court of law or after an administrative hearing.

Any employee with questions regarding the Borough's Harassment Policy may contact the Borough Administrator or his/her designee.

### **2.15 FALSE ACCUSATIONS**

5Since a charge of harassment is a grave and serious one, false accusations of harassment are, and will be treated as, a disciplinary offense and will result in a level of punishment appropriate for a person who has been determined by the Borough Administrator to have engaged in such behavior.

### **2.16 HARASSMENT COMPLAINT PROCEDURES**

Employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing under the anti-harassment / anti-sexual harassment, or whistleblower policies should immediately report the matter to their supervisor. If they prefer, or do not think that the matter can be discussed with their supervisor, they should contact the Department Head, the Borough Administrator, the Borough Attorney or the Borough's Safety/Training/Compliance

Officer. If for some reason the employee deems it inappropriate to report the matter to any of these individuals, he or she may report it directly to the Mayor or to whomever the employee feels comfortable. Reporting of such incidents is encouraged when an employee feels that he or she is subject to incidents, or observes such incidents in reference to other employees.

1. These procedures shall apply to all complaints under the anti-harassment / anti-sexual harassment and whistleblower policies.
2. Employees shall be free from reprisal or retaliation by any co-employee or supervisory personnel if they report a complaint under the provisions of the Conscientious Protection Act. Additionally, all reports of harassment, sexual harassment, or other wrongdoing under these policies will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing. No employee will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files in good-faith a harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven.
3. Complaints shall be reported orally or in writing to the employee's immediate supervisor unless the complaint is against the immediate supervisor, in which case the complaint shall be reported orally or in writing directly to the Borough Administrator. If the complaint is against the Borough Administrator, the complaint shall be reported directly to the Mayor.
4. Although complaints will be kept confidential to the extent practicable, appropriate and permitted by law, in order to protect the privacy of persons involved, it must be made clear that anonymity or confidentiality cannot be guaranteed if action must be taken against the wrongdoers; since the testimony of the victim is an essential element in disciplining, terminating, prosecuting, or taking other legal action against the wrongdoer. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct, or who have other relevant knowledge. There also may be circumstances where disclosure is required by law. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons involved. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. There also may be circumstances where disclosure is required by law.
6. All personnel complaints must be reported to the Borough Administrator even if the matter is to be reviewed and decided by supervisory personnel. The Borough Administrator shall be responsible for monitoring the progress of the complaint and making the proper investigation when the matter reaches the Borough Administrator's level.
7. All formal investigations shall be conducted by the Borough Administrator, unless the alleged violation is against the Borough administrator, in which case the Mayor shall conduct the investigation.

8. If the complaint cannot be supported by the results of the investigation, the Borough Administrator shall advise the complainant accordingly. Filing complaints that contain false allegations is a serious offense and disciplinary action may be instituted against employees who file false complaints.
9. If the complaint is justified and substantiated, a response plan shall be prepared by the Borough Administrator in conjunction with the Borough Attorney setting forth the immediate and appropriate corrective action, including bringing disciplinary charges, as well as the possible disciplinary action which may ensue. The Borough Administrator will ensure that a response plan shall be prepared and that Borough employees are trained to respond accordingly.
10. In some severe cases it may be necessary to report the incident to law enforcement authorities. If criminal behavior is involved such as assault, battery, threats of violence or bodily harm, use or sale of illegal drugs, theft, possession of a weapon, vandalism or intentional damage to municipal property or property of a supervisor, co-employee, elected official or any other person, then the Borough Administrator shall request the Borough Attorney to discuss the matter with the appropriate law enforcement authorities.

## **2.17 GRIEVANCE POLICY (FOR NON HARASSMENT ISSUES)**

A grievance is any formal dispute concerning the interpretation, application and enforcement of any personnel policy or procedure of the Borough.

### **2.17.1 GRIEVANCES BY UNION EMPLOYEES**

Grievances from union employees shall be submitted and handled pursuant to the terms of the applicable bargaining unit agreement.

## **2.18 EMPLOYEE PERSONNEL FILES – ACCESS AND CONFIDENTIALITY**

The official personnel file for each employee shall be maintained by the Borough Administrator. Personnel files are confidential records that must be secured in a locked cabinet and will only be available to authorized managerial and supervisory personnel on a need-to-know basis or unless otherwise required by law. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access.

Upon request, employees may inspect their own personnel files at a mutually agreeable time on the Borough premises in the presence of the Borough Administrator or a designated supervisor. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes or if authorized by law. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.

Personnel files do not contain confidential employee medical information. Any such information that the Borough may obtain will be maintained in separate files and treated at all times as confidential information. Any such medical information may be disclosed under very limited circumstances in accordance with any applicable legal requirements.

The Borough endeavors to maintain the privacy of personnel records. There are limited circumstances in which the Borough will release information contained in personnel or medical records to persons outside the Borough. These circumstances include:

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

## **2.19 CONFLICT OF INTEREST**

All Borough employees shall conduct their official and private business so that they never have a conflict of interest, or give the appearance of a conflict of interest to the public in accordance with the Local Government Ethics Law. Specifically, no Borough employee shall engage in any business transaction, which is in conflict with the proper discharge of his/her official duties which would impair their independence of judgment or action, or which would appear to a reasonable observer to present a conflict of interest or impairment of judgment.

No Borough employee may use attempt to use his/her official position to secure unwarranted privileges not available to the public generally. No Borough employee may accept or permit anyone of the employee's immediate family to accept any valuable gift or favor from any person, firm or organization that is directly or indirectly interested in any business dealings with the Borough. A Borough employee may not employ subordinate employees in any business in which they have an interest. Any employee who believes that any provision of this Article has been violated should report the alleged violation to his/her department head or directly to the Borough Administrator.

### **2.19.1 ETHICS**

Employees are expected to devote their best efforts to the interests of the Borough. Pursuant to the New Jersey Local Government Ethics Law , no employee shall have any interest, direct or indirect, in any job for work or materials being supplied to the Borough.

Employees, including Borough officials, must conduct business according to the highest ethical standards of public service, in accordance with the Local Government Ethics Law. Under the Act, certain employees and officials are required to annually file with the Borough Clerk, a state mandated disclosure form. The Borough Clerk will notify employees and local Borough officials subject to the filing requirements of the Act.

Violations of this policy will result in appropriate disciplinary action, including termination.

### **2.19.2 GIFT POLICY**

Borough employees shall refrain from accepting any gift from a vendor, developer, property owner or other party with whom the Borough conducts or might expect to conduct official business when the acceptance of that gift might appear to bring into question the exercise of proper and impartial judgment in the exercise official duties, and in no case should solicit any gift. Examples of official business include but are not limited to: procurement of goods or services; insurance claims; pending litigation; enforcement actions; development applications; permit applications and related inspections; hiring decisions or other personnel actions.

The acceptance of gifts of modest value will not always constitute a violation of this policy. The following guidelines shall be applied to determine whether a particular gift is permissible.

- a) An employee shall not accept any gift whatsoever of any value from a party who has any matter pending before the Borough when the employee is in a position to make or influence a decision on the matter, either while the matter is pending or immediately upon a decision being made.
- b) Generally, gifts of a value greater than \$25 for the personal use of an individual employee should be refused.
- c) Gifts of food, such as holiday gift baskets, even when above the \$25 dollar limit, may be accepted only if shared with other people, including visitors, in the municipal office. Alternatively, when practical, such gifts may be donated to the community food bank.
- d) Nothing herein shall preclude an employee from accepting an invitation to represent the Borough at an event being held by another governmental or quasi-governmental agency, or a not-for-profit organization, as the invited guest of such an entity, even if the presumed value of attending the event exceeds the \$25.
- e) Nothing in this policy shall prohibit an employee from accepting a gift of reasonable value from the employee's family member or a friend. The criterion here should be whether the gift would be offered to the employee even if he or she were not an employee or official of the Borough. If not, than all of the other guidelines herein should be followed.

- f) In no case shall an employee accept a gift of cash, gift certificates or gift cards or other similar item.

Employees should err on the side of caution by refusing any gift if there is any question that it may violate these guidelines OR if it may give the appearance of influencing the exercise of judgment in the performance of official duties.

When in doubt, an employee may refer the question of accepting a particular gift to the Borough Administrator for a determination. The Borough Administrator in turn may refer the matter to a committee consisting of the Mayor, the Borough Attorney and the Borough Clerk. A matter referred to this committee must receive unanimous approval in order for the gift to be deemed acceptable. The Borough Administrator shall maintain a record of all such requests received and the determination made on each, which record shall, upon request, be made available for public review.

## **2.20 POLITICAL ACTIVITY POLICY**

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using Borough time, supplies or equipment in any political activity. Any violation of this policy must be reported to the supervisor, Borough Administrator, or the Borough Attorney.

## **2.21 DISCLOSURE OF INTEREST IN LEGISLATION**

In the event that any employee has a direct or indirect financial interest in any proposed legislation, the employee shall publicly disclose in the official records of the Borough the nature and extent of such interest.

## **2.22 EMPLOYEE EVALUATIONS**

Employee job performance shall be evaluated annually on forms designed by the Borough Administrator. Department heads or their designees must prepare written evaluations for each employee and discuss those evaluations with the employee.

The employee must acknowledge that he/she has reviewed the evaluation. Department Head job performance shall be evaluated by the Borough Administrator and Mayor who shall discuss the evaluations with the individual Department Heads. Department Heads shall also acknowledge that they have reviewed the evaluation as prepared by the Borough Administrator and Mayor. All job performance evaluations shall be submitted to the Borough Administrator for review, action, if necessary, and filing.

Annual job performance evaluations shall be completed and submitted to the Administrator no later than June 30th of the current year. Evaluations that exemplify established standards with no need for improvement shall suffice for a period of one year unless a problem arises before the next

evaluation period. Should a problem precede the scheduled evaluation period, then an evaluation should occur and any corrective action should be noted. On all evaluations requiring corrective action, ninety-day reviews should occur until the noted deficiency is eliminated.

## **2.23 EMPLOYEE DISCIPLINE/TERMINATION**

The Borough has a duty and responsibility to take disciplinary action against Borough employees who violate federal and state laws as well as Borough policies, rules, regulations and procedures. Disciplinary action shall only be administered when the measure is in the best interest of the Borough. Neither the Borough nor of any of its employees should ever utilize such action as a retaliatory measure. The Borough Administrator and Mayor are the only Borough officials authorized to dispense final disciplinary action. Department Heads may make recommendations to the Borough Administrator regarding disciplinary action, but may only dispense such action that is approved by the Borough Administrator or Mayor.

The following actions are examples of infractions, which may result in disciplinary action by the Borough. The infractions listed below are illustrative but are not all-inclusive of the types of conduct warranting some form of disciplinary action:

- Falsification of public records, including attendance and other personnel records.
- Failure to report absence.
- Harassment of co-workers and/or volunteers and/or visitors including but not limited to sexual harassment.
- Theft or attempted theft of property belonging to the Borough, fellow employees, volunteers or visitors.
- Failure to report to work the day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence.
- Fighting on Borough property at any time.
- Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine) on Borough property and at any time during work hours.
- Possession, sale, transfer or use of intoxicants or illegal drugs on Borough property and at any time during work hours.
- Insubordination.
- Soliciting on Borough premises during work time (this shall not be deemed to prohibit fundraising or sales for charitable organizations among co-workers, provided that it is done in a non-coercive manner and in areas not accessible to the general public)
- Careless waste of materials or abuse of Borough tools, equipment or supplies.
- Deliberate destruction or damage to Borough or suppliers' property.
- Sleeping on the job.
- Carrying weapons of any kind on Borough premises and/or during work hours, unless carrying a weapon is a function of employee's job duties.
- Violation of established safety and fire regulations.
- Unscheduled absence, and chronic or excessive absence.
- Chronic tardiness.

- Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
- Defacing walls, bulletin boards or any other Borough or supplier property.
- Failure to perform duties, inefficiency or substandard performance.
- Unauthorized disclosure of confidential Borough information.
- Gambling on Borough premises.
- Horseplay, disorderly conduct and use of abusive and/or obscene language on Borough premises.
- Deliberate delay or restriction of employee's work effort, and/or incitement of others to delay or restrict their work effort.
- Conviction of a crime or disorderly persons offense.
- Violating any Borough rules, regulations, policies or procedures.
- Conduct unbecoming a public employee.
- Violation of Federal, State or Borough laws, rules, or regulations concerning drug and alcohol use and possession.
- Misuse of public property, including motor vehicles.
- Accepting money or material gifts from a vendor, or from the public for the performance of any act on behalf of the Borough while on duty
- Committing any act which endangers the safety, health or well-being of another person or the general public or which is of sufficient magnitude that the consequences cause disruption of work or gross discredit to the Borough
- Failure to be dressed properly for work
- Failure to carry out a work assignment
- Using loud or profane language while on duty
- Smoking in an unauthorized area.
- Operating Borough equipment without the use of the proper gear.
- Working at another job while receiving Worker's Compensation Benefits
- Traveling on a vacation while receiving Worker's Compensation Benefits without written approval from the Borough Administrator or Mayor
- Failure, or the inability to complete required training
- Failure to obtain or maintain a current license or certification required by law as a condition of employment
- The use of negative racial, religious, ethnic or sexual remarks when dealing with the public or other employees while on duty
- Falsification of Job Application information
- Other sufficient cause.

In cases of employee misconduct, the Borough believes in corrective action for the purpose of correcting undesirable behavior and preventing a recurrence of that behavior. The corrective action taken will be related to the gravity of the situation, the number and kind of previous infractions and other circumstances. All disciplinary action shall be in writing and employees shall be required to sign a form acknowledging receipt of the action. A copy of the disciplinary action will be placed in the employee's personnel file. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the applicable grievance procedure. Union

representation of the employee shall be in accordance with the applicable contractual provisions. Non-union employees have the option of being represented through the grievance process.

Disciplinary action may take the following forms:

- A. Oral Reprimand
- B. Written Reprimand
- C. Suspension With Pay Pending an Investigation
- D. Suspension Without Pay
- E. Demotion
- F. Dismissal or Termination of Employment

The Borough will normally follow a system of progressive discipline. At the discretion of Borough, however, action may begin at any step, and/or certain steps may be repeated or bypassed, depending on the severity and nature of the infraction and the employee's work/disciplinary record. In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing. Prior to the imposition of penalties of suspension without pay, demotion, and/or dismissal or termination of employment, an appropriate review will be provided, and an employee may be offered a hearing.

Neither this manual nor any other Borough guidelines, policies or practices create an employment contract. Employment with the Borough may be terminated at any time with or without cause or reason by either the employee or the Borough. **Nothing in this policy manual or any other Borough ordinance, guideline, policy or practice creates a right to removal for cause, or entitles an employee to any disciplinary review process other than the Grievance Policy.**

### **2.23a ATTENDANCE AND TARDINESS**

Hours of Employment for Office and Administrative employees shall be 8:30 am to 4:30 pm, or as agreed or negotiated. Hours for Union employees shall be by contract. Regular attendance at work, reporting on time, and completing the required hours of work are necessary for each employee so that the Borough may meet its commitments to its residents. Employee absences place an additional burden on the remaining work force and seriously affect the Borough's ability to service its residents. Management recognizes that circumstances beyond the employee's control may cause him or her to be absent from work for all or part of a day. The Borough, however, will not tolerate unexcused absence or tardiness.

All employees are expected to come to work regularly and on time and to promptly notify their immediate supervisor or other management designee by personal telephone conversation when they are unable to do so. Unless prevented by specific circumstances, the employee must provide notification at least one (1) hour prior to the beginning of work for his or her position. In twenty-four (24) hour shift operations, notice must be given a minimum of one (1) hour before the employee's starting time, unless extenuating circumstances prevent such notification.

Attendance and punctuality will be considered, among other factors, in the employee's performance review. If an employee needs to leave work early, the employee must receive permission from his or her supervisor to leave prior to the regularly scheduled departure time. An

employee who is absent from duty for five (5) or more consecutive working days without approval or notification or fails to return to work for five (5) or more consecutive working days following an approved leave of absence shall be deemed to have voluntarily resigned from their employment. To minimize the negative impact on both employees and residents, the Borough will regularly review employee time records to identify chronic absenteeism and/or tardiness problems. Employees who exhibit attendance and/or tardiness problems will be subject to established progressive disciplinary procedures.

## **2.24 WORK FORCE REDUCTIONS AND LAYOFFS**

The Borough may institute layoff actions for economy, efficiency or other related reasons, but will typically first consider voluntary alternatives.

Layoffs or reductions in the work force shall be in accordance with the applicable negotiations agreements. Under normal circumstances layoffs shall occur in the reverse order of hiring (seniority). However, the Borough Administrator will make the final determination and recommendation to the Mayor for the appropriate course of action.

## **CHAPTER 3 WORKPLACE POLICIES**

### **3.1 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The Borough is an equal opportunity employer and complies with the Civil Rights Act of 1964, all State and Federal regulations governing Affirmative Action and equal employment opportunity and provisions of the Federal Americans With Disabilities Act (ADA) and the New Jersey Law Against Discrimination (“LAD”).

It is the policy of the Borough to ensure equal employment opportunity for all persons, regardless of race, color, creed, national origin, ancestry, political affiliation, age, marital status, sex, affectional or sexual orientation, **physical and mental disability, domestic partnership status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy** (including pregnancy related medical conditions), breastfeeding, childbirth, liability for **service in the armed forces** or the presence of a non-job related medical condition or disability or any other legally protected class under the New Jersey or Federal anti-discrimination statutes.

This Policy shall apply to all phases of employment, including recruitment, selection, appointment, placement, promotion, demotion, transfer, training, salaries and wages, benefits, working conditions, lay-off and reductions in force, recall, disciplinary and dismissal actions, job performance evaluations, and the utilization, accessibility, and accommodation of all municipal buildings and facilities within the Borough. (See also Sections 2.1, 2.2 and 2.3) If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or, if they prefer, or do not think that the matter can be discussed with the supervisor, they should contact their Department Head, Human Resource, or Business

Administrator and follow the procedures outlined in the Borough Complaint Procedure that is set forth in Section 2.16 of this Handbook.

### **3.2 JOB DESCRIPTIONS**

Every position should have a job description that is kept on file in the Borough Administrator's office. The description should include, but not be limited to, the following: duties performed, hours and work scheduled, title of supervisory department assigned to, physical requirements if any, education, training and previous experience as needed. It must be noted that technology, re-engineering and changing service needs of citizens render many current descriptions inaccurate as to what the employee's job duties actually are and/or outdated. It is the responsibility of both the Borough Administrator and each employee to make sure that job descriptions stay current.

### **3.3 VEHICLE USAGE POLICY**

The Borough maintains a vehicle fleet to assist employees in the performance of their duties and in the timely delivery of local government services. This fleet consists of a wide variety of vehicles and specialized equipment that are utilized in a number of different and unique circumstances. Borough employees and officials must be diligent, and exercise due care to ensure adequate availability of vehicles and the effective use of all municipal vehicles on a consistent basis.

The majority of municipal vehicles are highly visible and often subject to public observation and scrutiny. As a result, criticism is frequently received from the general public concerning improper or unethical use of municipal vehicles. With the adoption of a policy on municipal vehicle use, accountability surrounding vehicles will increase, therefore, placing borough officials in a strong position to justify and defend usage of municipal vehicles on a uniform basis.

Certain Borough employees may be extended the privilege of taking municipal vehicles to their residence during non-working hours. This privilege can be offered on an emergency, temporary, or long-term basis, contingent upon the satisfaction of an evaluation criteria for such special usage of municipal vehicles. Such determination shall be made by the Borough Administrator.

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

Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks shall be made by the Department of Insurance, Compliance, and Education. Any employee who does not hold a valid driver's license of the appropriate class will not be allowed to operate a Borough vehicle until such time as a valid license is obtained. Employees who drive their own vehicle for Employer business must provide the Employer with a copy of their current Certificate of Insurance evidencing liability limits of \$500,000.00.

Any employee performing work which requires the operation of a Borough vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee that 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 their supervisor and continues to operate a Borough vehicle shall be subject to possible termination. Any information obtained by the Borough in accordance with this section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act.

Compliance with this policy is essential for the safety of Borough employees utilizing Borough owned/leased vehicles. Non-compliance with this policy shall result in possible disciplinary action up to and including termination.

### **3.3.1 VEHICLE USAGE GUIDELINES AND PROCEDURES**

Employees shall operate Borough owned/leased vehicles and personal vehicles used on official Borough business in a safe and economical manner.

1. It is the responsibility of every Borough employee / volunteer who drives a Borough owned/leased vehicle or personal vehicle on official Borough business to:
  - A. Operate the vehicle in a safe and courteous manner.
  - B. Know and obey all applicable State of New Jersey motor vehicle laws.
  - C. Abide by Borough of Hawthorne safety rules.
2. All drivers will possess a valid Driver's license appropriate to the classification of vehicle to be operated. Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks may be made by Department Heads or Division Supervisors. Any employee who does not hold a valid driver's license will not be allowed to operate a Borough vehicle until such time as a valid license is obtained. Any information obtained by the Borough in accordance with this section shall be used by the Borough only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act.
3. Upon request, an employee must provide a copy of their driver's license or other required documents within 24 hours of said request. Any Vehicle Operating Employee must immediately or within 24 hours notify his/her immediate supervisor if at any time the employee receives a major moving violation as defined above, the employee's license expires without renewal, is suspended or revoked, and/or is unable to obtain a license or permit required to perform assigned work (e.g., Class A CDL, Class B CDL, Hazardous Material permit, etc.) An employee that fails to report such an instance is subject to appropriate disciplinary action up to and including termination.

4. The operator shall make a visual inspection of the vehicle, prior to use, to ensure that the vehicle is in a safe operating condition.
5. In the event of an accident, proper risk control procedures will be followed to minimize the possibility of loss to life and property.
6. All vehicle collisions or property damage accidents must be reported to the police and internally for investigation. An employee who fails to immediately report such revocation or suspension to their supervisor and continues to operate a Borough vehicle shall be subject to possible termination.
7. No Borough vehicle will be left unattended with the keys in the ignition. Vehicles should be kept locked when not in use with interior contents out of sight.
8. Employees should be courteous behind the wheel and adhere to all traffic safety regulations and laws. Employees shall be held accountable by their Supervisor / Department Head for occurrences of poor driving involving Borough owned/leased vehicles or their personal vehicles on Borough business. Documentation of corrective action (including counseling) taken should be kept in individual's personnel file.
9. Smoking is not permitted in Borough vehicles.

### **3.4 ELECTRONIC / COMMUNICATION MEDIA POLICY**

The Borough's communication media are the Borough's property and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the Borough such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, fax, etc. and such communication media outlets dedicated to the Borough, including but not limited to, websites, social media, social publishing, social networking, discussion forums, media sharing networks, blogs, etc. Employees are restricted from accessing or using the Borough's Communication Media for personal purposes during Borough time on Borough equipment without prior authorization from the Administration to do so.

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

The Borough respects the individual privacy of its employees. However, employee communications transmitted by the Borough's Communication Media are not private to the individual. **All Communication Media and all communications and stored information**

**transmitted, received, or contained in or through such media may be monitored by the Borough. The Borough reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Borough of Hawthorne's Communication Media.** By using the Borough's equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by the Borough personnel. The existence of passwords does not restrict or eliminate the Borough's ability or right to access electronic communications. However, the Borough cannot require the employee to provide the password(s) to his/her personal account(s).

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act. Borough employees are required to use the assigned municipal email account for ALL Borough business and correspondence. The use of private email accounts for ANY Borough business or during business hours is strictly prohibited. Employees are hereby advised that if they conduct work-related business on their personal emails, social media accounts, cell phones, or other personal Communication Media, it is also subject to the provisions of the Open Public Records Act and may be subject to public disclosure. This includes text messages and voice mail messages sent and received on personal cell phones and other communications devices. However, nothing in this social media policy prevents employees from using his/her own personal Communication Media during the employee's non-working hours to engage or participate in protected concerted activities pursuant to all applicable laws. Protected concerted activities include when an employee addresses group concerns with the employer; forms, joins or helps a labor organization; initiates, induces or prepares for group action; or speaks on behalf of or represents other employees. Nevertheless, employees are encouraged to resolve workplace grievances internally by discussing issues with their supervisor and/or the Administration, and are asked to refrain from posting comments or materials on Communication Media that can be viewed as malicious, obscene, threatening, intimidating, or that could create a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law if the employee chooses to address their grievances using Communication Media.

Employees can only use the Borough's Communication Media for legitimate business purposes. Employees may not use Borough's Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Borough rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances. Further, discriminatory remarks, harassment, bullying, threats of violence and similar behavior that is not tolerated in the workplace are also not acceptable through Communication Media, whether same is performed on the Borough's equipment or on the employee's own personal Communication Media.

Exclusive representative employee organizations shall have the right to use the Borough's Communication Media to communicate with negotiations unit members regarding collective negotiations, the administration of collective negotiations agreements, the investigation of

grievances, other workplace-related complaints and issues, and internal union matters involving the governance or business of the union. Employees may use the Borough's Communication Media to during duty free periods while at work to engage in union-related communications or other collective activity protected under law, provided that such communications/activities do not interfere with work. Nothing in this policy shall be construed to interfere with, restrain, or prevent employees from engaging in protected concerted activities regarding wages, hours, or other terms and conditions of employment pursuant to applicable law.

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

Information security is necessary to protect the Borough's information (data and software) from accidental or intentional unauthorized disclosure, modification, or loss. Information security is managed under guidelines dealing with identification, authentication, authorization, production environment, and ability to audit. All employees should be familiar with such security measures adopted by the Borough of Hawthorne.

All employees may access only data for which the Borough has given permission. All employees must take appropriate actions to ensure that the Borough's data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized. All Borough of Hawthorne data must be stored centrally as required by the Borough. This provides greater security, and ensures backup of all Borough data is performed.

**Review of Stored Information and Temporary Files:** Borough Communication Media devices such as computers, laptop computers, iPads, net books, smart phones, cellphones and other electronic devices, record the history of an individual's Internet usage, including, but not limited, to the uniform resource locator (URL) of sites viewed, screen shots and images of the webpages visited and viewed, as well as other information specific to the Internet usage. Such information can be maintained on the hard drive or other storage device for the electronic device. Further, such information can be stored for a duration of 30 or more days and thereby be reviewable by the IT Manager and/or Borough Administrator, or one of their agents with authorization to review such information. Files that have been deleted from the computer hard drive can also be recovered and reviewed by the IT Manager and/or Borough Administrator, or one of their agents with authorization to review such information. Emails, including emails received or sent by way of password protected web-based email programs such as Gmail, Yahoo, Hotmail. Etc., or other files and documents that have been saved on the Borough's server or sent through the Borough's mail server can be recovered and reviewed through the appropriate server by the IT Manager and/or Borough Administrator, or one of their agents with authorization to review such information, regardless of whether the email was sent with a personal or Borough issued device and regardless of whether the email continues to be stored on the individual's electronic device.

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

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

Nothing in this policy shall be construed to interfere with, restrain, or prevent the use of the Township's communications media by employees engaging in protected concerted activities regarding wages, hours, or other terms and conditions of employment pursuant to applicable law.

### **3.4.a SOCIAL MEDIA POLICY**

Social Media and its uses in government and daily life are expanding each year however information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media, both at work and off duty. Only those Employees directly authorized by the Administration may engage in social media activity during work time through the use of the Borough's Communication Media, as it directly relates to their work and it is in compliance with this policy.

Employees must not reveal or publicize "Confidential Borough Information" as defined below. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. "Confidential Borough Information" includes, but is not limited to the transmittal of personnel information such as medical records or related information, and in law enforcement operations, it also may include criminal history information, confidential informant identification, and intelligence and tactical operations files.

Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the Borough. Such unauthorized communications may result in disciplinary action

No Borough employee shall post internal Borough documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/or actual documents themselves without the prior approval of the Borough Administrator. In addition employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Borough's Communication Media to any person, entity, business or media or

Internet outlet whether on or off duty without the express written permission of the Administrator. Except in “emergency situations,” employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough. For purposes of this section, an “emergency situation” involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the Borough’s Communication Media. If such situation occurs, employee agrees that any images belong to the Borough and agree to release the image to the Borough and ensure its permanent deletion from media device upon direction from the Borough.

No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the Borough or on behalf of the Borough, through the use of the Borough’s Communication Media may be issued unless it has first been approved by the Borough’s Administration. Specifically, employees are forbidden from using the Borough’s Communication Media to impersonate the employer; to make statements on behalf of the employer without authorization; and/or to make statements that can be construed as establishing what the employer’s official position or policy is on any particular issue. In addition, employees are prohibited from placing or posting on the Internet through the employer’s Communication Media or the employee’s own personal media, either during working or non-working hours, any employer-related confidential, sensitive or other employer information of a proprietary nature, including but not limited to employer records or documents, trade secrets, internal reports, tips based on inside information that may be considered insider trading, screenshots of computer stations, pictures of monitors and/or actual documents of the employer, any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incidents or occurrences.

Because (authorized) postings placed on the Internet through use of the Borough’s Communication Media will display on the Borough’s return address, any information posted on the Internet must reflect and adhere to all of the Borough’s standards and policies.

All users are personally accountable for messages that they originate or forward using the Borough’s Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user’s identity on any Communication Media is prohibited. “Spoofing” (constructing electronic communications so that it appears to be from someone else without a legitimate authorized purpose and authorized by the Borough Administrator is prohibited.

Employees must respect the laws regarding copyrights, trademarks, rights of public Borough and other third-party rights. Any use of the Borough’s name, logos, service marks or trademarks outside the course of the employee’s employment, without the express consent of the Borough, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

If employees choose to identify themselves as a Borough of Hawthorne employee on their personal social media accounts and even those that do not should be aware that he or she may be viewed as acting on behalf of the Borough, as such no employee shall knowingly represent themselves as a

spokesperson of the Borough, post any comment, text, photo, audio, video or other multimedia file that expresses views that are detrimental to the Borough's mission or undermine the public trust or is insulting or offensive to other individuals or to the public in regard to religion, sex, race or national origin. Borough employees are encouraged to exercise extreme caution posting photographs of themselves in uniform or in situations where they can be readily identified as Borough employees.

To the extent that employees use social media outside their employment while engaging in protected concerted activities as defined above, employees will not be subject to discipline or retaliation for expressing views, opinions, and/or facts surrounding the Borough's employment policies. For all other communications by employees on personal social media sites in which matters related to the Borough are discussed, employees must add a disclaimer on the front page stating that the posting does not express the views of the Borough, and that the employees are expressing their own personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." The disclaimer must be placed in a prominent position and repeated for each posting that is expressing an opinion related to the Borough or the Borough's business, with the exception of postings and social media communications by employees engaging in protected concerted activities. Employees are advised that if they post information on social media that is in violation of either the terms and conditions of the within social media policy, or in violation of federal, state, or local laws, the disclaimer will not shield them from disciplinary action. However, no retaliation or discipline will result if and when employees are engaging in protected concerted activity, and/or choose to report inappropriate social media activities to the Borough Administration.

Elected officials, officers and employees who create and use personal social media accounts to discuss Borough business may be subject to legal restrictions on their ability to delete and block comments from others and/or to block members of the public from viewing or commenting on those personal accounts. In addition, the names of any members of the public blocked from viewing or commenting on those personal accounts may constitute "public records" subject to disclosure under the Open Public Records Act. Advice of counsel should be sought before engaging in any such deletion or blocking of comments or viewing.

Nothing in these policies is designed to interfere with, restrain, or prevent social media communications by employees engaging in protected concerted activities regarding wages, hours, or other terms and conditions of employment pursuant to applicable law. . All Borough employees have the right to engage in or refrain from such activities.

**The Borough will not require or request that any employee or job applicant disclose a user name, password, or other access credentials for personal social media accounts, in accordance with New Jersey law (N.J.S.A. 34:6B-5.1).**

### **3.4.b USE OF INTERNET**

The Borough provides Internet access to its employees in order to make available a vast array of information resources and to allow participation in and access to increasing county and state resources.

Employees must comply with all policies adopted by the Borough, including but not limited to policies regarding prohibition of discrimination and harassment and all applicable federal, state and local laws, including laws governing the transmission and dissemination of information while accessing the Internet. Employees who are using the internet may not:

- Use the network to make unauthorized entry into other computational, informational or communication services or resources;
- Distribute unsolicited advertising;
- Invade the privacy of others;
- Make any attempt to damage computer equipment or software;
- Engage in any activity that is harassing or defamatory, or which could create a hostile work environment;
- Use the Internet for any illegal activity, including violation of copyright or other rights of third parties, or in a manner inconsistent with the Borough's tax-exempt status or its proper operation; and/or
- Download unauthorized software, fonts, templates or scripts.

As stated in the Communications Policy above the Borough reserves the right to monitor the employee's Internet usage. In addition the Borough has the right to restrict access to specific types of prohibited content through the use of a content filtering system.

### **3.4.1 TELECOMMUNICATIONS POLICY**

If you have a Borough issued cellular phone, the following guidelines shall apply:

The order of operation for communication is to use the radio first (if available and practical), then the cell phone.

Unless otherwise indicated, the phones provide collective calling minutes of cell phone time (outgoing and incoming time is charged). Borough issued cell phones may have text enabled capabilities, at the sole discretion of the Borough, and are subject to the same rules contained in this policy. If the Borough incurs additional charges due to non-business usage of collective calling minutes, the Borough employee may be responsible for the additional fees related to their usage for non-business activities. You will be required to write a check reimbursing the Borough and you will need to provide a memo explaining the excessive use of the phone.

MAINTENANCE OF TEXT/VOICE MESSAGES – It is recognized that maintenance of electronic text and voice messages on certain devices is not within the control of the Borough, and that the Wireless Service Provider will automatically delete these messages after a period of time. In the interim period from the time a text or voice message is sent or received until it is automatically deleted by the Wireless Service provider, all employees, elected and appointed officials and volunteers who use text and voice messaging are prohibited from deleting text and voice messages pertaining to Borough business.

OPRA REQUESTS – OPRA requests for text and voice messages may be filed with the Borough. In those instances, employees, officials and volunteers who have responsive Borough business text and voice messages that have not been automatically deleted by the Wireless Service Provider on their personal or Borough issued phones are required, upon notification of the request, to give the Borough Clerk a transcript of the requested message or the wireless cell phone to enable the Borough Clerk to produce and provide a certified transcript of the text/voice message to the requestor, within seven (7) business days of receipt of the OPRA request.

PROHIBITED PRACTICES - No Borough employee shall create, send, or read received text messages while driving any vehicle or operating any Borough equipment. All employees, elected and appointed officials, and volunteers are required to pull over to a location where the vehicle can be safely parked or cease operating equipment before creating, sending, or reading any text messages. This applies to use of Borough issued cell phones and personal cell phones.

USER RESPONSIBILITY – All employees, elected and appointed officials and volunteers are responsible for the content of their text and voice communications. Every public official, employee, and volunteer has the responsibility to use texting and voice mail in a lawful, ethical and professional manner consistent with their respective duties and all Borough policies and ordinances. The Borough reserves the right to access and monitor all text and voice messages created, sent or received through the Borough issued wireless cell phones.

Your Borough issued phone must be on during your normal working hours. Use of the phone on off-hours will be guided by circumstances (impending snow storms, water main breaks, known emergency situations, etc.) and your supervisor will instruct you accordingly.

On a case-by-case basis, if you break or damage the phone, the employee will be required to replace it, at the replacement rate.

### **3.4.2 PERSONAL CELL PHONE USE**

As a Borough we strive to support a work environment that is productive and free of distractions. It is the Borough's expectation that all personal cell phones will be off or on silent during normal business hours so normal workflow remains undisturbed. If an employee uses his/her personal cell phone for business purposes, it should be with the knowledge and authorization of the employee's supervisor. Otherwise, it is expected that employees will only use their personal cell phones for personal purposes in the event of an emergency or while taking on break. Personal cell phones are not to be used to record or share confidential information or use the Borough's network to download illegal or inappropriate materials from the internet.

### **3.5 BULLETIN BOARD POLICY**

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

### **3.6 PREPARATION AND HANDLING OF BOROUGH RECORDS**

Accurate, reliable records of many kinds are essential to meet the legal and financial obligations, and to manage the affairs of the Borough. Reports, vouchers, bills, payroll and service records, and all other necessary data must be absolutely factual and accurate.

Any person who intentionally makes a false accounting entry on a Borough record or report, or intentionally destroys or alters any records, will be subject to disciplinary action including possible dismissal and/or criminal prosecution where warranted.

### **3.7 PROTECTION AND USE OF BOROUGH PROPERTY AND FACILITIES**

The Borough buys equipment, tools, materials, uniforms, vehicles and supplies for the conduct of its business. Each employee has a personal responsibility for this municipal property as follows:

- A. They may be used only for the conduct of Borough business and shall not be used by anyone for other purposes without specific supervisory authorization.
- B. Each employee must take all necessary steps to prevent the theft, loss, and damage to or misuse of Borough property. Such steps include seeing that buildings, and storage areas are locked before leaving, that parked vehicles are locked, that tools, supplies and equipment are properly used, stored and safeguarded.
- C. No employee may take, sell or give away Borough property regardless of its condition, without specific authorization by the Borough Administrator and Council, as outlined by the Division of Local Government Services (DLGS) and New Jersey Statutes Annotated.

Failure to fulfill these responsibilities provides grounds for disciplinary action, including dismissal.

#### **3.7a SECURITY POLICY**

The Borough makes every effort to provide for employees' safety and security while at work. The Borough, however, does not accept responsibility for the protection of employees' personal property. The Borough is not liable for loss or damage to personal property.

The Borough maintains a work environment that is free of illegal drugs, alcohol, unauthorized firearms, explosives, or other improper materials. To this end, the Borough prohibits the possession, transfer, sale, or use of such materials on its premises. The Borough requires the cooperation of all employees in administering this policy. Desks, lockers, other storage devices, and Borough vehicles may be provided for the convenience of employees, but remain the sole property of the Borough. Accordingly, they, as well as any articles found within them, can be inspected by any agent or representative of the Borough at any time, either with or without prior notice. The Borough may conduct video surveillance of Borough property to, among other things, identify safety concerns, detect theft, and discourage or prevent acts of harassment and workplace violence. Additionally, the Borough may monitor employee e-mails.

Security is everyone's responsibility. If any employee sees or suspects that an individual is breaching security, it is the employee's responsibility to notify his or her supervisor or Department Head immediately. In the event a serious incident occurs, employees must report it to their Department Head promptly. The following are examples of serious incidents that should be reported immediately:

1. Any accident which results in the injury of a third party while on the premises.
2. Any incident in which physical force is either used by or against an employee.
3. Any incident which involves a crime, or an attempt to commit a crime, such as robbery or the theft of money.
4. Any incident in which a serious unfavorable reaction from the public might be expected.
5. The loss of Borough of Hawthorne keys.
6. Any other incident, which an employee believes is of a nature that it should be brought to the attention of the Department Head without delay.

Employees are encouraged to make any reports, in writing, so that they may be properly addressed by the Borough of Hawthorne.

### **3.8 RESPONSIBILITY FOR HANDLING BOROUGH FUNDS**

Employees who have access to Borough funds should know and follow procedures for handling and protecting money and checks.

If your job requires spending Borough funds or incurring personal expenses that will be reimbursed by the Borough, it is your personal responsibility to see that the Borough gets value received for money expended.

Certification as to the correctness of vouchers and bills should be made with reasonable knowledge that the expenditures and amounts are proper.

### **3.9 CONFIDENTIALITY**

Some of the business conducted by the Borough, including but not limited to litigations and/or specific personnel issues are of a proprietary, sensitive and/or confidential nature. It is therefore essential that Borough employees not discuss such business in public. While most of the Borough's actions are public actions, which, under the law are subject to public disclosure, the decision to disclose such actions rests with the Mayor and Borough Council and not with any individual employee.

### **3.10 PERSONAL INTEGRITY**

A. All employees are expected to abide by, and where appropriate, enforce all municipal ordinances.

B. All members of the Police Department are expected to exercise their duly authorized police powers at all times whether on regularly scheduled assignments or off-duty.

### **3.11 ID CARDS**

In an effort to improve customer service and security, the Borough has developed an employee photo identification (ID) badge program for non-first responder employees. The goal of this program is to provide an extra level of customer service and security by requiring employees to display and/or carry their photo ID badges when they are on duty. These badges will allow the individuals to be quickly identified as Borough employees.

For the purpose of this policy, “employee” shall refer to any Borough of Hawthorne full-time, part-time, and/or seasonal employees working within the Department of Public Works and/or Borough Hall (apart from sworn police officers). In addition, this policy may apply discretionarily to “non-employees” including individuals working as part of contracted/shared services within the Borough of Hawthorne on a regular basis.

Any employee or non-employee as defined above, that was issued a “First Responder Identification” ID card/badge by another agency, is NOT exempt from this policy.

The Borough issued photo ID badge will contain the employee’s photo, name, job classification (department, position), height, eye color, and employee ID number, and include an expiration date. Employee IDs shall expire two (2) years after issuance. Expiration dates for seasonal/temporary and non-employee IDs shall be in accordance with their prescribed employment / duty, at the time of issuance, on a case by case basis. Monitoring and compliance of non-employee IDs shall be the responsibility of the Borough Administrator, and/or his/her designee.

All on-duty employees will be required to have their Borough issued photo ID badge on their person at all times while on duty. This ID badge will be worn face forward in full view, on or over the outermost garment, at or above the waist. Employees who are off-duty, but who are entering into an area within a Borough building or facility, in which the public does not normally have access, must wear their ID badge in accordance with this policy.

Each department will be responsible for ensuring that ID badges are worn or carried, as required. Upon approval by the Supervisor / Department Head or his/her designee, individual departments may exempt their employees from wearing their ID badge if wearing a lanyard, pulley, or clip presents a safety hazard to the employee due to the nature of their job duties. These employees, however, are required to carry their ID badge in order to provide further identification, if necessary. Violations of this policy may result in disciplinary action up to and including termination.

ID badges will be issued to new employees upon hire or within a reasonable amount of time after the start of their employment. Lost or stolen ID badges shall be immediately reported to the employee’s Supervisor/ Department Head. The Borough Administrator’s assistant will assist employees in obtaining a replacement ID badge. There will be no charge for replacement ID badges.

Optional Borough issued lanyards (around the neck ID badge holders) will be available at no cost for employees through the Borough Administrator’s office. ID badges may also be attached using

an ID pulley and/or clip. Employees may opt to wear personal lanyards, pulleys, or clips; however, the style must not depict any offensive materials or slogans. If necessary, the final determination of what may be considered “offensive” to the Borough shall be at the discretion of the Borough Administrator and/or Mayor.

All lanyards worn around the neck shall have an emergency break away clasp to help prevent injuries. Identification photos will not be used for any purpose other than employee photo ID badges or security measures. All employees, upon separation from the Borough of Hawthorne, are required to return their badge to their respective Supervisor, Department Head or the Borough Administrator / Mayors office.

Procedures to obtain a photo ID badge are as follows:

- **New Employees:** New employees will complete an Employee ID Badge Request Form, be photographed, and issued at or around the start of their employment.
- **Current Employees:** Current employees who have not been photographed for an ID badge should contact the Borough Administrator / Mayors office to schedule an appointment and complete the Employee ID badge Request Form with required signatures.
- **Non-Employees (volunteers, contracted):** A department may request that volunteers, interns, etc. working at a Borough department site obtain an ID badge. The Supervisor or Department Head should contact the Borough Administrator / Mayor’s office to schedule an appointment for the non-employee to be issued a badge.

To request a new photo ID badge, complete an Employee ID Badge Request Form with required signatures. Indicate “replacement” under ID Badge Type on the form. Then, contact the Borough Administrator / Mayors office for an ID badge photo appointment, and provide completed Employee ID Badge Request Form.

When separating from employment with the Borough, employees must submit ID badge to Borough Administrator / Mayors office. ID Badge may also be collected by employee’s Supervisor or Department Head. In the event a Supervisor or Department Head collects the employee’s ID Badge - Supervisor will submit the ID Badge to the Borough Administrator / Mayors office for final processing.

### **3.12 EMPLOYEE DATING POLICY**

Romantic relationships among employees frequently lead to problems in the workplace. They may result in favoritism, discrimination, unfair treatment, friction among co-workers, or the perception that they generate such problems. Therefore, the Borough has adopted the following policy.

No elected official, officer or employee holding a supervisory, administrative, or managerial position having the authority to affect or recommend changes in the terms and conditions of employment, shall engage in a romantic, dating, or intimate/sexual relationship with another employee of the Borough whom he/she supervises, or whose terms and conditions of employment he or she can influence. Examples of terms and conditions of employment for purposes of this policy include but are not limited to promotion, evaluation, assignment, review or allocation of work, termination, training, discipline and compensation.

Violations of this policy may be met with appropriate discipline, transfer, or other appropriate personnel action as the Borough deems appropriate under the circumstances. Further, the Borough reserves the right to address any workplace issues that may result from the relationship in a manner it deems appropriate.

Employees considering entering into a dating, romantic or intimate relationship with another Borough employee, even in circumstances not prohibited under this policy, are strongly encouraged to review and consider all Borough policies regarding workplace conduct, including but not limited to policies pertaining to sexual and other forms of workplace harassment, as well as the policy on conflicts of interest, and to be guided accordingly.

Further, all employees, irrespective of their personal relationship, are expected to conduct themselves in a professional manner while at work and during Borough's formal events and functions and refrain from overt displays of affection or emotion that are or may be perceived as inappropriate in a professional setting.

Employees may report violations of this Dating Policy to the Borough Administrator.

### **3.13 NO SMOKING**

Consistent with State law, the Borough has adopted a smoke-free policy for all buildings. For purposes of this policy, "Smoking" includes the use of e-cigarettes and vape products as well as smoking of tobacco-related products. Borough facilities are smoke-free. No employee or visitor will be permitted to smoke anywhere in Borough buildings. Employees are permitted to smoke only outside Borough buildings and in such locations that will not allow the re-entry of smoke into building entrances. Smoking inside vehicles owned by the Borough, smoking near equipment that may be adversely affected by smoke, smoking in any location in which smoking may cause a fire or explosion hazard, and smoking in any building (residential or commercial) while the employee is performing services on behalf of the Borough, are also prohibited. This policy shall be strictly enforced and any employee found in violation will be subject to disciplinary action.

### **3.14 APPEARANCE POLICY**

Employees are expected to present themselves in a neat, business-like manner and shall dress appropriately for the work they perform. At the Borough's discretion, individual departments may implement specific dress code requirements based on operational needs, safety considerations, or uniform standards. Uniforms, where required, shall be worn in accordance with applicable departmental policies.

All dress code and grooming standards must be applied in a manner that is consistent with the New Jersey Law Against Discrimination (LAD), which prohibits discrimination based on gender identity or expression. Employees shall be permitted to comply with applicable dress and grooming standards in a manner that aligns with their sincerely held gender identity or expression. No employee shall be required to dress in a manner inconsistent with their gender identity. Employees who violate this policy may be required to take corrective action, up to and including

being sent home without pay. However, enforcement must be carried out in a manner that is neutral, lawful, and respectful of employees' rights under the LAD.

Department heads and supervisors must enforce dress policies equally, without regard to an employee's sex, gender identity, or gender expression. Appearance standards that impose differing requirements on employees based on perceived gender are not permitted.

### **3.15 DOMESTIC VIOLENCE POLICY**

The Borough has adopted the Statewide Domestic Violence Policy for Public Employers released by the New Jersey Civil Service Commission. The Borough has designated the Borough Administrator as the Human Resources Officer (“HRO”) to assist employees who are victims of domestic violence. Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. The Borough has developed a plan to identify, respond to, and correct employee performance issues that may be caused by a domestic violence incident.

### **3.16 PROTECTION OF MINORS**

The Borough of Hawthorne is fully committed to protecting the health, safety and welfare of minors who interact with officials, employees, and volunteers of the Borough, to the maximum extent possible, and has adopted a policy which establishes the guidelines for officials, employees, and volunteers who set policy for the Borough or may work with or interact with individuals under 18 years of age, and those who supervise employees, and volunteers who may work with or interact with individuals under 18 years of age, with the goal of promoting the safety and well-being of minors.

## **CHAPTER 4 PROCEDURES FOR HIRING**

### **4.1 RECRUITMENT**

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

### **4.2 APPLICATIONS**

All candidates must fully complete an application form. A resume will not be considered as a substitute for this form. The application is a confidential document and will not be available to anyone who is not directly involved in the hiring process, except as required by law.

### **4.3 INTERVIEWS**

The Borough Administrator or Department Head will coordinate the interview process including the scheduling of applicants, development of interview questions and standards to measure candidate responses. All questions must be in accordance with the New Jersey Division of Civil Rights Guidelines for Pre-Employment Inquiries and the Americans with Disabilities Act. The Borough will make reasonable accommodations to known physical and mental limitations of all applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided the accommodation does not impose an unreasonable hardship on the Borough.

### **4.4 PHYSICAL EXAMINATIONS**

In accordance with the Americans with Disabilities Act and the New Jersey Law Against Discrimination, after an offer of employment is made and prior to commencing employment, the Borough Administrator may require applicants to pass a physical examination in order to insure that they can perform the duties of their position without injury to themselves or others. The same post-offer physical examination must be performed on all applicants for a particular position.

The Borough Administrator may, with sufficient cause, require periodic physical examinations to determine an employee's continued ability to perform the duties of the position. All such physical examinations must be performed by a physician chosen by the Borough at the expense of the Borough. All medical records of employees and prospective employees are confidential and are to be maintained by the Borough Administrator separate from the employee's official personnel file. Medical exams may include tests for drug and alcohol use.

### **4.5 SELECTION PROCESS FOR POLICE HIRINGS**

The process for applications, testing, selection and appointment of police officers shall be governed by regulations recommended by the Police Chief and approved by the Mayor pursuant to Hawthorne's Police Ordinance (Chapter 44).

### **4.6 JOB OFFERS**

The final decision will be made by the Mayor (for department directors, police officers and other employees appointed by the Mayor), or in other cases by the appropriate Department Director, after all references and other information has been verified. Every effort shall be made to offer reasonable accommodations to known physical and mental limitations of all applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an unreasonable hardship on the Borough. The employment offer must be made in a letter to the candidate outlining all terms and conditions of the offer. The letter will also establish a deadline for acceptance.

## **4.7 ACCEPTANCES AND REJECTIONS**

Once a candidate accepts the employment offer, all other candidates will be notified in writing that they were not accepted for the position. If the first offer is rejected, the Mayor or Department Director will decide to hire another candidate or re-open the position.

### **4.7.1 EMPLOYABILITY PROOF**

After acceptance of a job offer, but no later than the first day of employment, all new employees shall be required to fill out an employment verification form (I-9) and provide the required documentation of the employee's authorization to work in the United States set forth in the I-9 form. See Policy 4.12.

## **4.8 RECORD RETENTION OF APPLICANT INFORMATION**

All applications, notes made during interviews and reference checks, job offers and other documents created during hiring process must be returned to the Borough Administrator. Documents related to the successful candidate will be placed in the employee's official personnel file except medical records including physical examinations must be maintained in a separate file. All records documents related to other candidates must be retained for at least one year. Records and documents created during the hiring process are confidential and must be retained in a locked cabinet.

## **4.9 BACKGROUND CHECKS**

Background checks shall be made prior to employment and will be completed according to a procedure established and approved by the Borough Administrator and / or governing body.

The Borough will comply with the provisions of the New Jersey Rehabilitated Convicted Offender Act, and complies with the policy set forth in Title VII, that hiring and retention decisions be made on the basis of job-related factors.

This policy shall be construed as operating in addition to any Federal or State statute or regulation requiring background checks for specific job titles. Where such regulation governs, the Borough regards that law as preclusive and compliance mandatory. Employment determinations for positions covered will be made under the procedures set forth in such regulations.

## **4.10 PROCESSING AND ORIENTATION OF NEW EMPLOYEES PROCEDURE**

All new regular full-time and regular part-time employees will be scheduled to meet with the Borough Administrator, or designee, on their first day for a general orientation. Copies of all

forms and acknowledgements must be returned to the Borough Administrator for inclusion in the employee's official personnel file. The orientation will include:

- A tour of the appropriate facilities, by Supervisor or Department Head, to acquaint the new employee with overall operations as they relate to the specific position;
- The completion of all pertinent personnel, employment authorization, payroll, insurance and pension forms;
- A review of the Employee Handbook and acknowledgement of receipt;
- A safety orientation and acknowledgement; and
- Arrangements for the new employee to complete required PEOSHA safety training as arranged by the Safety Officer.

#### **4.11 EMPLOYMENT REFERENCES**

To ensure that individuals who work for the Borough of Hawthorne are well-qualified and have a strong potential to be productive and successful, it is the policy of the Borough to check the employment references of all applicants at the Borough's discretion.

Employees should not, under any circumstances, provide another individual with information regarding a current or former employee. Any employee, including Department Heads, who receives a request for reference information should forward the request to the Borough Administrator's office. Generally, unless otherwise required by law, the Borough will only confirm employees' name, title, salary, compensation, dates of service, reason for separation, if applicable, and specific educational or medical qualifications required for employment. The Borough's response to a request for reference information shall be communicated in writing only.

A current or former employee may also authorize the Borough to release additional information. Unless otherwise required by law, the Borough will only release additional information if the current or former employee provides authorization, in writing.

#### **4.12 I-9 COMPLIANCE**

Pursuant to the Immigration Reform and Control Act of 1986 (IRCA), the Borough is required to verify the identity and employment authorization of all individuals hired for employment in the United States, regardless of citizenship.

All new employees must complete Form I-9, Employment Eligibility Verification, no later than the first day of employment. This process may begin only after an offer of employment has been made and accepted. The employee must also present original documents from the lists of acceptable documents published by the U.S. Department of Homeland Security to verify both identity and authorization to work in the United States.

Failure to complete the I-9 form or to provide the necessary documentation within three (3) business days of the first day of employment will result in suspension or termination of employment.

Employees involved in completing or managing I-9 forms must ensure compliance with federal documentation limits and proper electronic recordkeeping. Overcollection of documents or unverified storage may expose the Borough to audit penalties.

Employees who possess temporary work authorization must present updated documentation before their current authorization expires. Failure to do so may result in removal from the payroll or termination of employment, as continued employment without valid work authorization is prohibited by federal law.

The Borough shall not knowingly hire or continue to employ any individual who is not authorized to work in the United States. Hiring or continued employment in violation of IRCA is a federal offense and may result in civil penalties and fines.

Employees who knowingly submit false, altered, or fraudulent documents in connection with the I-9 process shall be subject to immediate termination of employment and may be referred to federal authorities. The Borough has zero tolerance for document fraud or misrepresentation related to work eligibility.

The Borough shall retain all completed I-9 forms for the duration of the employee's employment and for the period required by federal law thereafter. These records shall be maintained in a confidential file separate from personnel records and made available for inspection upon request by authorized federal agencies.

This policy shall be applied in a uniform, non-discriminatory manner in accordance with IRCA's anti-discrimination provisions. The Borough shall not discriminate against any individual on the basis of national origin, citizenship status, or immigration status.

## **CHAPTER 5 PAID AND UNPAID TIME OFF POLICIES**

### **5.1 CHANGE OF STATUS FOR EMPLOYEES**

If an employee changes their status from Part-time to Full-time, their benefits commence at the start of their full time job acceptance.

Paid leave of absences for employees who change their status from Part-time to Full-time, or visa-versa, will be in accordance with the schedules contained in their employment agreement.

Employees coming from a part-time to a full-time employment shall have their vacation benefits calculated on a pro rata basis. NOTE: Two years of part time equal one year of full time.

#### **5.1.2 FULL TIME STATUS OF NON-UNION EMPLOYEES**

For determining eligibility for benefits that accrue to full-time employees, full-time employees shall be considered those with a regular schedule of thirty-five (35) or more work hours per week.

### **5.1.3 PAID LEAVE AND HOLIDAYS FOR PART-TIME EMPLOYEES**

Part-time employees working a minimum of 20 hours per week will receive pro-rated portion of paid holidays and paid leave in accordance with the schedule contained in this handbook, or an individual employment contract.

Part-time employees who work less than 20 hours per week will earn Paid Time Off only as required by the New Jersey Paid Sick Leave Law, which is described in Section 5.3.1.3 below.

Seasonal and Temporary Employees are ineligible for paid holidays and only earn Paid Time Off as required by the New Jersey Paid Sick Leave Law, described in Section 5.3.1.3.

## **5.2 PAID HOLIDAYS**

Non-union white collar employees including supervisors shall receive holidays in accordance with the agreement with the White Collar unit. Public works managers & supervisors shall receive holidays in accordance with the agreement with the Blue Collar unit.

Employees with religious convictions and beliefs which interfere with the employee's work schedule other than on the traditional dates of observance must contact the Borough Administrator in advance to make alternative arrangements.

### **5.2.1 WEATHER EMERGENCIES**

Weather emergencies such as blizzards, flooding, hurricanes, or other weather conditions which preclude the employee from getting to work are not to be considered holidays unless the Mayor and Council by resolution so designate those days as holidays.

If the Borough is open and an employee is unable to report to work due to a severe weather event, the employee's absence will be excused; however, he/she will be required to use benefit leave time such as personal day, compensatory time, or vacation day, to be in a paid status.

## **5.3 PAID LEAVES OF ABSENCE**

The following categories outline and explain the types of paid leaves of absence available to Borough employees:

### **5.3.1 PAID TIME OFF (includes Vacation and Personal Days)**

As used in this Section 5.3, the term "Paid Time Off" refers to and includes any vacation or personal days earned by an employee under an employment contract, Borough Policy, or under the New Jersey Paid Sick Leave Law. The term "Paid Time Off" does not include Sick Leave

which is provided under an employment agreement, which is governed by the rules applicable to Sick Leave.

### **5.3.1.1 VACATION LEAVE ALLOTMENT - FULL TIME EMPLOYEES**

Full-time non-union employees shall receive paid vacation leave according to the following schedule:

- A) During the first calendar year of employment, one-half (1/2) day for each month worked, up to a maximum of five (5) days for the year.
- B) For the first through the fourth years of employment, ten (10) days annually.
- C) For the fifth through eighth years of employment, fifteen (15) calendar days annually.
- D) For the ninth year of employment and thereafter, twenty (20) calendar days annually.

The Borough Administrator, Department Directors and other non-union management employees shall receive vacation leave as negotiated upon appointment; if no provisions were negotiated, the above schedule shall apply.

The Police Chief shall receive vacation according to the PBA Superior Officer's collective negotiations agreement.

### **5.3.1.2 PERSONAL LEAVE**

Non-union white collar employees including supervisors shall receive paid personal leave in accordance with the agreement with the White Collar unit. Public works managers and supervisors shall receive paid personal leave in accordance with the agreement with the Blue Collar unit. The Police Chief shall receive paid personal leave in accordance with the PBA Superior Officer's collective negotiations agreement.

### **5.3.1.3 VACATION LEAVE - PART-TIME EMPLOYEES**

Part-time employees working a minimum of 20 hours per week will receive pro-rated portion of vacation leave in accordance with the schedule contained in their individual employment contract.

Part-time employees who work less than 20 hours per week will earn Paid Time Off only as required by the New Jersey Paid Sick Leave Law, which is described in Section 5.3.1.4 below.

Seasonal and Temporary Employees only earn Paid Time Off as required by the New Jersey Paid Sick Leave Law, described in Section 5.3.1.4.

### **5.3.1.4 COMPLIANCE WITH THE NEW JERSEY PAID SICK LEAVE LAW**

The Borough complies with the New Jersey Paid Sick Leave Act, N.J.S.A. 34:11D-1 et seq., which requires all New Jersey employers to provide earned sick leave. All Borough employees—including full-time, part-time, and temporary staff—are eligible to accrue and use paid sick leave unless a specific statutory exemption applies.

Employees accrue one (1) hour of paid sick leave for every thirty (30) hours worked, up to a maximum of forty (40) hours in each benefit year. The Borough has designated January 1 through December 31 as its benefit year. Accrual begins on the first day of employment, and employees may begin to use accrued sick leave on the 120th calendar day after their start date. After that time, leave may be used as it is earned. Employees may carry over up to forty (40) hours of unused sick leave into the next benefit year, though no employee is entitled to use more than forty (40) hours in a single benefit year.

Paid sick leave may be used for the following purposes: (1) the employee’s own diagnosis, care, treatment, or recovery from a mental or physical illness, injury, or preventive medical care; (2) to care for a family member under the same circumstances; (3) absences related to the employee or a family member being a victim of domestic or sexual violence, including obtaining medical care, victim services, counseling, relocation, or legal remedies; (4) closure of the employee’s workplace, or of a child’s school or place of care, due to a public health emergency, or the employee’s or a family member’s need to quarantine; and (5) attending a school-related conference, meeting, or event regarding the employee’s child.

For purposes of this policy, “family member” is defined broadly to include a child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, grandparent, any individual related by blood to the employee, or any other individual whose close association with the employee is the equivalent of a family relationship.

Employees must provide reasonable advance notice, up to seven (7) days, if the need for leave is foreseeable, such as for scheduled medical appointments or school events. Where the need is unforeseeable, notice must be given as soon as practicable. If an employee uses three (3) or more consecutive workdays of sick leave, the Borough may require reasonable documentation consistent with the law.

Unused earned sick leave is not paid out at the time of separation from employment, whether by resignation, retirement, termination, or otherwise, unless required under an applicable collective negotiations agreement or individual contract. If an employee is rehired within six (6) months, previously accrued but unused sick leave will be reinstated.

The Borough strictly prohibits retaliation, discipline, or discrimination against any employee who requests or uses paid sick leave, files a complaint, or otherwise exercises their rights under this policy or the law.

Employees may use earned sick leave in the smallest increment that the Borough uses to track time worked for payroll purposes. Employees begin accruing sick leave on their first day of employment but may not use it until the 120th day of employment. Unused earned sick leave

may be carried over from year to year, up to a maximum of forty (40) hours, but does not need to be paid out upon separation from employment.

### **5.3.1.5 CARRYOVER AND PAYOUT OF PAID TIME OFF**

Employees who have not used all of the Paid Time Off earned pursuant to the Paid Sick Leave Law in the current calendar year have the option of carrying over up to 40 hours of Paid Time Off into the next calendar year. Any such carried over time must be used in the next calendar year and cannot be accumulated forward. The Borough retains the right to receive up to 7 days advance notice of a request for such leave and to verify that the Paid Time Off is being used for a permitted purpose under the Paid Sick Leave Law (See Section 5.3.1.4)

Except as provided for in an applicable collective negotiations agreement or employment contract, employees are not entitled to receive a lump sum payout of unused Paid Time Off upon separation of employment.

An employee who gives notice of resignation or retirement and then begins to use accrued Paid Time Off and other forms of accrued paid leave during the notice period is expected to follow through with the resignation or retirement and not return to active employment once the employee starts using the paid leave in the notice period.

### **5.3.2 USE OF SICK LEAVE / DISABILITY LEAVE**

The amount of paid sick leave for union employees is determined under the terms of the applicable employment agreement or by Borough Policy. This contractual Sick Leave is separate from Paid Time Off, which is addressed in Sections 5.3.1 above. The rules for the scheduling and use of contractual sick leave are set by collective negotiations agreement and/or Departmental policies and procedures. Contractual sick leave is intended to be used only for the employee's own illness. The allocation of sick time and rules for its use for non-union white collar employees working more than 20 hours per week, including supervisors, shall be in accordance with the agreement with the White Collar unit. The allocation of sick time and rules for its use for public works managers and supervisors and non-union blue collar workers working more than 20 hours per week shall be in accordance with the agreement with the Blue Collar unit. The allocation of sick time and rules for its use for the Police Chief shall be in accordance with the PBA's Superior Officers' unit.

Sick leave is established for the purpose of providing employees with time off with pay during a personal illness or for the treatment of a personal medical problem. Employees cannot utilize sick leave to care for illnesses of their immediate family members. Sick leave may not be used for any other purpose other than for the care of a personal illness or treatment of a personal medical problem. Sick leave may not be utilized for any injury sustained on the job for which Workers Compensation Benefits are payable.

Abuse of sick leave may subject employees to disciplinary action. The Borough reserves the right to request a doctor's excuse from employees suspected of sick leave abuse.

Employees who are on sick leave for more than two consecutive weeks, shall be required to apply for simultaneous use of Federal FMLA leave; benefits shall still be received and will not diminish under this policy or union contract. In such cases, FMLA leave will be retroactive. (Refer to Section 5.4.1 regarding FMLA Leave).

Disability leave applies to any condition resulting from an illness or injury which occurs off the job and which results in absence for more than eight (8) working days. All full time officers and employees of the Borough are eligible to receive paid disability benefits subject to the schedule of benefits listed in the bargaining agreements, or individually negotiated contracts.

### **5.3.3 WORKER'S COMPENSATION LEAVE**

The purpose of Worker's Compensation is to provide medical and financial assistance to employees who have been injured on the job. Based on the fact that Worker's Compensation claims involve a variety of circumstances, the final determination on the payment of Worker's Compensation Benefits rests with the Borough's insurance carrier. All workplace injury reports must be filed within the workday the injury occurred.

Based on the fact that the payment of benefits under Worker's Compensation are designed to assist an employee in recovering from injuries sustained on the job, if any employee has been approved for and is receiving Worker's Compensation Benefits, the employee is precluded from engaging in any outside employment and from taking vacation leave unless the Borough Administrator approves a request in writing. Failure to adhere to this policy may result in termination of employment.

Employees who are entitled to receive one hundred percent (100%) of salary while on Worker's Compensation for a work related injury shall receive a separate check from the Borough for the balance owed to the employee after the Worker's Compensation Benefit has been paid. Except as provided by employee contract, Part-time, temporary, and seasonal employees, shall receive Worker's Compensation benefits for any work related injury.

### **5.3.4 BEREAVEMENT LEAVE**

Employees shall receive time off with pay for a death in the family in accordance with the schedules contained in the employment contract. Bereavement leave of for non-union white collar employees working more than 20 hours per week, including supervisors shall be in accordance with the agreement with the White Collar unit. Bereavement leave for public works managers & supervisors and non-union blue collar workers working more than 20 hours per week shall be in accordance with the agreement with the Blue Collar unit. Bereavement leave for the Police Chief shall be in accordance with the PBA's Superior Officers' unit.

### **5.3.5 JURY DUTY**

Employees called for jury duty will be excused from work for the period actually in attendance in court and he/she will be paid the difference between jury duty fees received and his/her regular daily compensation. Employees must present satisfactory proof to the Borough of his/her jury

service and the amount paid him/her for such service. Employees who are dismissed by the Court in such cases must return to work to complete the balance of their regularly scheduled shift provided at least one half (1/2) of their shift remains.

## **5.4 UNPAID LEAVES OF ABSENCE**

The following categories outline and explain the types of unpaid leaves of absence which may be available to Borough employees:

### **5.4.1 FAMILY LEAVE and FMLA LEAVE**

Employees may be eligible for an unpaid family and medical leave under the federal Family and Medical Leave Act (“FMLA”). Employees also may be eligible for family leave pursuant to the New Jersey Family Leave Act (“FLA”). In order to be eligible for such leave, employees must have: one (1) year of service with the Borough; and, at least 1,000 hours of work (for New Jersey leave) and 1,250 hours of work (for Federal leave) during the previous twelve (12) months. Eligible employees may receive up to twelve (12) weeks of leave per year (FMLA) or twelve (12) weeks every twenty-four (24) months (FLA). Employees taking family and medical leave who have accumulated vacation leave may choose to use this paid leave as part of their family and medical leave twelve-week entitlement.

**The twelve (12) month period shall be determined by using a rolling twelve (12) month period that commences with the first day of leave taken.**

During the leave period, the employee’s health benefits will be continued on the same conditions as coverage would have been provided had the employee been employed continuously during the entire leave. The employee will not continue to accrue vacation, sick or personal days for the period of the leave. The employee will receive seniority credit for the time that the employee has been on leave under this section. At the conclusion of the leave period, an eligible employee is entitled to reinstatement to the position the employee previously held or to an equivalent one with the same terms and benefits that existed prior to the exercise of leave.

**An unpaid FMLA and/or FLA leave may be taken for the following purposes:**

1. The birth of an employee's child and the care of the child. This provision is applicable to both mothers and fathers;
2. The placement of a child with the employee for adoption or foster care;
3. The care of the employee’s spouse, civil union partner, same-sex spouse, child or parent, who has a serious health condition;
4. A serious health condition that renders the employee unable to perform his or her job. (FMLA only)

5. Reasons related to a covered family member's active duty or call to active duty in the Armed Forces.

- A. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. Reasons related to the call-up or service includes helping the family member prepare for departure or caring for children of the service member. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave, except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.
- B. Employees requesting this type of FMLA leave must provide proof of the qualifying family member's call-up or active military service before leave is granted.

6. The care of an injured or ill service member.

- A. This leave may extend up to 26 weeks in a 12-month period for an employee whose spouse, same-sex spouse, son, daughter, parent or next-of-kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform duties of the service member's office, grade, rank or rating. Next-of-kin is defined as the closest blood relative of the injured or recovering service member. An employee is also eligible for this type of leave when the family service member is receiving medical treatment, recuperation or therapy, even if the service member is on temporary disability is retired.

7. (FLA Only) In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:

- (i) requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
- (ii) prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
- (iii) results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable

disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

Eligible this policy must use all accrued available vacation and personal days, or sick leave for which they are eligible, during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.

The period of leave must be requested using the appropriate FMLA forms provided by the Borough and will include a certification provided by a physician. An extension past twelve weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The Borough retains the right to designate qualifying leave as FMLA leave. Additional information concerning the Family Leave Policy and eligibility requirements are available from the Borough Administrator. **The Borough must designate leave as FMLA leave even without an employee's request or the submission of a medical certification under circumstances in which it is clear that the reason for leave is qualified as eligible protected leave.**

FMLA Intermittent Leave. When medically necessary, leave taken because of a serious health condition of an employee or family member or to care for a Covered Service member may be taken on an intermittent or reduced work schedule basis. The employee and employer shall attempt to work out a schedule for such leave that meets the employee's needs without unduly disrupting the employer's operations, subject to the approval of the employee's health care provider. The Employer may require an employee taking intermittent or reduced work schedule leave to transfer temporarily to an alternative position with equivalent pay and benefits that is better suited to the leave schedule.

FLA Leave taken to care for a newly born or adopted child or a child placed into foster care with the employee may be consecutive or intermittent and must begin by the end of the twelve (12) month period after the birth or placement for adoption or foster care.

Eligible employees, who are caring for a seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child can apply for Family Temporary Disability ("FTD") payments for up to twelve (12) weeks in a twelve (12) month period. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1000 times the minimum wage. FTD will run concurrently with FMLA and/or FLA leaves and there is a one week waiting period. Employees may also be required to use accrued sick, vacation or personal leave for up to two weeks.

Employment and Benefits Protection. During the leave, health benefits will continue for up to twelve (12) weeks in each rolling twelve (12) month period under the same conditions as if the employee continued to work. Employees must, however, pay the same amount for any benefits continued as they do prior to the leave. Other benefits, if any, will continue during the leave under the same conditions as if the employee continued to work.

If paid leave is substituted for unpaid FMLA leave, the Employer will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's FMLA leave

is unpaid, the employee must pay his/her portion of the premium in accordance with a payment method that is devised and mutually agreed upon between the employee and the Employer.

Employees should consult with their Department Head and human resources official prior to taking an approved leave. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums. With regard to the employee's contribution portion of his/her health benefits pursuant to Chapter 78, P.L. 2011 and any voluntary supplemental benefits that the employee may have, the employee is solely responsible for making payment arrangements with the Employer or for any voluntary benefits, to the respective insurance company. Your healthcare coverage may cease if your premium payment is more than thirty (30) days late. With regard to any pension contribution that you may have, you must contact the human resources official to make payment arrangements concerning contributions or credits paid toward your pension benefits. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums.

Employees may also be eligible for an unpaid leave for up to twenty-six (26) workweeks in a year to care for a family member on active duty in the military or a covered veteran (a covered veteran is an individual who was discharged or released under conditions other than a dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran) with a serious injury or illness incurred in the line of duty on active duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, or up to twelve (12) weeks in a year for a qualifying exigency. A qualifying exigency occurs when a military member is called to covered active duty (requires deployment to a foreign country) and a close member of his/her family must attend official ceremonies or family support or assistance meetings, there is a short-notice deployment, to attend to childcare matters, attend to financial and/or legal matters, or counseling. A serious injury or illness means an injury or illness incurred by a covered service-member in the line of duty on active duty that may render the service-member medically unfit to perform the duties of his or her office, grade, rank, or rating. Employees requesting this type of FMLA leave must provide certification of the family member or next-of-kin's injury, recovery or need for care. This certification is not tied to a serious health condition as for other types of FMLA leave. This is the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are included with this type of leave totaling the 26 weeks.

A serious injury or illness also means an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty, and that is either:

1. a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service-member unable to perform the duties of the service-member's office, grade, rank, or rating; *or*

2. a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; *or*
3. a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; *or*
4. an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Any *one* of these definitions meets the FMLA's definition of a serious injury or illness for a covered veteran regardless of whether the injury or illness manifested before or after the individual became a veteran.

Upon employer's request, an employee must provide a copy of the covered military member's active duty orders to support request for qualifying exigency leave. In addition, upon an employer's request, certification for qualifying exigency leave must be supported by a certification containing the following information:

- statement or description of appropriate facts regarding the qualifying exigency for which leave is needed;
- approximate date on which the qualifying exigency commenced or will commence;
- beginning and end dates for leave to be taken for a single continuous period of time;
- an estimate of the frequency and duration of the qualifying exigency if leave is needed on a reduced scheduled basis or intermittently; and
- if the qualifying exigency requires meeting with a third party, the contact information for the third party and description of the purpose of the meeting.

Eligible employees may also take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.

Employees who request qualifying exigency leave to spend time with a military member on Rest & Recuperation may take up to a maximum of 15 calendar days. Upon an employer's request, an employee must provide a copy of the military member's Rest and Recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member's leave.

#### **5.4.2 DOMESTIC VIOLENCE LEAVE "NJ SAFE ACT"**

The New Jersey Security and Financial Entitlement Act, also known as the "NJ SAFE Act" provides protection for employees and their family members who have been the victim of domestic violence or sexual assault. Employees are entitled to twenty (20) days of unpaid protected leave from work to:

- Seek medical attention for physical or psychological injuries;
- Obtain services from a victim services organization, pursue psychological or other counseling;
- Participate in safety planning for temporary or permanent relocation;
- Seek legal assistance to ensure health and safety of the employee or the employee's relative; or
- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

To be eligible for the leave, an employee must meet the following criteria:

- The employee or their child, parent, spouse or domestic partner must be a victim of domestic violence or a sexually violent offense;
- The employee must have worked for the employer for at least twelve months and for at least 1,000 hours during the twelve (12) month period immediately preceding the requested leave; and
- The twenty (20) day leave must be taken within one (1) year of the qualifying event.

Employees may take leave on an intermittent basis but such leave cannot be shorter than one (1) full day. To the extent the leave is foreseeable, employees must provide advance notice. In addition, employee seeking leave must provide proof that they qualify for the leave. Such proof may include restraining order, letter from a prosecutor, proof of conviction, medical documentation or a certification from an agency or professional involved in assisting the employee.

In certain circumstances, the basis for the leave may also qualify under the federal Family and Medical Leave Act and/or the New Jersey Family Leave Act. If so, the Borough will treat the leave concurrently with the leave under those statutes. Employees may be required to use accrued paid vacation leave, personal time or sick leave concurrently.

The Borough shall protect the privacy of employees who seek leave by holding the request for leave, the leave itself or the failure to return to work "in the strictest confidence." The Borough shall not retaliate, harass or discriminate against any employee exercising his/her right to take the leave provided by this policy.

Where an absence qualifies under both the NJ SAFE Act and the NJ Paid Sick Leave Law, leave will run concurrently to the extent permitted by law.

### **5.4.3 OTHER UNPAID LEAVE OF ABSENCE**

If an employee needs additional time off and the employee has utilized all sick leave, personal days, vacation leave, bereavement leave, FMLA leave, NJFLA leave (if applicable), domestic violence leave (if applicable), and disability leave (if applicable), then the employee may request an unpaid leave of absence from the Borough Administrator. Unpaid leaves of absence would only be considered in cases of medical problems or difficulties, or under applicable conditions contained in Federal Family and Medical Leave Act (FMLA), the New Jersey Family Leave Act

(FLA), or NJ SAFE Act, and would not normally last beyond thirty (30) days. The granting of unpaid leaves of absence shall be at the sole discretion of the Borough. Although insurance benefits would be continued, there will be no accumulation of leave time during an unpaid leave of absence.

## **5.5 MILITARY LEAVE**

When a full-time employee (either permanent or temporary) who is a member of the reserve component of any United States armed force of the National Guard of any state including the Naval Militia and Air National Guard is required to engage in field training or is called to active duty, the employee will be granted a military leave of absence for the duration of the service. The first thirty (30) workdays of the leave shall be with full pay except that a member of the New Jersey National Guard shall receive full pay for the first ninety (90) days in the aggregate in any calendar year. Thereafter, the leave shall be without pay but without loss of time in determining seniority rights for any purpose.

The paid portion of military leave will not be counted against any available time off, including but not limited to vacation, sick or personal time. An employee who is unable to use one year's vacation leave due to extended military leave shall be entitled to carry over that time for use in the next calendar year.

A full-time temporary employee who has served less than one year shall not be entitled to paid leave but shall be granted non-paid military leave without loss of time. Permanent part-time employees shall not receive paid leave, but shall be granted non-paid military leave without loss of time.

Employees on military service will also continue to receive paid health insurance coverage during the period of paid leave, plus an additional thirty (30) calendar days after the paid leave is exhausted. After this period, employees may continue coverage for themselves or their dependents under the Borough plan by taking advantage of the COBRA provision. Members of state-administered retirement systems (such as PERS and PFRS) will continue accruing service and salary credit in the system during the period of paid leave.

Pursuant to the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), any employee released from active duty under honorable circumstances shall return to work without loss of privileges or seniority within the following time limits: for service less than thirty-one (31) calendar days, the employee must return to work on the beginning of the first regularly-scheduled workday or eight (8) hours after the end of military duty, with a reasonable allowance for commuting time; for service of thirty-one (31) to one hundred eighty (180) calendar days, the employee must submit an application for reinstatement within fourteen (14) days after completing military duty; for service greater than one hundred and eighty (180) calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

## **5.6 LIGHT OR TRANSITIONAL DUTY / RETURN TO WORK POLICY**

If an employee has secured a written release from his/her physician to return to work under "light duty" circumstances and the return of the employee under such circumstances would fall within the Borough Administrator's guidelines of "reasonable accommodation" then the employee will be permitted to return to work on "light duty: status for an initial period of thirty (30) days. Extensions of "light duty" beyond thirty (30) days shall be at the discretion of the Borough Administrator. In no case shall the light duty status last longer than ninety (90) days total.

The approval of "light duty" status is solely at the Borough's discretion. In order for the approval to be granted the employee must be able to perform some job functions, which will render the employee useful to the Borough for the period of time the employee is on light duty. The Borough reserves the right to terminate the light duty status at any time if, in the sole opinion of the Borough Administrator, the employee is unable to perform useful job functions or if the employee is exacerbating his/her health condition.

The Borough reserves the right to request, from an employee, a written doctor's note for any (but not limited to) the following:

- Unless otherwise provided in for in an employment agreement or contract, absences exceeding five (5) work days
- Employee has used an inordinate amount of sick time (generally, ten (10) or more days over a twelve (12) month period;
- Sick leave beyond one week; in cases of extended sick leave, the Borough can request periodic doctor's notes;
- Suspected abuse of sick leave.

## **CHAPTER 6 COMPENSATION & EMPLOYEE BENEFITS POLICIES**

### **6.1 COMPENSATION - GENERAL**

The Borough will pay its employees in accordance with the provisions of applicable employment agreements, ordinances, and in compliance with the Fair Labor Standards Act ("FLSA") and the New Jersey Wage and Hour Law.

Unless otherwise specified by employment agreement, the Borough's pay periods shall be divided into biweekly periods with paychecks being issued on that basis.

No paychecks may be issued in advance of the normal payday, except if approved by the Chief Financial Officer (CFO) for special reasons, such as an upcoming vacation.

Employees must cash their paychecks on personal time, not during official Borough working hours.

In compliance with the New Jersey Wage Theft Act (N.J.S.A. 34:11-58.1 et seq.), the Borough is committed to the timely and full payment of wages. Employees will not be retaliated against for

inquiring about, reporting, or filing a complaint concerning wages, hours worked, or other compensation. The Borough will maintain all payroll and wage records as required by law. Any concerns regarding proper payment of wages should be reported promptly to the Borough Administrator or designee.

## **6.2 MEDICAL AND DENTAL BENEFITS**

Employees and their immediate family members, including civil union partners, are provided health and dental insurance coverage through the New Jersey State Health Benefits Program (SHBP) and in accordance with rules established by the State of New Jersey for that program. More information on the program, including rates, plan design and enrollment, is available on the state's website at <https://www.State.nj.us/treasury/pensions/hb-active-shbp.shtml>. At this time, enrollment in the program as well as any changes must be done by employees online. The Borough reserves the right to change carriers.

### **6.2a ELIGIBILITY FOR MEDICAL AND DENTAL BENEFITS**

Employees must be Full Time to be entitled to Medical and Dental Benefits. Seasonal or Temporary employees are not entitled to Medical or Dental Benefits. Pursuant to the Federal "Affordable Care Act", Part-time employees who worked more than one-thousand-five-hundred-sixty (1560) hours are entitled to Borough provided medical and dental insurance benefits. Elected officials are not entitled to benefits.

### **6.2b CONTRIBUTION TOWARDS PREMIUMS**

All employees receiving medical and dental benefits, shall be required to contribute to the cost of medical and dental coverage at the minimum level required by an employee's collective negotiations agreement.

### **6.2c CONTINUATION OF MEDICAL AND DENTAL BENEFITS**

Coverage will continue for up to twelve weeks for employees on leave pursuant to the Family and Medical Leave Act and up to thirty weeks for employees on Military Leave. Upon termination of employment, employees may extend health insurance coverage for themselves or their dependents by taking advantage of the Public Health Services Act provision for a period of up to eighteen months to thirty-six months. An employee shall receive a notice of COBRA rights to continue coverage upon termination of employment or resignation. Coverage is provided for some retired employees in accordance with Collection Negotiations Agreements and rules of the SHBP.

### **6.2d MEDICAL AND DENTAL BENEFITS – NON-UNION EMPLOYEES**

Where there are provisions for benefits in employment agreements for employees and retirees, provisions for the police Superior Officers' Association shall apply to the Police Chief, provisions for the Blue Collar Unit shall apply to non-union managers and supervisors in the Department of Public Works, and provisions for the White Collar Unit shall apply to all other non-union employees.

### **6.3 OVERTIME COMPENSATION POLICY**

Under the Federal Fair Labor Standards Act, certain employees in managerial, supervisory, administrative, computer or professional positions are exempt from the overtime pay provisions of the Act. There are also employees who may be exempt based upon their compensation and/or their job duties. The Borough Administrator shall notify all Exempt employees of their status under the Act. Exempt employees are not eligible to receive overtime compensation and are required to work the normal workweek and any additional hours needed to fulfill their responsibilities. Time off in consideration for large amounts of additional hours may only be provided with the Mayor's prior approval and at the sole discretion of the Mayor.

All other employees are classified as Non-Exempt (overtime eligible) and are subject to the provisions of the Act. Depending on work needs, overtime eligible employees may be required to work overtime. Overtime eligible employees are not permitted to work overtime unless the overtime is budgeted and approved by the Department Head and the Borough Administrator. Overtime eligible employees working overtime without prior approval will be subject to disciplinary action.

Overtime eligible employees will receive overtime compensation for hours worked in excess of their normal hours in a weekly period. Except as may be provided in applicable employment agreements, compensation for additional hours shall be in the form of compensatory time unless there has been a budgetary appropriation for cash overtime and the Borough Administrator approves cash overtime pay. For overtime eligible employees who normally work fewer than forty hours per week, any extra hours up to forty total hours per week shall be compensated at straight time, whether in cash or compensatory time. Hours in excess of forty hours per week shall be compensated at time and a half. The maximum number of days that an employee may accrue for future compensating time off is fifteen (15) days. Accrued and taken overtime compensating hours must be noted on the employee's time sheet. For purposes of overtime compensation, hours worked are computed to the nearest one-half hour per day. Previously scheduled vacation time and holiday time are considered time worked for purposes of determining overtime compensation, but sick time and personal time are not.

Employees must make a request to their supervisor at least two days in advance when they want to take compensatory time off. The supervisor will approve the request if the absence does not cause undue hardship to the department.

### **6.4 TUITION**

With prior approval of the Administration and as the budget will allow, the Borough will provide tuition payment for courses directly related to an employee's present position or to the operations of the Borough. If an employee voluntarily terminates their employment, all courses taken within one year of termination are reimbursable to the Borough prior to termination.

### **6.5 PENSION**

All eligible Borough employees will be enrolled in the appropriate New Jersey State Pension System under which they are eligible (PERS, PFRS, DCRP), and make required contributions, and therefore, shall receive all benefits, including life insurance, under the rules established by the State of New Jersey.

# Conscientious Employee Protection Act

## “Whistleblower Act”

### Employer retaliatory action; protected employee actions; employee responsibilities

1. New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:
  - a. 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;
  - b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
  - c. 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.
  - d. 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.
  - e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
    - (1) 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;
    - (2) is fraudulent or criminal; or
    - (3) 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.
2. 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 emergency in nature.

#### CONTACT INFORMATION

Your employer has designated the following contact person to receive written notifications, pursuant to paragraph 2 above (N.J.S.A. 34:19-4):

Name: Eric Maurer  
 Address: 445 Lafayette Avenue  
Hawthorne, NJ 07506  
 Telephone Number: (973) 427-1168

### ***This notice must be conspicuously displayed.***

Once each year, employers with 10 or more employees must distribute notice of this law to their employees. If you need this document in a language other than English or Spanish, please call (609) 292-7832.



AD-270 (8/11)

# La Ley de protección al empleado consciente

## “Ley de protección del denunciante”

### Acciones de represalia del empleador; protección de las acciones del empleado

1. La ley de New Jersey prohíbe que los empleadores tomen medidas de represalia contra todo empleado que haga lo siguiente:
    - a. Divulgue o amenace con divulgar, ya sea a un supervisor o a una agencia pública toda actividad, directriz o norma del empleador o de cualquier otro empleador con el que exista una relación de negocios y que el empleado tiene motivos fundados para pensar que violan alguna ley, o en el caso de un trabajador licenciado o certificado de la salud y que tiene motivos fundados para pensar que se trata de una manera inadecuada de atención al paciente;
    - b. Facilite información o preste testimonio ante cualquier agencia pública que conduzca una investigación, audiencia o indagación sobre la violación de alguna ley, regla o reglamento que el empleador o algún otro empleador con el que exista una relación de negocios; o en el caso de un trabajador licenciado o certificado de la salud que facilite información o preste testimonio ante cualquier agencia pública que conduzca una investigación, audiencia o indagación sobre la calidad de la atención al paciente; o
    - c. Ofrece información concerniente al engaño o la tergiversación con accionistas, inversionistas, usuarios, pacientes, clientes, empleados, ex empleados, retirados o pensionados del empleador o de cualquier agencia gubernamental.
    - d. Ofrece información con respecto a toda actividad que se pueda percibir como delictiva o fraudulenta, toda directiva o práctica engañosa o de tergiversación que el empleado tenga motivos fundados para pensar que pudieran estafar a accionistas, inversionistas, usuarios, pacientes, clientes, empleados, ex empleados, retirados o pensionados del empleador o de cualquier agencia gubernamental.
  - e. Se opone o se niega a participar en alguna actividad, directriz o práctica que el empleado tiene motivos fundados para pensar que:
    - (1) viola alguna ley, o regla o reglamento que dicta la ley o en el caso de un empleado licenciado o certificado en cuidado de la salud que tiene motivos fundados para pensar que constituya atención inadecuada al paciente;
    - (2) es fraudulenta o delictiva; o
    - (3) es incompatible con algún mandato establecido por las directrices públicas relacionadas con la salud pública, la seguridad o el bienestar o la protección del medio ambiente. Artículo 34:19-3 de las Leyes comentadas de New Jersey de protección del empleado consciente (N.J.S.A., por sus siglas en inglés)
2. No se puede acoger a la protección contra la represalia, cuando se hace una divulgación a un organismo público, a no ser que el empleado le informe al empleador de tal actividad, política o norma a través de un aviso por escrito y le haya dado al empleador una oportunidad razonable para corregir tal actividad, política o norma. Sin embargo, no es necesaria la divulgación en los casos en que el empleado tenga indicios razonables para creer que un supervisor o más de un supervisor del empleador tienen conocimiento de tal actividad, política o norma o en los casos en los que el empleado teme que tal divulgación pueda traer como consecuencia daños físicos a su persona siempre y cuando la naturaleza de la situación sea la de una situación de emergencia.

#### Información del Contacto

Su empleador ha designado a la siguiente persona para recibir notificaciones de acuerdo al parágrafo 2, de la ley (N.J.S.A. 34:19-4):  
Nombre: Eric Maurer  
Dirección: 445 Lafayette Avenue  
Hawthorne, NJ 07506  
Número de teléfono: (973) 427-1168

### ***Este aviso se debe exponer a la vista de todos.***

Anualmente, patronos con 10 o más empleados, deberán distribuir notificación de esta ley a todos sus empleados. Si necesita este documento en algún otro idioma que no sea inglés o español, sírvase llamar al (609) 292-7832.



AD-270.1 (8/11)

**BOROUGH OF HAWTHORNE 2021 EMPLOYEE HANDBOOK/MANUAL**

**ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK**

I HEREBY ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THE BOROUGH OF HAWTHORNE'S EMPLOYEE HANDBOOK/MANUAL (issued October 2023) ON THE DATE INDICATED BELOW.

I FURTHER ACKNOWLEDGE THAT I HAVE READ, AND DO UNDERSTAND, THE DISCLAIMER (SECTION 1.3) OF THE HANDBOOK, AND THAT MY DEPARTMENT HEAD / SUPERVISOR HAS ANSWERED ANY QUESTIONS I MIGHT HAVE HAD ABOUT THE MEANING OF THE DISCLAIMER CONTAINED IN THIS HANDBOOK.

I UNDERSTAND THAT NOTHING CONTAINED IN THE HANDBOOK MAY BE CONSTRUED AS CREATING A PROMISE OF FUTURE BENEFITS OR A BINDING CONTRACT WITH THE BOROUGH OF HAWTHORNE FOR BENEFITS OR FOR ANY OTHER PURPOSE. I ALSO UNDERSTAND THAT THESE POLICIES ARE CONTINUALLY EVALUATED AND MAY BE AMENDED, MODIFIED, OR TERMINATED AT ANY TIME.

PLEASE SIGN AND DATE THIS RECEIPT AND RETURN TO THE BOROUGH ADMINISTRATOR.

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

Signature: \_\_\_\_\_

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

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